

POLICY ISSUE
NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Commissioner Caputo

SUBJECT: SECY-20-0085: Denial of Petition for Rulemaking
(PRM-50-75) due to the Discontinuation of the
Associated Rulemaking

Approved xx Disapproved Abstain Not Participating

COMMENTS: Below xx Attached xx None

I approve the staff's recommendation to deny PRM-26-3 and PRM-26-5 without prejudice. I approve publication of the Federal Register notice and issuance of the letters informing the petitioners of this decision, subject to the attached edits.

I share the Chairman's concern about the prolonged delay between termination of the associated rulemaking and this paper. The staff should examine its procedures to determine if any actions could prevent similar gaps or lack of tracking.

Entered in STARS

Yes X

No



Signature

10/30/2020

Date

AXC edits

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-75; NRC-2002-0018]

Large Break Loss-of-Coolant Accident Redefinition

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking dated February 6, 2002, submitted by Anthony R. Pietrangelo on behalf of the Nuclear Energy Institute, due to the discontinuation of the associated rulemaking.

DATES: As of [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], the docket for PRM-50-75 is closed.

ADDRESSES: Please refer to Docket ID NRC-2002-0018 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2002-0018. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For

technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, [at](#) 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the SUPPLEMENTARY INFORMATION section.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Yanelly Malave, telephone: 301-415-1519; e-mail: Yanelly.Malave@nrc.gov; or Robert Beall, telephone: 301-415-3874; e-mail: Robert.Beall@nrc.gov. Both are staff of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background

Title 10 of the *Code of Federal Regulations* (10 CFR) 2.802, "Petition for rulemaking—requirements for filing," provides an opportunity for any interested person to

petition the Commission to issue, amend, or rescind any regulation in 10 CFR chapter I. On February 6, 2002, Anthony R. Pietrangelo, on behalf of the Nuclear Energy Institute (petitioner), submitted a petition for rulemaking requesting the NRC amend its regulations to allow licensees to use an alternative to the double-ended guillotine break of the largest pipe in the reactor coolant system in emergency core cooling system evaluation models (ADAMS Accession No. ML082460625). The NRC docketed the petition as PRM-50-75, and on April 8, 2002, published a notice of docketing in the *Federal Register* and requested public comment (67 FR 16654). The comment period closed on June 24, 2002, and the NRC received 18 comment letters (ADAMS Accession No. ML022390515).

After evaluating the merits of the petition and the public comments, the NRC determined that the issues raised in PRM-50-75 would be considered in anthe ongoing 10-CFR 50-46a "Risk-Informed Redefinition of Large Break Loss-of-Coolant Accident (LOCA) Emergency Core Cooling System (ECCS) Requirements "rulemaking. On November 6, 2008, the NRC published a document in the *Federal Register* (73 FR 66000) stating that the NRC would address the substantive comments filed in PRM-50-75 as part of that rulemaking.

II. Discussion

A.-Discontinuation of the 10-CFR 50-46a ECCS Rulemaking

On December 10, 2010, the NRC staff provided the Commission SECY-10-0161 "Final Rule: Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements (10 CFR 50.46a)(RIN 3150-AH29) " Subsequent to the accident at

Fukushima Dai-ichi Nuclear Plant in March of 2011, the NRC staff requested Commission approval to withdraw the draft final rule during its evaluation of Fukushima Near-Term Task Force Recommendation 1 regarding the development of a new risk-informed regulatory framework from SECY-11-0093 and the recent publication of NUREG-2150, "A Proposed Risk Management Regulatory Framework." The staff stated:

Although the staff believes that the draft final 10 CFR 50.46a rule is an appropriate and well-founded approach to risk-inform the NRC's emergency core cooling requirements, the staff requests that SECY-10-0161 be withdrawn from Commission consideration so that it may be resubmitted later after the staff has completed its regulatory framework evaluation. When the staff establishes its recommended approach, it will re-evaluate the draft final 10 CFR 50.46a rule to ensure its compatibility with the recommended regulatory framework. Based on the outcome of the compatibility evaluation and the completion of any necessary changes, the staff will re-submit the draft final 10 CFR 50.46a rule with or shortly after providing its regulatory framework recommendation to the Commission.

In the January 31, 2016, SECY-16-0009, "Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities" (ADAMS Accession No. ML16028A189), the NRC staff requested Commission approval of work to be shed, deprioritized, or performed with fewer resources. One of the items to be ~~shed (i.e., discontinued)~~ was the 10 CFR 50.46a ECCS final rule risk-informed loss-of-coolant accident rulemaking-(Item 1 of Enclosure 1 to SECY-16-0009).

