

April 23, 2002

MEMORANDUM TO: Stuart A. Treby
Assistant General Counsel for Rulemaking
and Fuel Cycle
Office of the General Counsel

FROM: Michael T. Lesar, Chief / *RA* / **Signed by M T Lesar**
Rules and Directives Branch
Division of Administrative Services
Office of Administration

SUBJECT: PROSPECTIVE PETITION FOR RULEMAKING FROM THE
NUCLEAR ENERGY INSTITUTE REQUESTING AMENDMENT
OF 10 CFR PARTS 8 AND 150

Attached for your review is a document that the Nuclear Energy Institute (NEI) has submitted to the Commission for docketing as a petition for rulemaking under 10 CFR 2.802. NEI's submission requests that the NRC amend 10 CFR Parts 8 and 150 to update the agency's legal interpretation of Federal preemption law, clarify the boundaries between the NRC's regulatory authority and that of non-Agreement States and local governments, and establish a preemption determination process.

The Rules and Directives Branch requests that the Office of the General Counsel review NEI's request before it is docketed as a petition for rulemaking. Although we believe that the attached document meets the threshold requirements for a petition for rulemaking in 10 CFR 2.802(c), we are interested in your comments or concerns regarding the requested actions, particularly with regard to the scope of our statutory authority. We would appreciate your response by April 29, 2002.

If you have any questions concerning this matter, please contact me at 415-7163 (MTL) or Victoria Voytko at 415-6075 (VNV).

Attachments: NEI cover letter and attachment

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