

March 4, 2011

The Honorable James M. Inhofe  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Senator Inhofe:

Thank you for your letter of February 7, 2011. On behalf of the U.S. Nuclear Regulatory Commission (NRC), I want to address your concerns about the nuclear power reactor license renewal process and, in particular, your concern that a dual standard exists in this process.

I want to first address your concerns that the NRC may have adopted a “new policy” in which it has embraced a “dual standard” – “that it will take longer if there is local opposition than if there is none.” I can assure you that the Commission has not created or implemented a dual standard of review. The NRC has established a sound and efficient regulatory process, codified in our regulations, to assure consistency in our review, and the continued protection of public health and safety and the environment upon license renewal. The regulatory review process is complementary to the Commission’s obligation to preserve to members of the public the opportunity to be heard in accordance with the NRC’s regulations.

The NRC’s goal is to conclude its license renewal reviews within 22 months from the receipt of the application. However, we are mindful of our responsibility under the Atomic Energy Act, the Administrative Procedure Act, and the Commission’s rules to ensure a fair opportunity for public participation in that process. Therefore, where an individual or entity establishes that it has standing to request a hearing, (*i.e.*, the person shows that its interests could be adversely affected) and includes at least one admissible contention (a specific issue of law or fact, supported by fact or expert opinion, and material to the NRC’s licensing decision), NRC regulations afford that person an opportunity for a hearing on the license renewal application. In the case of such contested applications, the NRC’s goal is to complete the license renewal process within 30 months from receipt of the application.

For instance, the Vermont Yankee, Indian Point, and Pilgrim cases have presented a number of highly complex, and novel, technical issues of first impression for the Licensing Boards and the Commission, as well as novel legal questions. However, the records in these cases reflect that the Licensing Boards and the Commission have undertaken significant effort to resolve these issues in a timely and thorough way, taking the time needed to thoughtfully address complicated issues.

The schedule for the estimated completion of the typical license renewal review process serves as a guide, but such expectations must be flexible enough to allow for resolving unique safety or environmental issues that may arise on a case-by-case basis. Accordingly, the actual time needed to complete the review and the adjudicatory hearing depends upon a number of factors including the nature and complexity of the legal, technical, environmental, and factual issues involved.

In response to the concerns raised in your questions, NRC's rules do not define and are not predicated on the voicing of local opposition to a license renewal application. Rather, the NRC's procedural rules judiciously establish the uniform standards and requirements governing requests for adjudicatory hearings in NRC licensing proceedings.

The NRC procedural rules provide that any person whose interest may be affected by a proceeding and who desires to participate as a party may file a request for hearing. In establishing standing in reactor licensing proceedings, long-standing Commission precedent provides that a requester's showing of residence or continuing activities within a geographical zone that might be affected by an accidental release of fission products is usually a sufficient basis to presume standing. However, the Commission's requirements for contention admissibility are strict by design and strictly applied in proceedings to avoid unnecessary expenditures of time and resources caused by poorly defined or unsupported contentions. Thus, even where standing is demonstrated, a hearing will not be granted unless the party also proposes at least one contention that meets the strict contention admissibility standards.

To your question about guidance, the NRC conducts its license renewal reviews in the same manner, utilizing the same standards, criteria and regulatory guidance, for all nuclear power reactor license renewal reviews, without regard to whether the proceeding is contested and the subject of the adjudicatory process. The 62 renewed licenses that you note in your letter were issued - whether contested or uncontested - utilizing well established uniformed review standards, criteria and guidance.

I appreciate your acknowledgment of NRC's hard work through the years to assure that license renewal applications are evaluated and processed in a fair and predictable fashion. An important part of this work is heeding the requirements that persons whose interests could be adversely affected by an NRC licensing action be afforded a reasonable opportunity to seek a hearing on that matter. I assure you that we remain committed to continuing in this manner using consistent standards, criteria, guidance, and processes.

Consistent with the NRC's regulations and the Administrative Procedure Act, the pendency of a hearing does not affect the licensee's ability to continue to operate the facility. The NRC has developed a comprehensive regulatory process and procedures for evaluating nuclear power reactor license renewal applications to ensure the continued protection of public health and safety if a renewed nuclear reactor operating license is issued.

Thank you for your ongoing interest in our work and for this opportunity to more fully explain our approach to license renewal. If you have any questions, please contact me or Ms. Rebecca L. Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

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Gregory B. Jaczko

Identical letter sent to:

The Honorable James M. Inhofe  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

The Honorable David Vitter  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510