This rule would have provided a voluntary alternative to current regulatory requirements. However, at a public meeting to discuss the Risk Management Regulatory Framework paper (ADAMS Accession No. ML 15026A328), certain industry representatives indicated that the nuclear industry would not be interested in implementing the final rule.

~~Based on interactions with the nuclear industry, the NRC staff acknowledged that there were concerns with the potential implementation burden of the rule—~~The NRC

staff's regulatory analysis for the draft ~~10 CFR 50.46a ECGS~~ final rule (ADAMS Accession No. ML103230250) also discussed ~~the~~ comments submitted by the Boiling Water Reactor Owners Group, which conveyed ~~that the it view that it~~ would be ~~extremely~~ difficult to evaluate the cost-benefit of the rule due to uncertainties about the ~~true~~ cost of adopting the ~~10 CFR 50.46a ECGS~~ rule. ~~Furthermore, at a public meeting to discuss the Risk Management Regulatory Framework paper (ADAMS Accession No. ML15026A328), certain industry representatives indicated that the nuclear industry would not be interested in implementing the final rule. As noted in SECY-16-0009, this rule would have been voluntary, so licensees could have chosen not to implement the requirements.~~

The Commission approved the discontinuation of the ~~10 CFR 50.46a ECGS~~ rulemaking in the staff requirements memorandum (SRM) to SECY-16-0009. On October 6, 2016, the NRC published a ~~document~~notice in the *Federal Register* informing the public of its decision. ~~to discontinue the 10 CFR 50.46a ECGS rulemaking. The NRC stated that it had "decided not to proceed with this rulemaking activity because there is minimal adverse impact on our mission, principles, or values and the industry has indicated that there may not be much interest in implementing the final rule"~~ (81 FR 69447).

B. Denial of PRM-50-75

Under 10 CFR 2.803(i)(2), after closing the docket for a PRM under § 20.803(h)(2)(ii) by addressing it in an ongoing ifrulemaking, if the NRC ~~determines~~decides not to complete ~~a rulemakingthe rulemaking, any associated petition for rulemaking- the PRM~~ is documented as denied. In SRM-SECY-16-0009, the Commission approved discontinuation of the ~~10 CFR 50.46a ECGS~~ risk-informed LOCA

requirements rulemaking, which was the rulemaking identified to address PRM-50-75.

Therefore, the NRC is denying PRM-50-75 without prejudice.

III. Conclusion

The NRC previously discontinued the ~~10 CFR 50.46a ECCS~~ risk informed LOCA Requirements rulemaking and is therefore denying without prejudice associated PRM-50-75 for the reasons discussed in this document.

Dated at Rockville, Maryland, this day of 20XX.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.



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

AXC edits

Mr. Doug True
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington DC 20004-1218

Dear Mr. True:

I am responding to the petition for rulemaking (PRM) dated February 6, 2002 (Agencywide Documents Access and Management System (ADAMS) Accession No. [ML020630082](#)), that was submitted by Mr. Anthony R. Pietrangelo on behalf of the Nuclear Energy Institute to the U.S. Nuclear Regulatory Commission (NRC). The petition was docketed as PRM-50-75 and requested that the NRC amend its regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) to allow the use of an alternative break size to the currently required double-ended rupture of the largest pipe in the reactor coolant system in Emergency Core Cooling System (ECCS) evaluation models.

In response to this petition, the NRC determined that the issues raised in PRM-50-75 would be considered in an ongoing ECCS rulemaking activity involving 10 CFR 50.46a (the 50.46a ECCS rulemaking), thereby closing PRM-50-75. The NRC informed Mr. John Butler of the Nuclear Energy Institute of this decision in a letter dated October 15, 2008 (ADAMS Accession No. [ML081790179](#)) and published a *Federal Register* notice on November 6, 2008 ([73 FR 66000](#)) to inform the public.

~~As explained in SECY-16-0009, "Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities" dated January 31, 2016 (ADAMS Accession No. [ML16028A208](#)), the NRC determined that discontinuation of the 50.46a ECCS rulemaking would have a minimal adverse impact on the NRC's mission, principles, or values, and members of the nuclear power industry indicated that the industry would not be interested in implementing the voluntary rule.~~ In staff requirements memorandum (SRM) for SECY-16-0009 (ADAMS Accession No. [ML16104A158](#); April 13, 2016), the Commission approved the staff's recommendation to discontinue the 50.46a ECCS rulemaking effort. Therefore, the Commission is denying PRM-50-75 without prejudice as a procedural matter under in accordance with 10 CFR 2.803(i)(2). Because this is a denial without prejudice, this PRM may be resubmitted under 10 CFR 2.802 for further consideration of the issues raised. For additional information, please see the enclosed *Federal Register* notice.

Sincerely,

Annette L. Vietti-Cook,
Secretary of the Commission

Enclosure:
Federal Register notice