

Project On Government Oversight
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July 12, 2001

Secretary Annette Vietti-Cook
Nuclear Regulatory Commission
Washington DC, 20555-0001

Attn: Rulemakings and Adjudications Staff

Dear Secretary Vietti-Cook:

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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USNRC

The Project on Government Oversight supports the Nuclear Information and Resource Service campaign to defend current reactor licensing procedures over proposed Nuclear Regulatory Commission (NRC) changes to the adjudicatory process, and urges the NRC to reevaluate the need for public oversight in reactor licensing hearings. The NRC rule change to create a new Subpart C Hearing Selection Process, alter the submission of contentions, and eliminate procedures of cross-examination complicates and effectively lessens the public's role in licensing hearings. Reducing opportunities for public participation in reactor licensing hearings reduces public confidence in the NRC.

POGO has researched NRC regulations extensively, and published reports in 1996 and 1999 detailing existing problems and issuing recommendations. During the course of our research, we have found that the best way to perpetuate a cooperative coexistence between the American people and the nuclear industry is to ensure that the NRC, as regulator, does not become "captured by the regulated." Limiting public participation in licensing hearings further jeopardizes this tenuous relationship. We are particularly concerned with the following:

A. The Simplified Hearing Process. The NRC's proposed rule consolidates the hearing procedures claiming to "better focus the limited resources of involved parties and the NRC" by fashioning "hearing procedures that are tailored to the differing types of licensing and regulatory activities." This change will most likely channel almost all reactor licensing into informal hearings except for the process for licensing a nuclear waste repository (10 CFR 2 Subpart J). Informal "fast track" hearings are estimated to take no more than 2 days to complete. This essentially eliminates the time needed for public awareness and involvement.

B. Procedures of Discovery. Statutory mandates of the Atomic Energy Act have traditionally provided for a community's right to confront adverse witnesses and request a range of relevant documents. The informal hearing limits public participation in hearings by restricting accessible information to only those documents that NRC staff have allocated to the NRC Public Document

Room. In addition, the informal process eliminates oral cross-examination. Instead, the intervenor submits written questions to the presiding officers to ask at their discretion. This essentially removes opportunities for public oversight in the hearing process by filtering all relevant examination through the NRC lense.

C. Submission of Contention Changes. Alterations to the submission of contentions also limits public involvement by expediting the process through which contentions are admitted for hearing. Currently, intervenors, including state and local governments, have a period of about a month to provide documented support for contended public safety concerns after filing a petition for a hearing. The proposed rule significantly lessens the public intervenor's time to hire witnesses, draft contentions, and review the nuclear industry's application making it extremely difficult for the public to even secure a hearing.

In POGO's reports on the NRC, POGO concluded that the NRC's reliance on the nuclear industry inhibited its ability to effectively regulate the industry. Public oversight of NRC regulation hearings helps ensure that the NRC does operate independently from the nuclear industry. Eliminating the public's role in reactor licensing hearings will not only perpetuate the cozy relationship between the NRC and the nuclear industry but also the distrust of the American people.

Sincerely,

A handwritten signature in cursive script that reads "Danielle Brian".

Danielle Brian
Executive Director