



POLICY ISSUE

(Notation Vote)

September 23, 2020

SECY-20-0085

FOR: The Commissioners

FROM: Margaret M. Doane
Executive Director for Operations

SUBJECT: DENIAL OF PETITION FOR RULEMAKING (PRM-50-75) DUE TO THE DISCONTINUATION OF THE ASSOCIATED RULEMAKING

PURPOSE:

The purpose of this paper is to request Commission approval to publish the enclosed *Federal Register* notice (FRN) (Enclosure 1) denying Petition for Rulemaking (PRM-50-75), "Large Break Loss-of-Coolant Accident Redefinition," submitted by Anthony R. Pietrangelo (petitioner) on behalf of the Nuclear Energy Institute (NEI), due to the discontinuation of the associated rulemaking, "Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements" (10 CFR 50.46a ECCS).

DISCUSSION:

PRM-50-75 (NRC-2002-0018)

On February 6, 2002, Anthony R. Pietrangelo, on behalf of the NEI, submitted a PRM requesting the U.S. Nuclear Regulatory Commission (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 (ECCS) evaluation models (Agencywide Documents Access and Management System (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* (67 FR 16654), and requested public comment. The comment period closed on June 24, 2002, and the NRC received 18 comment submissions (ADAMS Accession No. ML022390515).

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After evaluating the merits of the petition and the public comments, the NRC determined the issues raised in PRM-50-75 would be considered in the ongoing 10 CFR 50.46a ECCS rulemaking. On November 6, 2008, the NRC published a document in the *Federal Register* (73 FR 66000) stating that it would address the substantive comments filed in PRM-50-75 as part of that rulemaking.

Discontinuation of the 10 CFR 50.46a ECCS Rulemaking (RIN: 3150-AH29)

In SECY-16-0009, "Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities," dated January 31, 2016 (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 (Item 1 of Enclosure 1 to SECY-16-0009).

Based on interactions with representatives of the nuclear industry, the staff acknowledged in SECY-16-0009 that there were concerns with the potential implementation burden of the rule. The regulatory analysis for the 10 CFR 50.46a ECCS draft final rule (ADAMS Accession No. ML103230250) discussed the comments submitted by the Boiling Water Reactor Owners Group, which conveyed 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 ECCS 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 ECCS rulemaking in SRM-SECY-16-0009, dated April 13, 2016 (ADAMS Accession No. ML16028A189). On October 6, 2016, the NRC published a document in the *Federal Register* (81 FR 69446) informing the public of its decision to discontinue the 10 CFR 50.46a ECCS 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." The NRC also stated that it would issue a separate *Federal Register* document to disposition PRM-50-75.

RECOMMENDATION:

Under 10 CFR 2.803(i)(2), if the NRC decides that it will not complete a rulemaking, then any PRM associated with that rulemaking will be documented as denied. In SRM-SECY-16-0009, the Commission approved discontinuation of the 10 CFR 50.46a ECCS rulemaking, which was the rulemaking identified to address PRM-50-75. Because, under Management Directive 6.3, the Commission is responsible for denying PRMs, the staff recommends that the Commission deny PRM-50-75 without prejudice.

The staff requests that the Commission approve publication of the FRN denying PRM-50-75 (Enclosure 1). The enclosed letter is for signature by the Secretary of the Commission (Enclosure 2) and informs the petitioner of the Commission's decision to deny the petition. The staff will also inform the appropriate Congressional committees of the Commission's decision.

RESOURCES:

No additional resources are required to implement the recommendations.

COORDINATION:

The Office of the General Counsel has no legal objection to these actions.

Margaret M. Doane Digitally signed by Margaret M. Doane
Date: 2020.09.23 11:31:37 -04'00'

Margaret M. Doane
Executive Director
for Operations

Enclosures:

1. *Federal Register* Notice
2. Letter to Petitioner

SUBJECT: DENIAL OF PETITION FOR RULEMAKING (PRM-50-75) DUE TO
DISCONTINUATION OF THE ASSOCIATED RULEMAKING DATED:
September 23, 2020

Package: ML19171A006
SECY Paper: ML19171A008
FRN: ML19171A010
LTR to Petitioner: ML19171A011

*Via E-Mail

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