



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

August 8, 2019

Jeffrey M. Skov  
1321 Cavalier Lane  
San Luis Obispo, CA 93405

Dear Mr. Skov:

This letter is in reference to your petition for rulemaking, dated May 17, 2019 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML19161A159). The petition requests that the U.S. Nuclear Regulatory Commission (NRC) amend its regulations in Part 2 of Title 10 of the *Code of Federal Regulations* (10 CFR) to require the NRC to (1) request that the D.C. Circuit Court of Appeals appoint a "Special Master" in certain defined circumstances to investigate and provide oversight to the NRC, (2) recommend actions to the "Special Master" that the NRC would undertake to notify the public during the oversight period, and (3) add multiple new definitions involving "shortcomings in the NRC regulations" as part of a tiered approach to describing such scenarios that would trigger the appointment of a "Special Master."

The NRC has carefully reviewed the petition for rulemaking including the referenced documents and concluded that the NRC does not have the authority to implement the requested changes. The NRC's authority stems from statutes such as the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, as amended, and the Uranium Mill Tailings Radiation Control Act of 1978, as amended, among others. Because the NRC does not have the authority to implement the requested changes, and because the request would be inconsistent with Congress's delegation of authority to the Commission over matters within its jurisdiction and the requirement in Article III of the Constitution that judicial power extend solely to cases or controversies presented to courts, the NRC is not docketing the petition pursuant to 10 CFR 2.803(b)(2).

To the extent the reference to the NRC's prior denial of PRM-2-15 in the proposed definition of "Conduct toward the execution of U.S. law that is patently in mala fide" is a challenge to or request for reconsideration of the NRC's previous denial of PRM-2-15, the NRC does not have a formal process for seeking reconsideration of a Commission action on a petition for rulemaking. As noted in the NRC's prior correspondence with you on this subject, the Commission's denial in that notice constitutes the NRC's final action on PRM-2-15.

The NRC is not docketing the petition for rulemaking dated May 17, 2019, for the reasons described above. Separately, the NRC notes that this request appears to misapprehend the basis for the denial of PRM-2-15. The denial of PRM-2-15, as detailed in the associated *Federal Register* notice (83 FR 50535; October 9, 2018) was based on the fact that PRM-2-15 did not identify shortcomings in the NRC's current regulations, did not demonstrate a need for the requested changes, and did not present a practical process for agency accountability. The NRC also noted in its reasons for denying PRM-2-15 that "the NRC already has the tools in place to provide for independent evaluation of agency actions." However, the petition dated May 17, 2019, appears to attribute the denial to the fact that PRM-2-15 failed to identify

shortcomings in the NRC's regulations. See, e.g., the petition for rulemaking dated May 17, 2019, page 1, footnote 4. This petition also makes assertions based on assumptions and conclusions that are outside the scope of the specific requested changes. Although the NRC is not addressing these assertions in detail here, this should not be interpreted as NRC agreement with or acceptance of such assertions.

Sincerely,

**/RA/**

Patricia K. Holahan, Director,  
Division of Rulemaking,  
Office of Nuclear Material Safety and Safeguards,  
U.S. Nuclear Regulatory Commission.

SUBJECT: SUFFICIENCY REVIEW RESULTS – J. SKOV REQUEST FOR PETITION FOR  
RULEMAKING (PART 2) DATED: AUGUST 8, 2019

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**ADAMS Accession No.: ML19161A151 (package)**

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