



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 15, 2016

Mr. David Jaffe
20306 Butterwick Way
Montgomery Village, MD 20886

Dear Mr. Jaffe:

This letter is in response to your correspondence to the U.S. Nuclear Regulatory Commission (NRC) dated March 17, 2016.¹ In your correspondence you requested that the NRC amend its regulations regarding the practice of providing a notice in the *Federal Register* for routine license amendments that involve No Significant Hazards Considerations (NSHC). Specifically, you requested that the regulations be amended to provide for negative consent approval so that if the NRC does not publish a *Federal Register* notice within 30 days of receiving a license amendment application with a NSHC evaluation, the NRC staff would adopt the licensee's NSHC evaluation as the basis for the staff's proposed NSHC. In addition, you propose that the NRC should "publish a monthly digest describing all NSHC applications for license amendments submitted pursuant to 10 CFR 50.90 which could be copied verbatim from the application."

The NRC has carefully reviewed your requests and has concluded that the information provided in your correspondence does not meet the Commission's criteria for a petition for rulemaking under §§ 2.802(c) and 2.803(c)² of Title 10 of the *Code of Federal Regulations*. Specifically, your correspondence does not clearly and concisely satisfy the following requirements:

- Provide specific circumstances in which the NRC's codified requirements are incorrect, incomplete, inadequate, or unnecessarily burdensome (§ 2.802(c)(iii)).
- Cite, enclose, or reference publicly-available technical, scientific, or other data or information supporting the problems or issues raised (§ 2.802(c)(iv)).
- Provide an analysis, discussion, or argument that explains how your proposed solution solves the problems or issues identified (§ 2.802(c)(vi)).
- Cite, enclose, or reference any other publicly-available data or information supporting your proposed solution (§ 2.802(c)(vii)).

In addition, part of the NRC's docketing review under § 2.803(c)(1)(ii) is to determine whether the "regulatory change sought by the petitioner is within the NRC's legal authority." The information provided in your correspondence did not provide sufficient information for the NRC's analysis of whether the regulatory changes that you are requesting are within the NRC's legal authority. Specifically, case law and the legislative history related to Section 189(a.) of the Atomic Energy Act of 1954, as amended, may preclude the NRC from amending the NRC's regulations as requested. To assist the NRC in its evaluation, you should clearly and concisely explain why your proposed rulemaking solution is within the authority of the NRC to adopt.

¹ Available in the NRC's Agencywide Documents Access and Management System under Accession No. ML16124A005.

² See <http://www.gpo.gov/fdsys/granule/CFR-2014-title10-vol1/CFR-2014-title10-vol1-sec2-802>.

D. Jaffe

- 2 -

If you wish the NRC to consider your request that the agency amend its regulations, you must supplement your correspondence of March 17, 2016, with information that addresses the deficiencies described in the prior paragraphs. If you are submitting this request on behalf of an organization, you should provide information about your organization and your authority for submitting the request on behalf of such organization.

If you have any questions, please contact Anthony de Jesus, Agency 2.802 Petition Coordinator, by phone at 301-415-1106 or (toll-free) at 1-800-368-5642, or by e-mail at Anthony.DeJesus@nrc.gov.

Sincerely,

/RA by Glenn M. Tracy for/

Victor M. McCree
Executive Director
for Operations

If you wish the NRC to consider your request that the agency amend its regulations, you must supplement your correspondence of March 17, 2016, with information that addresses the deficiencies described in the prior paragraphs. If you are submitting this request on behalf of an organization, you should provide information about your organization and your authority for submitting the request on behalf of such organization.

If you have any questions, please contact Anthony de Jesus, Agency 2.802 Petition Coordinator, by phone at 301-415-1106 or (toll-free) at 1-800-368-5642, or by e-mail at Anthony.DeJesus@nrc.gov.

Sincerely,

/RA by Glenn M. Tracy for/

Victor M. McCree
Executive Director
for Operations

DISTRIBUTION:

LTerry, ADM
Public
RidsOgcMailCenter

CBladey, ADM
SSalter, ADM
RidsNrrMailCenter

JBorges, ADM
RidsAdmMailCenter
RidsNroMailCenter

AdeJesus, ADM
RidsEdoMailCenter

ADAMS Accession No.: ML16103A535 (Package)

*concurrence by e-mail

OFFICE	ADM/DAS/RADB	ADM/DAS/RADB*	ADM/DAS/RADB	OGC*	NRR*
NAME	AdeJesus	LTerry	CBladey	MSpencer (CEngland for)	DDoyle
DATE	4/11/2016	4/26/2016	5/3/2016	4/28/2016	4/14/2016
OFFICE	QTE*	NRO*	ADM/DAS:DD	ADM/DAS:D	ADM:DD
NAME	JDougherty	JColaccino	JWiddup	SSalter	SStewart-Clark
DATE	4/18/2016	4/19/2016	05/05/2016	05/05/2016	05/06/2016
OFFICE	ADM:D	DEDM	EDO		
NAME	CCarpenter	GTracy	VMcCree GTracy for		
DATE	05/06/2016	06/07/16	06/15/16		

OFFICIAL RECORD COPY