

April 21, 2000

Mr. David A. Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1616 P Street NW., Suite 310
Washington, DC 20036-1495

SUBJECT: YOUR MARCH 31, 2000, COMMENTS ON THE 10 CFR 2.206 PETITION
PROCESS

Dear Mr. Lochbaum:

In a letter dated March 31, 2000, and in a Commission meeting on that same day you made some comments on the 10 CFR 2.206 petition process. Your primary comments appeared to be that: (1) the NRC is moving too slowly to improve the 2.206 process; (2) the methods for handling petitions change too frequently; and (3) there is no appeal process for director's decisions. The staff will respond separately to the other subjects addressed in your letter. Additionally, we have forwarded your letter to the NRC Inspector General for his consideration.

I am concerned that your comments did not acknowledge recent interactions between you and my staff aimed at addressing your concerns. The staff held meetings with stakeholders on December 15, 1999, and February 10, 2000, to discuss the 2.206 petition process and potential process improvements. In particular, the staff is developing a revision to Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," based in large part on the comments received from you and Mr. Riccio. One of the most significant proposed changes is an opportunity for the petitioner to provide comments to the NRC staff on the draft director's decision before it is made final. As discussed during the December 15, 1999, meeting, this proposal is as close to an appeal process as possible within the context of the existing regulation (see discussions starting on pages 77 and 93 of the transcript of the December 15, 1999, meeting, which is accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> [accession number ML003685183]). Although this approach does not completely satisfy your desire for a formal appeal process, I believe you agreed it was worth trying.

Recent process improvements (e.g., MD 8.11 was revised in 1997 and 1999) were incremental changes in response to stakeholder feedback. They included providing more timely status reports to the petitioner, providing an opportunity for the petitioner to address the Petition Review Board, and improving the timeliness of director's decisions. Further changes to the process are being developed, based primarily on the comments we received from you and other stakeholders over the last few months. I understand that your comment regarding frequent changes to the methods for handling petitions refers to your perception that telephone calls with the petition review board have been handled differently on two recent occasions. However, the staff believes it has implemented this process improvement consistently since it was instituted. Variations in the timing of the calls and the number of observers have been based on petitioners' initiatives rather than changes in NRC policy or procedures. The calls have followed the guidance in MD 8.11, but they are not subject to the guidance in MD 3.5, "Public Attendance at Certain Meetings Involving the NRC Staff."

My staff has indicated that they understand that you support the proposed changes as improvements, within the limits of the existing regulation. I believe the staff is being responsive to your comments. The staff will continue to interact with you and other stakeholders as we gain experience with the proposed improvements.

The staff is preparing a Commission memorandum outlining the proposed changes to MD 8.11, and there is a Commission meeting scheduled on May 25, 2000, to discuss these improvements. If you have additional concerns related to the 2.206 petition process that were not addressed in the two stakeholder meetings or subsequent discussions with the staff, please call Suzanne Black at (301) 415-1453.

Sincerely,

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

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/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

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