

March 31, 2006

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: Peter B. Lyons /RA/
Gregory B. Jaczko /RA/

SUBJECT: PUBLIC PARTICIPATION IN ADJUDICATIONS

The Commission is anticipating that in the near future applications for new reactor initiatives, such as combined operating licenses, early site permits, and applications for amendments to existing reactor licenses, will be received. Applications such as these may be of interest to members of the public who may wish to participate in the adjudicatory process. In light of this anticipated interest and to help facilitate meaningful participation, it is essential that the public become educated about our requirements for intervention so that stakeholders do not exhaust time and energy preparing petitions for intervention and to request a hearing that does not meet the standing and contention standards set forth in our regulations and caselaw. We believe that it is better for members of the public to become familiar with the Commission's standards before, rather than after, filing a hearing request in our proceedings.

The NRC's public website currently contains a comprehensive review of the opportunities that exist for public participation in the NRC hearings process. It includes many links to important sources, such as the NRC's Rules of Practice – 10 CFR Part 2, the NRC Practice and Procedure Digest, and a listing of existing hearing opportunities. Commission memoranda and orders in adjudicatory matters and Atomic Safety and Licensing Board hearing decisions may be accessed through the Agencywide Documents Access and Management System (ADAMS). Our *Federal Register* notices, too, set forth the standing and contention filing requirements in every notice that includes an opportunity to request a hearing.¹

Although excellent resources exist on the website regarding how to participate in NRC hearings, we feel that the public would benefit from specific information on our website regarding standing and contention admissibility standards. We, therefore, request the NRC staff to include a specific discussion in an appropriate location on our public website that summarizes the standing and contention admissibility standards as extracted from recent Commission orders and 10 CFR § 2.309. The staff should provide examples of some contentions that have met our rigorous standards. All NRC *Federal Register* notices that provide for an opportunity to request a hearing should reference the website's contentions admissibility standards discussion.

¹ On a related note, we understand that the Office of General Counsel is developing procedures that would allow potential intervenors to enter into protective agreements for access to restricted and sensitive information prior to becoming parties in an adjudication. We look forward to OGC's recommendations, which we anticipate will come to the Commission shortly.

Finally, the staff should be mindful during public meetings to refer specific queries related to the hearing process to the website discussion of the hearing process so that information provided to the public on hearings matters is uniform, consistent, and accurate. Members of the public should be encouraged to review the website and read the NRC's Federal Register notices concerning licensing actions.

cc: L. Reyes
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