

January 19, 1981



SECY-81-43

POLICY ISSUE
(Affirmation)



For: The Commissioners

From: William J. Dircks
Executive Director for Operations

Subject: PROPOSED RULE CHANGES TO IMPLEMENT THE COMMISSION'S DELEGATION OF OL ANTITRUST DETERMINATION TO DIRECTORS, NRR AND NMSS

Purpose: To obtain Commission approval of proposed amendments to 10 CFR Parts 1 and 2 for publication in the Federal Register.

Category: This is a minor policy matter requiring Commission approval.

Discussion: On September 12, 1979 the Commission delegated to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, its authority under Section 105c(c)(2) of the Atomic Energy Act to make a "significant changes" determination, that is, a determination that there have or have not been significant changes in an OL applicant's activities or proposed activities under its license that have occurred subsequent to the antitrust review conducted in connection with the CP application. (Attachment D). Concurrently with that delegation, which was approved in connection with SECY-79-353 (Attachment C), the Commission directed the staff to prepare implementing regulations, as required. A copy of the regulations to be published in the Federal Register is attached (Attachment A).

Recommendation:

1. That the Commission approve publication in the Federal Register of the proposed amendments to 10 CFR Parts 1 and 2 as set forth in Attachment A.
2. Note that:
 - a. Even though the amendments relate solely to minor matters of agency procedure, Staff, after consultation with the Department

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of Justice and OGC, thinks that adoption of the proposed amendments would give notice to the public of, and opportunity for public participation in, the making of an OL antitrust determination. Thus, it is appropriate that public comment on the proposed amendments be invited.

- b. Comparative texts showing the proposed additions and deletions to existing regulations are attached as Attachment B.
- c. The Senate Committee on Environment and Public Works and the House Committees on Interior and Insular Affairs, Interstate and Foreign Commerce and Government Operations will be informed by letter. (Attachment E).
- d. The amendments do not significantly affect the quality of the human environment or involve unresolved conflicts concerning available resources. Accordingly, no environmental impact statement, negative declaration or environmental impact appraisal need be prepared.



William J. Dircks
Executive Director for
Operations

Attachments:

- A. Statement of Consideration/
Implementing Regulations
- B. Comparative Text of Existing and
Proposed Rules
- C. SECY-79-353
- D. Memorandum, September 12, 1979
- E. Draft Letter for Congressional
Committees

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Wednesday, February 4, 1981.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT January 28, 1981, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an open meeting during the week of February 9, 1981. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION

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ATTACHMENT A

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 1 and 2]

Implementation of Commission's Delegation of Authority to Determine Whether There Have Been Significant Changes in Operating License Applicant's Activities or Proposed Activities Since the Construction Permit Antitrust Determination

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed Rule.

SUMMARY: The Nuclear Regulatory Commission proposes to amend its regulations to implement the Commission's delegation of authority to make the "significant changes" determination to the Director of Nuclear Reactor Regulation and the Director of Nuclear Material Safety and Safeguards. The "significant changes" determination is whether there have or have not been changes of antitrust significance in an operating license applicant's activities or proposed activities under its license that have occurred subsequent to the antitrust review conducted in connection with the Construction Permit application under Section 105(c)(2) of the Atomic Energy Act of 1954, as amended. This proposed rule would implement NRC internal procedural changes and has no substantive effect on licensees of any class.

DATES: Comments must be submitted on or before [30 days after publication in the Federal Register].

ADDRESSES: Written comments concerning the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Robert S. Wood, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation, Washington, DC 20555, Telephone: (301) 492-8303.

SUPPLEMENTARY INFORMATION: On September 12, 1979, the Nuclear Regulatory Commission delegated its authority to make a "significant changes" determination under Section 105c(2) of the Atomic Energy Act of 1954, as amended, to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate. In connection with that delegation, the Commission approved procedures to be used until such time as effective regulations implementing those procedures were adopted.

The Commission now proposes to amend its rules of practice in 10 CFR Part 2 which pertain to the Commission's authority to make a "significant changes" determination to implement the delegation of that authority to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate. The proposed rules are self-explanatory: they require that a determination be made as to whether or not there have been changes of antitrust significance in an operating license applicant's activities or proposed activities under his license that have occurred subsequent to the review conducted in connection with the construction permit application and afford the public an opportunity to participate in the making of the determination by submitting comments. Also, the Commission proposes to amend 10 CFR Part 2 and Appendix A to Part 2 to reflect the fact that all applications for operating licenses for facilities for which construction permits were issued

under Section 104b of the Atomic Energy Act have already been reviewed. It is therefore proposed that appropriate deletions be made in regulations under that Section in 10 CFR Section 2.101(d)(1) and in Appendix A to Part 2. Conforming amendments to the regulations in 10 CFR Part 1 are also proposed.

