

July 24, 2017

Mr. David A. Lochbaum  
Director, Nuclear Safety Project  
Union of Concerned Scientists  
P.O. Box 15316  
Chattanooga, TN 37415

Dear Mr. Lochbaum:

Thank you for your letter dated May 23, 2017, in which you discuss differences in questions asked by the U.S. Nuclear Regulatory Commission (NRC) in licensing processes and in the review of petitions submitted under Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206. I appreciate your insights and the detailed analysis that you conducted. I believe that the variation that you highlight is based in the fundamental difference between the two processes you describe.

The licensing questions you refer to in your letter, called “requests for additional information,” or RAIs, are an integral part of our licensing process. Each year, the NRC processes hundreds of license amendments requested by the 99 operating nuclear power plants and thousands of materials licensees. The NRC also reviews applications for design certifications, construction permits, operating licenses, and combined licenses for new reactors, as well as technical and topical reports submitted by vendors for NRC approval. Such applications request actions that generally provide new or expanded authority to a licensee or applicant, or approve a new methodology that could be used by licensees. Before the NRC can approve such requests, it has to determine that granting the request will provide (or continue to provide) reasonable assurance of adequate protection of public health and safety and the common defense and security. The staff uses RAIs to ensure it has sufficient information to make this determination.

Each year, the NRC also evaluates a number of petitions for enforcement-related action submitted under 10 CFR 2.206. These petitions are evaluated using the process outlined in NRC Management Directive 8.11, and involve multiple interactions between the petitioner and the NRC staff and managers reviewing the petition. In determining whether to accept a 2.206 petition, the staff’s questions focus on understanding the petitioner’s concerns and the facts that support the requested action. If, as is frequently the case, the petitioner clearly states the concerns and factual basis in the petition, or provides sufficient clarity during meetings with the petition review board, then no questions may be necessary. Similarly, after the staff accepts a petition for review, the staff may have sufficient information to evaluate the petitioner’s concerns, or is able to obtain that information without asking questions of the petitioner. If needed, the staff has the option to request additional information from the petitioner or from licensees in considering a 2.206 petition.

Based on the review documented in Tables 1 and 2 in your letter, you accurately observe that fewer questions are generally asked of petitioners in the 2.206 process than of licensees in the licensing process. It is my view that these processes, though different, leverage questions in an appropriate manner. While I understand that the differences in the use of questions could create the perception that the NRC places greater value on its interactions with licensees than

those with 2.206 petitioners, this is not the case. We offer 2.206 petitioners multiple opportunities to address the petition review board and provide supplemental information. We strongly advocate and challenge ourselves to demonstrate our Principles of Good Regulation and our NRC organizational values—notably openness and respect—as we carry out these processes. Most importantly, we are confident that these processes have resulted in sound, safety-focused regulatory decisions.

In light of the concerns you raise and to ensure open communications with petitioners within the 2.206 process, we have encouraged staff to ask any questions necessary to ensure we appropriately understand the issues raised by petitioners. As you may know, we are currently updating Management Directive 8.11 to make our process more efficient and effective. Your feedback will continue to be extremely valuable as we evaluate how these process changes affect our decision-making and our public interactions. Again, thank you for sharing your concerns with me.

Sincerely,

*/RA/*

Victor M. McCree  
Executive Director  
for Operations

SUBJECT: EXECUTIVE DIRECTOR FOR OPERATIONS RESPONSE TO LETTER DATED  
MAY 23, 2017, FROM DAVID LOCHBAUM, UNION OF CONCERNED  
SCIENTISTS DATED JULY 24, 2017

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Response: ML17167A060 \*via email

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