



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

PDR

APR 13 1979

Mr. Orville E. Krueger
Route 1, Box 384B
Two Rivers, Wisconsin 54241

Dear Mr. Krueger:

Thank you for your letter of February 28, 1979, containing a petition on "NRC imposed gatehouse security processing of regular plant employees" at the Point Beach Nuclear plant. This letter has been referred to me for response

There are several ways the concerns you express in the letter and the petition can be considered. They can be processed either as a modification to the Point Beach Nuclear Plant license (security plan) a change to the regulations of Title 10, 10 CFR 73.55, or considered in connection with possible amendments to Section 73.55 that the staff has presently under consideration.

If a change to the security plan is being sought, I will forward your petition to the Director of Nuclear Reactor Regulation so that he may consider it under that part of our regulations dealing with requests to modify the licenses. Such a request is governed by Section 2.206 of 10 CFR Part 2 (copy enclosed). In accord with that regulation you should supply further details on the action you request and facts supporting that request.

If a change to the regulation is being requested, I will send your communication as a "Petition for Rulemaking" to the Secretary, U. S. Nuclear Regulatory Commission, in accordance with Section 2.802 of 10 CFR Part 2 (copy enclosed). That section states that "The petition shall state the substance or text of any proposed regulation or amendment, or shall specify the regulation the rescission or amendment of which is desired, and shall state the basis for the request." In this regard, it would be best if you also addressed more explicitly the requirements in that section of the regulations. For example, it is not clear whether you would propose to eliminate searching of regular employees with a "hands-on" search "when the licensee has a well-grounded suspicion that the individual may be carrying firearms, explosives or incendiary devices." Similarly, the basis for your request should be developed more fully.

Finally, as you may be aware the staff has under consideration possible amendments to Section 73.55. Your comments can be considered in connection with any revision that may be made to Section 73.55 rather than a petition under Section 2.206 or 2.802.

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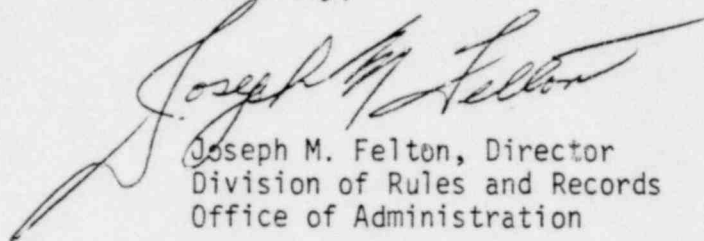
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If you wish to discuss this issue before filing under Section 2.206 or Section 2.802, the staff of the Division of Operating Reactors in the Office of Nuclear Reactor Regulation is willing to meet with you and the regular plant employees of the Point Beach Nuclear Power Plant at a mutually convenient time in the vicinity of the plant. Arrangements for such a meeting can be made by contacting Mr. Charles Trammer (301-492-7070).

As you are aware the specifics of the Point Beach Nuclear Plant security system is considered proprietary information under 10 CFR 2.790(d) and as such is withheld from public disclosure. Discussions of the issue must be held within this context.

Please let us know how you wish to proceed in this matter. If you have any questions on this please call Gerald L. Hutton, Division of Rules and Records (301-492-7086).

Sincerely,



Joseph M. Felton, Director
Division of Rules and Records
Office of Administration

Enclosures: As stated

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§ 2.206 Requests for action under this subpart.

(a) Any person may file a request for the Director of Nuclear Reactor Regulation, Director of Nuclear Material Safety and Safeguards, Director, Office of Inspection and Enforcement, as appropriate, to institute a proceeding pursuant to § 2.202 to modify, suspend or revoke a license, or for such other action as may be proper. Such a request shall be addressed to the Director of Nuclear Reactor Regulation, Director of Nuclear Material Safety and Safeguards, Director, Office of Inspection and Enforcement, as appropriate, and shall be filed either (1) by delivery to the Public Document Room at 1717 H Street NW., Washing-

ton, D.C., or (2) by mail or telegram addressed to the Director of Nuclear Reactor Regulation, Director of Nuclear Material Safety and Safeguards, Director, Office of Inspection and Enforcement, as appropriate, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The requests shall specify the action requested and set forth the facts that constitute the basis for the request.

(b) Within a reasonable time after a request pursuant to paragraph (a) of this section has been received, the Director of Nuclear Reactor Regulation, Director of Nuclear Material Safety and Safeguards, Director, Office of Inspection and Enforcement, as appropriate shall either institute the requested proceeding in accordance with this subpart or shall advise the person who made the request in writing that no proceeding will be instituted in whole or in part, with respect to his request, and the reasons therefor.