Even though these amendments relate to rules of agency procedures and practice and notice of proposed rulemaking and public procedure thereon are not necessary, the Commission invites public comment on the proposed amendments. Because the proposed amendments enlarge public notice and the opportunity for public participation in the Commission's determination of whether there have been significant changes in an operating license applicant's activities or proposed activities under its license which have occurred subsequent to the review conducted in connection with the construction permit application, the Commission would welcome public comment on the proposed amendments.

REGULATORY FLEXIBILITY STATEMENT: In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule would implement NRC internal procedural changes and would have no substantive effect on licensees of any class.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter 1, Code of Federal Regulations Parts 1 and

2 is contemplated:

10 CFR Part 1 is amended as follows:

1. The authority citation for Part 1 reads as follows:

AUTHORITY: Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); secs. 201, 203, 204, 205, and 209, Pub. L. 93-438, 88 Stat. 1242, 1244, 1245, 1246 and 1248 (42 U.S.C. 5841, 5843, 5844, 5845, and 5849); Pub. L. 94-79, 89, Stat. 413; and 5 U.S.C. 552 and 553.

2. 10 CFR Section 1.42 is amended by revising paragraph (e) to read as follows:

§1.42 Office of the Executive Legal Director.

* * * * *

(e) The Antitrust Division acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Appeal Boards, Atomic Safety and Licensing Boards, and administrative law judges, in matters relating to antitrust aspects of applications for nuclear facility licenses; provides legal advice regarding NRC antitrust responsibilities; and, for operating license antitrust reviews, together with the Utility Finance Branch of the Office of Nuclear Reactor Regulation, recommends to the appropriate Office Director (NRR or NMSS) whether or not a finding of significant changes should be made.

3. 10 CFR Section 1.61 is amended by revising paragraph (e) to read as follows:

§1.61 Office of Nuclear Reactor Regulation

* * * * *

(e) The Utility Finance Branch conducts prelicensing reviews of applications for nuclear facilities to assure that issuance of a license will not create or maintain a situation inconsistent with the antitrust laws; for operating license antitrust reviews, together with the Antitrust Division of the Office of the Executive Legal Director, recommends to the appropriate Office Director (NRR or NMSS) whether or not a finding of significant changes should be made; and is responsible for ascertaining compliance with license conditions pertaining to antitrust matters. It administers the Commission's program for indemnification of licensees against public liability claims arising out of nuclear incidents; and executes indemnification agreements with licensees pursuant to sections 170c, 170k, and 170l of the Atomic Energy Act of 1954, as amended.

10 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 reads as follows:

AUTHORITY: Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended (42 U.S.C. 2201); Pub. L. 90-23, 81 Stat. 54 (5 U.S.C. 552), unless otherwise noted. Section 2.200-2.206 also issued under sec. 186, Pub. L. 83-703, 68 Stat. 955 (42 U.S.C. 2236), and sec. 206, Pub. L. 93-438, 88 Stat. 1246 (42 U.S.C. 5846), and

§§ 2.800-2.807 also issued under Pub. L. 89-554, 80 Stat. 883 (42 U.S.C. 553), unless otherwise noted.

2. 10 CFR Section 2.101 is amended by revising paragraph (c), removing paragraph (e), and adding paragraphs (e)(1), (e)(2), (e)(3) and (e)(4).

§ 2.101 Filing of application.

* * * * *

(c) The notice published in the Federal Register announcing receipt of the antitrust information part of the application for a facility license under section 103 of the Act, except for those applications described in § 2.101(e) and § 2.102(d)(2), will state that:

* * * * *

(e)(1) Upon receipt of the antitrust portion of an application for a facility operating license under section 103 of the Act, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will publish in the Federal Register and in appropriate trade journals a "Notice of

Receipt of Operating License Application and Request for Antitrust Information." Such notice will invite persons to submit within sixty (60) days after publication of the notice comments or information concerning the antitrust aspects of the application to assist the Director in determining whether significant changes in the licensee's activities or proposed activities have occurred since the completion of the antitrust review at the construction permit stage pursuant to section 105c of the Act. Such notice will also state that persons who wish to have their views on the antitrust aspects of the application presented to the Attorney General for consideration should submit such views within sixty (60) days after publication of the notice to: U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch.

