



POLICY ISSUE **(Notation Vote)**

September 24, 2019

SECY-19-0092

FOR: The Commissioners

FROM: Margaret M. Doane
Executive Director for Operations

SUBJECT: DENIAL OF PETITION FOR RULEMAKING (PRM-50-69;
NRC-2000-0019) DUE TO DISCONTINUATION OF RULEMAKING—
MODIFICATIONS TO PRESSURE-TEMPERATURE LIMITS

PURPOSE:

The purpose of this paper is to request Commission approval to publish the enclosed *Federal Register* notice (FRN) (Enclosure 1) denying a petition for rulemaking (PRM), PRM-50-69, submitted by Mr. H.A. Sepp on behalf of Westinghouse Electric L.L.C, and notifying the public that the rulemaking effort "Modifications to Pressure-Temperature Limits" (Appendix G Rulemaking, RIN 3150-AG98) has been discontinued. The petitioner requested that the U.S. Nuclear Regulatory Commission (NRC) amend its regulations regarding the reactor pressure vessel closure head flange temperature requirements in Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities," Appendix G, "Fracture Toughness Requirements." The Commission previously approved staff's recommendation to discontinue the rulemaking associated with this PRM in the Staff Requirements Memorandum (SRM)-SECY-16-0009, "Staff Requirements – SECY-16-0009 – Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities," dated April 13, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16104A158).

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BACKGROUND:Process for Discontinuing Rulemaking Activities and Denying Associated Petition for Rulemaking

When staff identifies a rulemaking activity to be discontinued, the staff submits a request to the Commission for approval to discontinue the rulemaking. The Commission provides its decision in a SRM. If the Commission approves discontinuing the rulemaking activity, staff informs the public of the Commission's decision through an FRN.

In SRM for SECY 15-0129, "Commission Involvement in Early Stages of Rulemaking," dated February 3, 2016 (ADAMS Accession No. ML16034A441), the Commission approved the institution of a requirement that the staff submit, for Commission approval through a SECY paper, any recommendation to deny a PRM.

Often the scope of an NRC rulemaking includes issues raised by a petitioner in a petition for rulemaking. As required by 10 CFR 2.803(i)(2), if the NRC decides not to complete the rulemaking, the petition for rulemaking is documented as denied. Accordingly, the staff requests approval to publish a FRN denying PRM 50-69, for the reasons discussed in this document and consistent with the Commission's direction in SRM-SECY-16-0009, "Staff Requirements – SECY 16 0009 – Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities," dated April 13, 2016 (ADAMS Accession No. ML16104A158), to discontinue the rulemaking.

DISCUSSION:Petition for Rulemaking, PRM-50-69

On November 4, 1999, Westinghouse Electric Company, LLC (petitioner) (ADAMS Accession No. ML003683190), submitted PRM 50-69, requesting that the NRC amend Appendix G to 10 CFR Part 50 by removing requirements related to the metal temperature of the closure head flange and vessel flange regions. On January 28, 2009, the NRC published an FRN (74 FR 4911) stating that the NRC would consider the issues raised in PRM 50-69 in an ongoing rulemaking to revise Appendix G. The notice stated that if the ongoing work to establish a technical basis for the rulemaking did not support the issuance of a proposed rule, the NRC would issue a supplemental FRN that addresses why the NRC did not adopt the petitioner's requested rulemaking changes.

Discontinuation of Appendix G Rulemaking (RIN 3150-AG98)

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 staff requested Commission approval to implement recommendations on work to be shed, deprioritized, or performed with fewer resources. One of the items identified to be shed was the development of a technical basis for the rulemaking effort, "Modifications to Pressure-Temperature Limits" (Appendix G rulemaking, Item 50 of Enclosure 1 to SECY-16-0009). PRM-50-69, however, was not separately identified by SECY-16-0009.

The Commission approved the recommendation to discontinue the Appendix G rulemaking effort in SRM-SECY-16-0009.

Prior to discontinuation of the Appendix G rulemaking effort, the staff evaluated the technical merits of the petition and concluded that the technical basis for the proposal, as described in the petition, was insufficient to serve as the technical basis for Appendix G rulemaking. Independent from the petition, the NRC previously granted two plant-specific exemptions under 10 CFR 50.12, "Specific exemptions" (ADAMS Accession Nos. ML041940552 and ML061890003) that address the regulatory requirements discussed in the petition. Notwithstanding the lack of technical merit from a generic perspective, licensees could pursue plant-specific exemptions from the requirements in accordance with 10 CFR 50.12.

Accordingly, the staff is requesting approval to publish a notice informing the public of the discontinuation of the rulemaking and denial of the associated petition, PRM-50-69. The petition is denied for the same reasons that the agency has discontinued the Appendix G rulemaking. Specifically, the NRC determined that the research has not established any new information that would serve as the technical basis to revise Appendix G.

RECOMMENDATION:

The NRC staff recommends that the Commission deny PRM-50-69 because no new information has been developed that would serve as the technical basis for revising Appendix G and the NRC's current regulations provide reasonable assurance of adequate protection of public health and safety and common defense and security.

The staff requests that the Commission approve publication of the FRN denying PRM-50-69 and notifying the public of the discontinuation of the Appendix G rulemaking (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.

The Commissioners

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COORDINATION:

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

A handwritten signature in cursive script that reads "Margaret M. Doane".

Margaret M. Doane
Executive Director
for Operations

Enclosures:

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

SUBJECT: DENIAL OF PETITION FOR RULEMAKING (PRM-50-69; NRC-2000-0019) DUE
TO DISCONTINUATION OF RULEMAKING – MODIFICATIONS TO PRESSURE-
TEMPERATURE LIMITS: DATED: SEPTEMBER 24, 2019

Package: ML19129A067
SECY Paper: ML19129A073
FRN: ML19129A076
LTR to Petitioner: ML19129A081

*Via E-Mail

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