

ATOMIC ENERGY COMMISSION

PROPOSED REVISION OF 10 CFR, PART 50, "INTERESTING OF PRODUCTION AND UTILIZATION FACILITIES"

Report to the General Manager by the Director, Division of Licensing and Regulation

THE PROVISION

1. To consider a proposed amendment to Part 50, 10 CFR, "Manufacturing and Production and Utilization Facilities" which would prohibit the construction of any production or utilization facility except as authorized in a construction permit issued by the Commission.

SUMMARY

2. The Atomic Energy Act of 1954, as amended, and Part 50 of the Commission's regulations provide that no person may manufacture, produce, transfer, acquire, possess, use, import or export any production or utilization facility except as authorized by a license issued by the Commission.

3. Part 50, 10 CFR requires an organization desiring to construct and operate a nuclear reactor to submit an application to the Commission that includes among other things a Hazards Summary Report describing the design of the proposed reactor, its safety features for preventing accidents which might result in the release of fission products, containment and effluent control features for preventing accidental release to the surrounding environment of hazardous amounts of fission products from the facility, and

~~the requirements of the Atomic Energy Act of 1954, as amended, and the regulations of the Commission.~~

A15

File 107
Division
Licensing and Regulation

and the environmental character of the site and the surrounding area.

4. The Act and the regulations also provide that applicants for facility licenses shall, if the application is otherwise acceptable, be initially granted a construction permit. The existing regulations do not, however, prohibit the start^{of} construction of a facility in the absence of a construction permit.

5. It was felt at the time the regulations were formulated that private companies should be free to do preliminary construction work if they wanted to risk the expense prior to obtaining a construction permit. It was also believed that private industry would not commit substantial funds on construction before obtaining a construction permit in view of the financial risk involved. This belief has been borne out by the fact that except in the case of the Government-owned NASA test reactor, no applicant has commenced any major construction on a power or test reactor prior to obtaining a construction permit. There have, however, been a number of small research reactors on which construction began before the issuance of a construction permit.

6. The construction permit procedure required by the Act can serve two functions (a) to eliminate the allegation of pressure on the Commission resulting from the prior expenditure of substantial funds by an applicant, and (b) to provide assurance to the industry of reasonable probability that a facility license will be issued upon the completion of the construction of the reactor at the proposed site.

7. The proposed amendment to Part 50, set forth in Appendix "A," would prohibit the commencement of construction of a foundation for a production or utilization facility and any portion of the permanent facility on the site on which the facility is to be operated. Design work, the manufacture of reactor components, and the clearing and excavation of the site would not be prohibited by the regulation.
8. Since the evidence suggests that no applicant will commit funds to major construction on the site prior to the issuance of a construction permit, it is doubtful if the amendment will significantly delay the reactor program of a licensee.

STAFF JUDGMENTS

and the Division of Reactor Development

9. The Office of the General Counsel, concurs in the recommendation of this paper.

RECOMMENDATIONS

10. The General Manager recommends that the Atomic Energy Commission:

- a. Approve the proposed amendment to Part 50 contained in Appendix "A";
- b. Note that the proposed amendment will be published initially in the Federal Register in conformity with the procedure which allows a 30-day period after publication for filing written comments or objections by interested persons;
- c. Approve the publication of the amendment in final form if after the 30-day period it appears that there is no need for substantial changes. If substantial changes are indicated, the amendment will be resubmitted to the Commission for approval;
- d. Note that the Joint Committee on Atomic Energy will be informed of this action by letter such as Appendix "B";
- e. Note that a press release ~~amendment~~ will be issued upon publication of the proposed amendments; and
- f. Note that this paper is unclassified.

APPENDIX "A"

TITLE 10 - ATOMIC ENERGY

CHAPTER 1 - ATOMIC ENERGY COMMISSION

PART 50 - LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

The following proposed amendment is designed to prohibit the construction of any production or utilization facility prior to the issuance of a construction permit by the Commission.

Under the Atomic Energy Act of 1954, as amended, the Commission is directed to grant a construction permit prior to issuing a facility license. The following proposed amendment ~~is designed to amend Part 50~~

~~to prohibit the commencement of construction of a foundation for a production or utilization facility and any portion of the permanent facility on the site on which the facility is to be operated.~~ *before a construction permit is issued.* Under the amendment site exploration and excavation and the procurement or manufacture of components of the facility could be conducted without a construction permit.

Notice is hereby given that adoption of the following amendment to Part 50, 10 CFR, "Licensing of Production and Utilization Facilities" is contemplated. All interested persons who desire to submit written comments and suggestions should send them to the U. S. Atomic Energy Commission, Washington 25, D. C., Attention: Division of Licensing

and Regulation within 30 days after publication of this notice in the Federal Register.

Section 50.10 of Part 50, 10 CFR, is amended by designating the existing provision as paragraph "(a)" and adding the following new paragraph:

"(b) No person shall begin the construction of a production or utilization facility on a site on which the facility is to be operated until a construction permit has been issued. This prohibition does not apply to site exploration or excavation, or procurement or manufacture of components of the facility. It does prohibit laying the foundation and construction of any portion of the permanent facility on the site."

APPENDIX "B"

DRAFT LETTER TO FCAE

1. Enclosed is a copy of a proposed amendment to Part 50 of the Commission's regulations, entitled "Licensing of Production and Utilization Facilities," which makes it mandatory that a construction permit be issued by the Commission before construction is started on any production or utilization facility. The primary purpose of a construction permit is to obtain formal determination on the adequacy of the site to accommodate a facility and a formal determination as to whether there is reasonable assurance that a facility of the general type proposed can be constructed and operated at the site without undue risk to the public health and safety. The amendment will make it necessary for these determinations to be made before an applicant commits substantial funds towards construction. The present regulations, adapted shortly after enactment of the Atomic Energy Act of 1954, do not prohibit an organization from desiring a license from the Commission from starting construction of a reactor before obtaining a construction permit.

2. Although the Commission is not aware that any major construction has started on privately owned power or test reactors prior to issuance of a construction permit it is believed that such the proposed amendment is desirable.

3. Interested persons will have a 30-day period after publication of the proposed amendment in the Federal Register in which to file comments or objections.