(2) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, after reviewing any comments or information received in response to the published Notice and any comments or information regarding the applicant received from the Attorney General, concludes that there have been no significant changes since the completion of the construction permit antitrust review, a finding of no significant changes will be published in the Federal Register together with a notice stating that a request for reevaluation of such proposed finding should be submitted within sixty (60) days of publication of the notice. If no requests for

reevaluation are received within that time, the proposed finding shall become the NRC's final determination. Requests for a determination of significant changes will be accepted after the date when the NRC determination becomes final only if they contain new information such as information of facts or events of anti-trust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

(3) If, as a result of the reevaluation of the finding described in paragraph (e)(2), it is determined that there have been no significant changes, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will deny the request and will publish a notice of finding of no significant changes in the Federal Register. Such notice and finding shall become the final NRC decision thirty (30) days after being made and only in the event that the Commission has not exercised sua sponte review.

(4) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, concludes that significant changes have occurred since the completion of the antitrust review at the construction permit stage, the provisions of § 2.102(d) shall apply.

3. 10 CFR Section 2.102 is amended by revising paragraphs (d)(1) and (d)(2) to read as follows:

§2.102 Administrative review of application.

* * * * *

(d)(1) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will refer and transmit a copy of each docketed application for a construction permit or an operating license for a utilization or production facility under section 103 of the Act to the Attorney General as required by section 105c of the Act.

(2) The requirements of paragraph (d)(1) do not apply to an application for an operating license for a production or utilization facility under section 103 of the Act for which the construction permit was also issued under section 103, unless the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, determines, after consultation with the Attorney General and in accordance with § 2.101(e), that such review is advisable on the ground that significant changes in the licensee's activities have occurred subsequent to the previous review by the Attorney General and the Commission under section 105c of the Act in connection with the construction permit.

* * * * *

Appendix A to 10 CFR Part 2 is amended as follows:

1. The authority citation for Appendix A reads as follows:

AUTHORITY: (Sec. 191, 80 Stat. 386 (42 U.S.C. 2241);
sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201);
sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243, Pub.
L. 94-79, 89 Stat. 413 (42 U.S.C. 5841)).

2. Appendix A to 10 CFR Part 2 is amended by revising paragraph X(a), revising and redesignating paragraph X(b), as X(b)(1), adding subparagraphs X(b)(2)-X(b)(5), and revising paragraph X(c) to read as follows:

X. Proceedings For the Consideration of Antitrust Aspects of
Facility License Applications

(a) Under the Atomic Energy Act of 1954, as amended, the Commission is required, with respect to applications for construction permit or operating licenses for production and utilization facilities for industrial or commercial purposes licensed under section 103, which include power reactors subject to the mandatory hearing requirements of section 189a of the Act, to follow procedures for antitrust review in section 105 of the Act. This section outlines the procedures used by the Commission to implement that section.

(b)(1) When an application for a construction permit or an operating license for a facility under section 103 of the Act subject to antitrust review under section 105 is received, the notice of receipt of application published in the Federal Register will state that persons who wish to have their views on the antitrust aspects of the application presented to the Attorney General for consideration shall

submit such views to the Commission within sixty (60) days after publication of the notice.

(2) Upon receipt of the antitrust portion of an application for a facility operating license under section 103 of the Act, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will publish in the Federal Register and in appropriate trade journals a "Notice of Receipt of Operating License Application and Request for Antitrust Information." Such notice will invite persons to submit within sixty (60) days after publication of the notice comments or information concerning the antitrust aspects of the application to assist the Director in determining whether significant changes in the licensee's activities or proposed activities have occurred since the completion of the antitrust review at the construction permit stage pursuant to section 105c of the Act. Such notice will also state that persons who wish to have their views on the antitrust aspects of the application presented to the Attorney General for consideration should submit such views within sixty (60) days after publication of the notice to: U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch.

(3) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, after reviewing any comments or information received in response to the published notice and any comments or information regarding the applicant received from the Attorney General, concludes that there have been no significant changes since the completion of the construction permit antitrust review,

a finding of no significant changes will be published in the Federal Register, together with a notice stating that a request for reevaluation of such proposed finding should be submitted within sixty (60) days of publication of the notice. If no requests for reevaluation are received within that time, the proposed finding shall become the NRC's final determination. Requests for a determination of significant changes will be accepted after the date when the NRC determination becomes final only if they contain new information such as information of facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

(4) If, as a result of the reevaluation of the proposed finding described above, it is determined that there have been no significant changes, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will deny the request and will publish a notice of his finding of no significant changes in the Federal Register. Such notice and finding shall become the final NRC decision thirty (30) days after being made and only in the event that the Commission has not exercised sua sponte review.

