

Efforts to Improve Rulemaking Tracking and Reporting

U.S. Nuclear Regulatory Commission Public Meeting
March 11, 2016



Comments of Scott D. Portzline
Security Consultant to Three Mile Island Alert
Harrisburg PA

- The NRC is to be commended for their effort to assist the public and stakeholders in rulemaking by taking advantage of modern tools to access the docketed records in a timely manner.
- The proposed improvements would be consistent with the Commission's objectives as stated by the NRC in "Public Participation in NRC's Rulemaking Process."

June 12, 2008

- **Maintains openness** in communication and decision making
 - Facilitates public understanding
 - Provides an opportunity for affected people to participate in the process
 - Increases credibility
- **Enhances public acceptance** and cooperation
- **Input from external stakeholders is very valuable.**
 - **diverse views = better product**

NRC'S slides: "Public Participation in NRC's Rulemaking Process"
June 12, 2008

“The NRC rulemaking process is a mature process and we welcome suggestions on how to improve it.”

NRC’S slides: “Public Participation in NRC’s Rulemaking Process”

June 12, 2008



This is what happened to our petition for rulemaking:

September 12, 2001 - - TMI Alert filed a petition for rulemaking which would require guards to be posted at the entrances of “owner controlled areas” at nuclear power plants. The timing of the filing was coincidental to the 9-11 attacks and had been planned for six weeks prior to our filing.

Petition for Rulemaking PRM-73-11

EXCESSIVE DELAYS

- The NRC Repeatedly rescheduled the rulemaking.
- Offered no explanation for the rescheduling.
- Showed no accountability when challenged.

FAILED TO CORRESPOND

- On 13 separate occasions when the NRC rescheduled, we heard nothing.
- The NRC did not inform us of management changes as to who was handling our petition.

INACCURATE INFORMATION

- The NRC incorrectly listed our petition as “completed” for several weeks on its web site until we requested the NRC to correct it.
- Meeting transcripts mistakenly stated that we were discussing “entrance cards” instead of “entrance guards.”

* FULL REPORT on how the NRC bungled an effort to create a new rule to require entrance guards. 10/31/2008
<http://tinyurl.com/qj2mn3d>



TRIED TO DENY US A SEAT AT THE RULEMAKING TABLE

- The NRC did not want to give me the opportunity to speak during the meeting.
- Our petition and background data was not in the room or on the document handout table.
- When we complained, the NRC made no attempts to correct the absence of our petition or background information.

VANISHING ACT

- Our petition for rulemaking had disappeared, not only from the meeting, but from the process.
- There was no mention of our petition in the Power Reactor Security Requirements rulemaking, the rulemaking into which our petition had been supposedly merged.

MISLED CONGRESS

- * NRC letters to congressional leaders stated that entrance guards are “already being considered in the ongoing Power Reactor Security Requirements rulemaking.”
- NRC hid the fact that their staff had decided that entrance guards are not needed and that the “entrance guard petition” had been denied *de facto*.

* July 29, 2008
see ADAMS ML081220609



SURPRISE ENDING

- The NRC failed to inform us when the petition was closed. NRC staff claimed they could not find my phone number or address.
- I learned that the petition was closed from the Union of Concerned Scientists.

NO DECISION

- The NRC's correspondence only indicated that the petition was "considered resolved and closed."
- As per guidelines, petitions are decided with a letter clearly indicating:
 - acceptance,
 - partial acceptance,
 - or denial.

BLATANT DISREGARD

- Actually, there were more than 40 occurrences when the NRC failed to adhere to its principles of openness and clarity, and to follow its procedural guidelines while handling the rulemaking.



“Public confidence in the NRC is eroded each time we fail to resolve issues in a timely, clear, and transparent manner.”

NRC Commissioner Gregory Jaczko
Regulatory Information Conference
March 8, 2006

Unwanted consequences of commenting on proposed rules.



This main entrance gate at Three Mile Island is has been wide open and unguarded for more than a decade.



Three Mile Island

The north bridge is the main entrance for emergency responders.



**Draft
Rule**

“Approaches: Particular emphasis must be placed on main and alternate entry routes for law-enforcement or other offsite support agencies and the location of control points for marshalling and coordinating response activities.”

Enhancements To Emergency Preparedness Rulemaking - 2011

- TMI Alert filed a comment on this rulemaking noting that without control of the two bridges at Three Mile Island, many aspects of the planned emergency responses could be severely compromised.
- Rather than address that issue, **the NRC dropped that portion of the proposed Emergency Preparedness Rule.** This retraction meant that the objectives of the rule can not be ensured at TMI.
- Our comment for improving emergency preparedness actually served to weaken the rule!
- Currently, the entrance is wide open and the bridges are not controlled by security forces.



NRC REPORT CARD

PETITION FOR RULEMAKING

	Satisfactory	Unacceptable	Comment
Accountability			pffftt
Clarity			Clearly did not like this proposed rule
Communications			A black hole
Fairness			Scalawags
Functionality			Meltdown
Timeliness			ZZZZZZZ.....
Trustworthiness			Coin toss
Transparency			More like invisible
Able to work well with others			Won't follow its own rules
Respectful			Needs work
Handles criticism well			Nothing phases the NRC!

More Trouble

- NRC staffers wanted to use TMI Alert's petition as a quintessential example of NRC petition handling failures.
- The NRC then failed to invite us to the special public meeting on petition problems as promised.



What TMI Alert believes is needed:

- Clear rules.
- Follow the rules.
- One NRC staffer who will be held accountable for managing and executing a rulemaking, and for timely communications to all involved.
- A dedicated “grievance” handling officer if the rulemaking manager fails in his/her duties.



end notes

❑ FULL REPORT on how the NRC bungled an effort to create a new rule to require entrance guards. 10/31/2008. ADAMS #ML13140A166 or at <http://tinyurl.com/qj2mn3d>

❑ FINAL RULEMAKING - Power Reactor Security Requirements (RIN 3150-AG63) SECY-08-0099 July 9, 2008. ADAMS #ML081650474

❑ FINAL RULE: Enhancements To Emergency Preparedness Regulations (10 CFR PART 50 AND 10 CFR PART 52) April 8, 2011.
ADAMS # ML102150180

