

**CONGRESSIONAL CORRESPONDENCE SYSTEM
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2. TYPE OF DOCUMENT CORRESPONDENCE HEARINGS (Qs/As)
3. DOCUMENT CONTROL SENSITIVE (NRC ONLY) NON-SENSITIVE
4. CONGRESSIONAL COMMITTEE AND SUBCOMMITTEE (if applicable)
_____ Congressional Committee
_____ Subcommittee
5. SUBJECT CODES
(A) _____
(B) _____
(C) _____
6. SOURCE OF DOCUMENTS
(A) _____ 5520 (DOCUMENT NAME _____)
(B) _____ SCAN (C) _____ ATTACHMENTS
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COMMENTS:

RELEASE TO PDR

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 15, 1999

The Honorable James M. Inhofe, Chairman
Subcommittee on Clean Air, Wetlands, Private
Property and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed is a Federal Register notice withdrawing a petition for rulemaking submitted by the Nuclear Energy Institute (NEI). The petitioner requested that the Nuclear Regulatory Commission (NRC) amend its regulations concerning fire protection at nuclear power plants. In subsequent correspondence with the NRC, the petitioner expressed a change of position that obviated the need for a proposed rulemaking requested in the petition. Specifically, the petitioner requested that the NRC cancel the proposed rulemaking instead of deferring it. Accordingly, the NRC is not taking any further action on the petition since it has, in effect, been withdrawn by the petitioner.

In a letter dated February 2, 1995, to John C. Hoyle, then-Acting Secretary of the NRC, William H. Rasin, then-president of NEI, submitted a Petition for Rulemaking (PRM-50-61). In the petition, NEI requested that the NRC amend 10 CFR 50.48 and add an Appendix S to 10 CFR Part 50 providing for an alternative to the current regulation in Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979." In its petition, NEI stated that the rulemaking would make the fire protection regulations less prescriptive and more performance oriented and risk based.

In a letter dated December 11, 1997, from Ralph Beedle, Senior Vice President and Chief Nuclear Officer, NEI, to L. Joseph Callan, formerly NRC Executive Director for Operations, Mr. Beedle presented the results of a survey of all chief nuclear officers of operating reactors concerning fire protection rulemaking. As expressed in that survey, industry's position was that a new fire protection rule was neither desired nor considered necessary to ensure or improve safety. In his letter, Mr. Beedle acknowledged that this represented, on the part of the industry, a change of position from that previously communicated in NEI's petition for rulemaking of February 2, 1995.

On March 26, 1998, the NRC staff submitted SECY-98-058, "Development of a Risk-Informed, Performance-Based Regulation for Fire Protection at Nuclear Power Plants," to the Commission. In SECY-98-058, the staff recommended that the fire protection rulemaking be deferred and that the NRC, in cooperation with the National Fire Protection Association (NFPA) and the stakeholders, develop a performance-based and risk-informed consensus standard for fire protection for nuclear power plants. The NRC staff proposed that if the standard were successfully developed, the NRC could adopt it in a future rulemaking as an alternate way of meeting NRC fire protection requirements specified in 10 CFR 50.48 and Appendix R to 10 CFR Part 50. The Commission approved the NRC staff's proposal in a staff requirements memorandum on SECY-99-058 dated June 30, 1998.

NEI reiterated its approval and support for the development of the NFPA standard instead of the proposed Appendix S in a letter of May 5, 1998, from Mr. Beedle to former NRC Chairman Shirley Jackson. In that letter, Mr. Beedle stated: "The NRC staff should continue to support, as industry does, the National Fire Protection Association process to develop NFPA 805... The fire protection rulemaking should be canceled rather than deferred."

The NRC staff's approach of developing a risk-informed, performance-based fire protection consensus standard for adoption through a future rulemaking is consistent with the guidance specified in the Office of Management and Budget Circular A-119 and Public Law 104-113, which encourages the adoption of national consensus standards by government agencies.

The NRC sent a letter to the petitioner on August 20, 1999, stating that, on the basis of NEI's letters of December 11, 1997, and May 5, 1998, the NRC concluded that NEI had, in effect, withdrawn its petition for rulemaking regarding nuclear power plant fire protection. The NRC also stated that, unless NEI disagreed with this conclusion and responded in writing within 14 days of the August 20, 1999, letter, the NRC would publish a notice of withdrawal of the petition in the Federal Register. NEI did not respond to NRC's August 20, 1999 letter. Therefore, NEI's petition of February 2, 1995 (PRM-50-61), is withdrawn. Accordingly, the NRC is not taking any further action on the petition.

Sincerely,

A handwritten signature in cursive script that reads "Dennis Rathburn" with a stylized flourish at the end.

Dennis K. Rathburn, Director
Office of Congressional Affairs

Enclosure:

Federal Register notice of
withdrawal of petition for rulemaking

cc: Senator Bob Graham



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 15, 1999

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

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A handwritten signature in cursive script that reads "Dennis K. Rathburn".

Dennis K. Rathburn, Director
Office of Congressional Affairs

Enclosure:

Federal Register notice of
withdrawal of petition for rulemaking

cc: Representative Ralph M. Hall