

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 50**

**Docket No. PRM-50-61**

**Nuclear Energy Institute; Withdrawal of Petition for Rulemaking**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Withdrawal of petition for rulemaking.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has determined that a petition for rulemaking submitted by the Nuclear Energy Institute (NEI) (PRM-50-61), in which the petitioner requested that the NRC amend its fire protection regulations, has effectively been withdrawn by NEI. In subsequent correspondence with the NRC, the petitioner expressed a change of position that obviated the need for a proposed rulemaking requested by the petition. Specifically, the petitioner requested that the NRC cancel the proposed fire protection rulemaking instead of deferring it. As an alternative to the rulemaking requested in the petition, the NRC, in cooperation with the National Fire Protection Association (NFPA) and stakeholders, is pursuing the development of a risk-informed, performance-based consensus standard for fire protection at nuclear power plants. If the consensus standard is successfully developed, the NRC may adopt it in a future rulemaking as an alternative method of meeting the NRC fire protection requirements. Accordingly, the NRC is not taking any further action on the petition since it has, in effect, been withdrawn by the petitioner.

**ADDRESSES:** Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection in the NRC Public Document

Room, 2120 L Street NW. (Lower Level), Washington, DC 20012-7082, telephone: (202) 634-3273.

**FOR FURTHER INFORMATION CONTACT:** Daniele Oudinot, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: (301) 415-3731, e-mail dho@nrc.gov.

**SUPPLEMENTARY INFORMATION:**

On June 6, 1995 (60 FR 29784), the NRC published a notice of receipt of a petition for rulemaking filed by NEI. The petitioner requested that the NRC revise 10 CFR 50.48 and add an Appendix S to 10 CFR Part 50. 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 the 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.

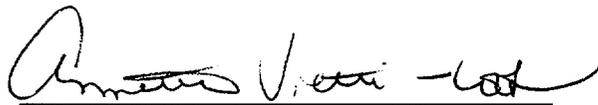
On March 26, 1998, the NRC staff submitted SECY-98-058, "Development of a Risk-Informed, Performance-Based Regulation for Fire Protection at Nuclear Power Plants," to the Commission. In SECY-98-058, the staff recommended that the fire protection rulemaking be deferred and that the NRC, in cooperation with the 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 the former NRC Chairman Shirley Jackson. In that letter, Mr. Beedle stated: "The industry sees no safety benefit in replacing 10 CFR 50.48 and Appendix R with a new fire protection rule.... It is essential that the industry participate extensively in the development and review of any guidance to ensure that licensees and NRC staff have a common understanding.... The NRC staff should continue to support, as does industry, the National Fire Protection Association (NFPA) process to develop NFPA 805.... The fire protection rulemaking should be canceled rather than deferred."

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 has, 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, NRC deems the NEI petition of February 2, 1995 (PRM-50-61) to be withdrawn.

Dated at Rockville, Maryland, this 14<sup>th</sup> day of October, 1999.

For the Nuclear Regulatory Commission.

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette Vietti-Cook,  
Secretary of the Commission.