(5) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, concludes that significant changes have occurred since the completion the anti-trust review at the construction permit stage, the provisions of §2.102(d) shall apply.

(c)(1) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will refer and transmit a copy of each application for a construction permit or an operating license for a utilization or production facility under Section 103 of the Act, to the Attorney General as required by section 105c of the Act. Under that section, the Attorney General will, within a reasonable time, but in no event to exceed 180 days after receipt, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws specified in section 105c of the Act.

(2) Such review is not required for applications for operating licenses for production or utilization facilities under section 103 of the Act for which the construction permit was also issued under section 103, unless the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, determines, after consultation with the Attorney General and in accordance with §2.101(e), that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and by the Commission under section 105c of the Act in connection with the construction permit.

* * * * *

ATTACHMENT B

1. Section 1.42(e) is amended to read as follows:

(e) The Antitrust Division acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Appeal Boards, Atomic Safety and Licensing Boards, and administrative law judges, in matters relating to antitrust aspects of applications for nuclear facility licenses; [and] provides legal advice regarding NRC antitrust responsibilities; and, for operating license antitrust reviews, together with the Utility Finance Branch of the Office of Nuclear Reactor Regulation, recommends to the appropriate Office Director (NRR or NMSS) whether or not a finding of significant changes should be made.

2. Section 1.61(e) is amended to read as follows:

(e) The Utility Finance Branch conducts prelicensing reviews of applications for nuclear facilities to assure that issuance of a license will not create or maintain a situation inconsistent with the antitrust laws; for operating license antitrust reviews, together with the Antitrust Division of the Office of the Executive Legal Director, recommends to the appropriate Office Director (NRR or NMSS) whether or not a finding of significant changes should be made; and

is responsible for ascertaining compliance with license conditions pertaining to antitrust matters. It administers the Commission's program for indemnification of licensees against public liability claims arising out of nuclear incidents; and executes indemnification agreements with licensees pursuant to sections 170c, 170k, and 170.1 of the Atomic Energy Act of 1954, as amended.

3. s2.101(c) of 10 CFR is amended to read as follows:

(c) The notice published in the Federal Register announcing (~~deleting~~) receipt of the antitrust information part of the application for a facility license under section 103 of the Act, except for those applications described in s2.101(e) and s2.102(d)(2), will state that: . . .

4. s2.101(e) of 10 CFR is deleted and a new section s2.101(e) is added to read as follows:

(1) Upon receipt of the antitrust portion of an application for a facility operating license under section 103 of the Act, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will publish in the Federal Register and in appropriate trade journals a "Notice of Receipt of Operating

License Application and Request for Antitrust Information." Such notice will invite persons to submit within sixty (60) days after publication of the notice comments or information concerning the antitrust aspects of the application to assist the Director in determining whether significant changes in the licensee's activities or proposed activities have occurred since the completion of the antitrust review at the construction permit stage pursuant to section 105c of the Act. Such notice will also state that persons who wish to have their views on the antitrust aspects of the application presented to the Attorney General for consideration should submit such views within sixty (60) days after publication of the notice to: U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch.

(2) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, after reviewing any comments or information received in response to the published Notice and any comments or information regarding the applicant received from the Attorney General, concludes that there have been no significant changes since the completion of the construction permit antitrust review, a finding of no significant changes will be published in the Federal Register, together with a notice stating that a request for reevaluation of such proposed finding should be submitted within

sixty (60) days of publication of the notice. If no requests for reevaluation are received within that time, the proposed finding shall become the NRC's final determination. Requests for a determination of significant changes will be accepted after the date when the NRC determination becomes final only if they contain new information such as information of facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

(3) If, as a result of the reevaluation of the finding described in paragraph (e)(2), it is determined that there have been no significant changes, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will deny the request and will publish a notice of his finding of no significant changes in the Federal Register. Such notice and finding shall become the final NRC decision thirty (30) days after being made and only in the event that the Commission has not exercised sua sponte review.

(4) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, concludes that significant changes have occurred since the completion of the antitrust review at the construction permit stage, the provisions of §2.102(d) shall apply.

5. §2.102(d)(1) of 10 CFR is amended to read as follows:

(d)(1) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will refer and transmit a copy of each docketed application for a construction permit or an operating license for a utilization or production facility under section 103 of the Act (~~and each request, in a proceeding for an operating license for a utilization or production facility under section 104b of the Act, by any person who intervened or sought by timely written notice to the Commission to intervene in the construction permit proceeding to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination for an antitrust review under section 105c of the application for an operating license~~) to the Attorney General as required by section 105c of the Act.

