



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 23, 2012

Ms. Joan Holt
P.O. Box 1087
Truro, MA 02666

Dear Ms. Holt:

I am responding to your e-mail of April 23, 2012, requesting a response from the Nuclear Regulatory Commission (NRC) regarding actions that can be taken by a community that no longer wishes to "take the risk of a low probability, high consequence radiological accident" involving a nuclear power plant operating "at its doorstep." You asked for a yes or no answer and concrete guidance.

There are several methods by which individuals and groups can participate in NRC proceedings which are specified in the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2 and also through informal opportunities to comment on safety and environmental concerns, or petition the NRC under the NRC's licensing, enforcement and rulemaking processes. I will discuss each method below. Accordingly, a yes or no answer would be an oversimplification and would not paint a full picture.

If there is a licensing action pending, such as a request for license renewal or a license amendment, a notice of opportunity for a hearing (or in the case of mandatory hearings, such as those required for power reactor construction permits or for combined licenses under 10 CFR Part 52, a notice of hearing) will be published in the *Federal Register* (i.e., 10 CFR Sections 2.104 and 2.105). Absent a demonstration of good cause, the public is afforded a specific amount of time to request a hearing and intervention or to comment on the application, within sixty (60) days (i.e., 10 CFR Sections 2.309(d) and (f)). Intervention would be limited to those persons or organizations with standing that submit an admissible contention. The subject matter of the hearing would be limited to issues related to the application under review (i.e., 10 CFR Section 2.309(f)(iii)). The requirements for contentions are found in 10 CFR Section 2.309(f). The requirements for standing are found in 10 CFR Section 2.309(d). A local government body with a facility within its borders may petition to intervene in a proceeding involving that facility without demonstrating standing, but it must propose an admissible contention (i.e., 10 CFR Section 2.309(d)(2)).

In the alternative, an individual or representative of a group can make a limited statement in an ongoing adjudicatory proceeding, either verbally or in writing, which would become part of the record but would not be considered by the Licensing Board in its evidentiary deliberations or decision (i.e., 10 CFR Section 2.315).

Members of the public can file a petition under 10 CFR Section 2.206, to request that the NRC take action to modify, suspend or revoke a license, or any other action that may be proper. These petitions can be filed at any time during the life of a plant. Members of the public can also comment on pending rulemaking under 10 CFR Sections 2.804 and 2.805, or file a petition for rulemaking under 10 CFR Section 2.802.

The regulations discussed above may be found on the NRC website at: www.nrc.gov/reading-rm/doc-collections/cfr. You may also find the following NUREGs helpful: Public involvement in the Nuclear Regulatory Process, NUREG/BR-0215 (www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0215) and Reporting Safety Concerns to the NRC, NUREG/BR-0240 (www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0240).

A member of the public can also contact the State and/or the Federal Environmental Protection Agency regarding issues within their purview. These issues include water use and discharge permits, coastal zone management, endangered species and habitats, and other issues arising from State or Federal law. A few of those issues could affect the decision on whether or not to issue a license renewal, construction permit, operating license or license amendment. However, the NRC has the sole legal authority to regulate the radiological public health and safety considerations relating to the civilian use of nuclear power. Authority over non-radiological safety or environmental considerations may vest with other Federal, State or local entities.

The United States Supreme Court has defined the Federal government's field as regulation of "the radiological safety aspects involved in . . . construction and operation," while "the States retain their traditional responsibility in the field of regulating electrical utilities for determining questions of need, reliability, cost and other related state concerns." (*Pacific Gas & Electric Co. v. State Energy Res. Conserv. & Dev. Comm'n*, 461 U.S. 190, 205 (1983)).

In summary, there are multiple avenues for State and local governments and individuals to participate in the NRC licensing, rulemaking, and enforcement process over the nuclear power plants in the United States.

Finally, your e-mail suggests that the NRC has been inactive in considering information and implementing safety improvements based on lessons learned from the Fukushima Japan accident. On the contrary, based on the findings in the NRC Near Term Task Force Report, the NRC recently issued a first round of Orders (including an Order concerning Spent Fuel Pools) that should represent an increase in the protection to public health and safety.

Thank you for your interest in these matters.

Sincerely,



Michele G. Evans, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

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 /ra/
 Michele G. Evans, Director
 Division of Operating Reactor Licensing
 Office of Nuclear Reactor Regulation

Docket Nos. 50-247, 50-286, and 50-293

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