

December 6, 2001

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We have enclosed a copy of a notice of denial of a petition for rulemaking submitted by the Nuclear Energy Institute (NEI). The petitioner requested that the Commission eliminate rulemaking as the approval mechanism for Certificates of Compliance (CoC) for dry cask storage of spent nuclear fuel under a general license. Rulemaking would be replaced with a process using orders. The petition was docketed as PRM-72-5.

The Commission is denying the petition for rulemaking because (1) improvements in the approval process since submittal of the NEI petition have significantly decreased the length of time for approval of CoC amendments, making regulatory change unnecessary; (2) the petitioner's approval process may require the offer of an opportunity for a hearing, which could eliminate any efficiency obtained by the elimination of notice and comment rulemaking; and (3) the Commission's performance goals would be better served by retaining the present process than by adopting the process suggested by petitioner.

The Federal Register notice denying the petition is being transmitted to the Office of the Federal Register for publication.

Sincerely,

L. Portner for /RA

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
Federal Register notice

cc: Representative Rick Boucher

December 6, 2001

The Honorable Harry Reid, Chairman
Subcommittee on Transportation, Infrastructure,
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

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cc: Senator James M. Inhofe

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Identical letter sent to The Honorable Joe Barton with a cc to Representative Rick Boucher

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