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Secretary  
NRC  
Washington DC 20555

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Dear Secretary:

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

I seek an accountable energy policy that protects the public's democratic participation in NRC hearings on the risks and hazards posed by nuclear power. The Nuclear Regulatory Commission is attempting to change its rules in a manner that would drastically reduce public participation rights in nuclear licensing hearings. In commenting on the NRC's proposed "streamlining" of the public hearing process, Corbin McNeill, chief executive for nuclear giant Exelon, told the Wall Street Journal "It's maybe 1% to 10% what it used to be." As McNeill points out, stripping the democratic process from public hearings on nuclear safety has become the new selling point to investors considering building more atomic reactors.

At the urging of the nuclear power industry, the NRC is proposing to go beyond its current "one-step" licensing process and push the public entirely out of any kind of meaningful licensing hearings. For the first time in regulatory history, all reactor licensing proceedings-including the initial licensing for new reactors, license extension for aging reactors and license amendments to reactor safety procedures-could be conducted under expedited hearings where the public's due process to legally challenge reactor licensing issues is systematically eliminated. By rulemaking, the NRC is trying to reinterpret the statutory mandates of the Atomic Energy Act for what is traditionally recognized as a community's right to formal trial-type hearings. Under the proposed rule the Commission would have "flexibility" to entirely eliminate the public's basic right to a formal hearing.

The rule change proposes to "deformalize" public interventions by replacing trial-type public hearings (Chapter 10 of the Code of Federal Regulation Part 2 Subpart G) with "informal" hearings (Subpart L). These informal hearings would be stripped of key due process procedures, such as mandatory discovery of documents for the disclosure of opposing evidence and cross-examination to confront witnesses on statements of fact. The rule would also make it even more difficult than it is now to get a NRC hearing. Once a contention is admitted, hearings would be expedited and participation rights would be drastically curtailed, so as to make the hearing meaningless.

The proposed NRC rule change creates a new Subpart C Hearing Selection Process. This new subpart consolidates all previous hearing procedures under one general subpart to apply to all NRC adjudications and leaves to the Commission's discretion placement of petitions into specific hearing "tracks" under Subpart G (formal proceeding), K (irradiated fuel storage expansion), L (informal hearings), M (license transfer) or a new Subpart N (fast track). Virtually all reactor licensing would be channeled into informal hearings except those that, according to the NRC, "involve a large number of complex issues." The NRC hearing process for licensing a nuclear waste repository (10 CFR 2 Subpart J) would remain a formal proceeding due to the agency's astute recognition that a move to informal hearings would likely "engender substantial opposition" and a "very negative reaction." Ironically, NRC has chosen to ignore the same process concerns and eroding public confidence in expediting its approval process to generate more nuclear waste through fast track reactor licensing. The NRC needs to understand that its reactor licensing proposals will cause the very "substantial opposition" and "very negative reaction" it is trying to avoid.

The proposed NRC rule change alters the submission of contentions. Under current rules, after filing a petition for a hearing, reviewers generally have a period of a month to familiarize themselves with the application and formulate "contentions" that describe and provide documented support for the public safety concerns. As a result of a 1989 rule raising the admissibility standard, it is already difficult to get contentions admitted for hearing. Under the proposed rule, reviewers would have to submit their contentions almost immediately after the publication of a hearing notice-- giving the public virtually no

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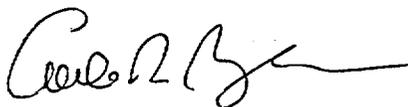
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time to review the nuclear industry's application, draft contentions and hire expert witnesses to help them formulate contentions. Thus, the proposed rule would make it extremely difficult, if not impossible, for the public—including state and local governments—to even get a hearing.

The proposed NRC rule change eliminates the procedures of discovery and cross-examination. Under the current rules, parties are entitled to request a range of relevant documents otherwise not available through the NRC Public Document Room. At the hearing, the right to confront adverse witnesses through cross-examination is guaranteed. Under the new informal process, the amount and quality of information accessible to the public would be restricted to what NRC staff and company officials deem relevant to be placed in the NRC Public Document Room. Oral cross-examination and the line of questioning by the public reviewer would be eliminated and replaced with written questions submitted as suggestions to the presiding officer to ask at their discretion.

Very respectfully, the public is entitled to full and meaningful participation in a hearing process that provides for a complete record. The nuclear industry should be required to defend its proposals in formal public hearings, as Congress intended when it passed the Atomic Energy Act in 1954. I would appreciate a satisfactory reply to these concerns. Please don't forget that part of taxes I pay out of my salary go to pay for yours. It would be about time that the American People enjoy a government that is unbiasedly attentive to all concerns and refrains from catering to selfish interests.

Very sincerely,



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