6. §2.102(d)(2) of 10 CFR is amended to read as follows:

(d)(2) The requirements of paragraph (d)(1) do not apply to an application for an operating license for a production or utilization facility under section 103 of the Act for which the construction permit was also issued under section 103, unless the ~~[Commission]~~ Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, determines, after

consultation with the Attorney General and in accordance with s2.101(e), that such review is advisable on the ground that significant changes in the licensee's activities have occurred subsequent to the previous review by the Attorney General and the Commission under section 105c of the Act in connection with the construction permit.

7. Part 2, Appendix A, §X(a) is amended to read as follows:

(a) Under the Atomic Energy Act of 1954, as amended, the Commission is required, with respect to applications for construction permits or operating licenses for production and utilization facilities for industrial or commercial purposes licensed under section 103, which include power reactors subject to the mandatory hearing requirements of section 189a of the Act, ~~and some facilities for industrial or commercial purposes licensed under section 104b of the Act under the "grandfather" clause of section 102b of the Act,~~ to follow procedures for antitrust review in section 105 of the Act. This section outlines the procedures used by the Commission to implement that section.

8. Part 2, Appendix A, §X(b) is changed to subparagraph X(b)(1)-(5) and amended to read as follows:

(b)(1) When an application for a construction permit or an operating license for a facility under section 103 of the Act subject to antitrust review under section 105 is received, the notice of receipt of application published in the Federal Register will state that persons who wish to have their views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after publication of the notice. ~~The notice published in the Federal Register of receipt of the application for a facility operating license under section 104b of the Act will when appropriate, state that any person who intervened or sought, by timely written notice to the Commission, to intervene in the construction permit proceeding for the facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination may, within 25 days after the date of publication, submit a written petition for leave to intervene and request for a hearing on the antitrust aspects of the application.~~

(b)(2) Upon receipt of the antitrust portion of an application for a facility operating license under section 103 of the Act, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will publish in the Federal Register and in appropriate trade journals a

"Notice of Receipt of Operating License Application and Request for Anti-trust Information." Such notice will invite persons to submit within sixty (60) days after publication of the notice comments or information concerning the antitrust aspects of the application to assist the Director in determining whether significant changes in the licensee's activities or proposed activities have occurred since the completion of the antitrust review at the construction permit stage pursuant to section 105c of the Act. Such notice will also state that persons who wish to have their views on the antitrust aspects of the application presented to the Attorney General for consideration should submit such views within sixty (60) days after publication of the notice to: U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch.

(b)(3) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, after reviewing any comments or information received in response to the published notice and any comments or information regarding the applicant received from the Attorney General, concludes that there have been no significant changes since the completion of the construction permit antitrust review, a finding of no significant changes will be published in the Federal Register, together with a notice stating that a request for reevaluation

of such proposed finding should be submitted within sixty (60) days of publication of the notice. If no requests for reevaluation are received within that time, the proposed finding shall become the NRC's final determination. Requests for a determination of significant changes will be accepted after the date when the NRC determination becomes final only if they contain new information such as information of facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

(b)(4) If, as a result of the reevaluation of the proposed finding described above, it is determined that there have been no significant changes, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will deny the request and will publish a notice of his finding of no significant changes in the Federal Register. Such notice and finding shall become the final NRC decision thirty (30) days after being made and only in the event that the Commission has not exercised sua sponte review.

(b)(5) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, concludes that significant changes have occurred since the completion the anti-trust review at the construction permit stage, the provisions of §2.102(d) shall apply.

9. Part 2, Appendix A, §X(c) is amended to read as follows:

(c)(1) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will refer and transmit a copy of each application for a construction permit or an operating license for a utilization or production facility under Section 103 of the Act, and each request, in a proceeding for an operating license for a utilization or production facility under section 104b of the Act by any person who intervened in the construction permit proceeding to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination for an antitrust review under section 105e of the application for an operating license, to the Attorney General as required by section 105c of the Act. Under that section, the Attorney General will, within a reasonable time, but in no event to exceed 180 days after receipt, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws specified in section 105c of the Act.

10. Part 2, Appendix A, §X(c)(2) is amended to read as follows:

Such review is not required for applications for operating licenses for production or utilization facilities under section 103 of the Act for which the constuction permit was also issued under section 103, unless the [~~Commission~~] Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, determines, after consultation with the Attorney General and in accordance with §2.101(e), that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and by the Commission under section 105c of the Act in connection with the construction permit.