(c) (1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty (20) days after the date of a Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated Staff actions or the Commission's power to consult with the Staff on a formal or informal basis regarding institution of proceedings under this section.

(2) No petition or other request for Commission review of a Director's decision under this section will be entertained by the Commission.

(Sec. 201 as amended Pub. L. 93-438, 88 Stat. 1242; Pub. L. 94-70, 89 Stat. 413 (42 U.S.C. 5841))

[39 FR 12353, Apr. 5, 1974, as amended at 42 FR 36240, July 14, 1977]

Subpart H—Rule Making

§ 2.800 Scope of rule making.

This subpart governs the issuance, amendment and repeal of regulations in which participation by interested persons is prescribed under section 553 of title 5 of the United States Code.

[35 FR 11459, July 17, 1970]

§ 2.801 Initiation of rule making.

Rule making may be initiated by the Commission at its own instance, on the recommendation of another agency of the United States, or on the petition of any other interested person.

§ 2.802 Petition for rule making.

Any interested person may petition the Commission to issue, amend, or rescind any regulation. The petition should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Section. The petition shall state the substance or text of any proposed regulation or amendment, or shall specify the regulation the rescission or amendment of which is desired, and shall state the basis for the request. The petition may request the Commission to suspend all or part of any licensing proceeding to which the petitioner is a party pending disposition of the petition for rule making. The Secretary will assign a docket number to the petition, deposit a copy in the public document room, and cause notice of the filing of the petition to be published in the FEDERAL REGISTER. Publication will be limited by the requirements of section 181 of the Act and may be limited by order of the Commission. The Director, Division of Rules and Records, Office of Administration, or his designee, will prepare on a quarterly basis a summary of petitions for rulemaking pending before the Commission, including the status thereof. A copy of the report will be available for public inspection and copying in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

(Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841))

[37 FR 15138, July 28, 1972, as amended at 39 FR 35332, Oct. 1, 1974; 42 FR 58951, Oct. 31, 1977]

§ 2.803 Determination of petition.

No hearing will be held on the petition unless the Commission deems it advisable. If the Commission determines that sufficient reason exists, it will publish a notice of proposed rule making. In any other case, it will deny the petition and will notify the petitioner with a simple statement of the grounds of denial.

§ 2.804 Notice of proposed rule making.

(a) When the Commission proposes to adopt, amend, or repeal a regulation it will cause to be published in the FEDERAL REGISTER a notice of proposed rule making, unless all persons subject to the notice are named and either are personally served or otherwise have actual notice in accordance with law.

(b) The notice will include:

(1) Either the terms or substance of the proposed rule, or a specification of the subjects and issues involved;

(2) The manner and time within which interested members of the public may comment, and a statement that copies of comments may be examined in the Public Document Room;

(3) The authority under which the regulation is proposed;

(4) The time, place, and nature of the public hearing, if any;

(5) If a hearing is to be held, designation of the presiding officer and any special directions for the conduct of the hearing; and

(6) Such explanatory statement as the Commission may consider appropriate.

(c) The publication or service of notice will be made not less than fifteen (15) days prior to the time fixed for hearing, if any, unless the Commission for good cause stated in the notice provides otherwise.

§ 2.805 Participation by interested persons.

(a) The Commission will afford interested persons an opportunity to participate in rule making through the submission of statements, information, opinions, and arguments in the manner stated in the notice. The Com-

mission may grant additional reasonable opportunity for the submission of comments.

(b) The Commission may hold informal hearings at which interested persons may be heard, adopting procedures which in its judgment will best serve the purpose of the hearing.

§ 2.806 Commission action.

The Commission will incorporate in the notice of adoption of a regulation a concise general statement of its basis and purpose, and will cause the notice and regulation to be published in the FEDERAL REGISTER or served upon affected persons.

§ 2.807 Effective date.

The notice of adoption of a regulation will specify the effective date. Publication or service of the notice and regulation, other than one granting or recognizing exemptions or relieving from restrictions, will be made not less than thirty (30) days prior to the effective date unless the Commission directs otherwise on good cause found and published in the notice of rule making.

§ 2.808 Authority of the Secretary to rule on procedural matters.

When briefs, motions or other papers listed herein are submitted to the Commission itself, as opposed to officers who have been delegated authority to act for the Commission, the Secretary or the Assistant Secretary are authorized to:

(a) Prescribe schedules for the filing of statements, information, briefs, motions, responses or other pleadings, where such schedules may differ from those elsewhere prescribed in these rules or where these rules do not prescribe a schedule;

(b) Rule on motions for extensions of time;

(c) Reject motions, briefs, pleadings, and other documents filed with the Commission later than the time prescribed by the Secretary or the Assistant Secretary or established by an order, rule, or regulation of the Commission unless good cause is shown for the late filing; and