



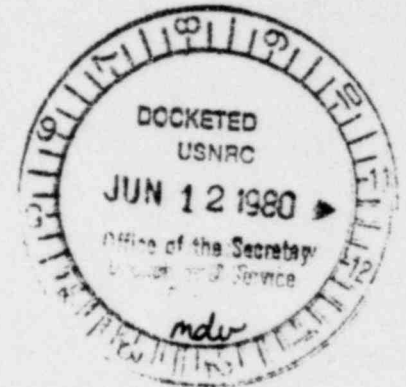
UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 WASHINGTON, D. C. 20555

DOCKET NUMBER

PROPOSED RULE **PR-2,50**
(45 FR 34279)

① JUN 12 1980

Mr. Samuel J. Chilk, Secretary
 U.S. Nuclear Regulatory Commission
 Washington, D. C. 20555



ATTENTION: Docketing and Service Branch

Dear Mr. Chilk:

I am responding to the Federal Register Notice of May 22, 1980 (45 FR 34279) on possible amendments to the "Immediate Effectiveness" rule. Based on my nuclear reactor licensing experience, I believe that the regulations in 10 CFR Part 2 should be revised to incorporate the requirements described in 45 FR 34279 - Option B, with certain modifications. As part of this revision, 10 CFR Part 50.10 should be replaced with the proposed regulation set forth in Enclosure 1.

I believe that a final agency decision should be made before the applicant makes a significant commitment to the proposed site and before any environmental impacts. In recent years, the environmental impacts and commitments to the site have taken place under the limited work authorization (LWA). As a result, the LWA has become the pivotal decision point in our licensing process. To avoid authorizing site work that could affect agency decisions, the LWA should not be made effective until a final agency decision has been reached.

The choice of Option B, with the resultant changes to 10 CFR Part 2, provides both the necessity and the opportunity to make major revisions to 10 CFR Part 50.10. In order to avoid confusion between the revised § 50.10 and the previous regulation involving LWA-1 and LWA-2, I recommend that the phrase "limited work authorization" be replaced with the phrase "site development permit." My proposal for regulations applicable to a site development permit are provided in Enclosure 1. These revisions were developed during my work on the NRR study of possible modification of LWA rules (Recommendation No. 9 of Lesson Learned Study -- NUREG-0292) as described in SECY-79-54, dated January 22, 1979. The results of this study were modified to reflect the use of delayed effectiveness as described in Option B.

Sincerely,

Jerry N. Wilson

Jerry N. Wilson, P. E.
 Project Manager
 Licensing Branch No. 1
 Division of Licensing

Enclosure:
 As stated

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acknowledged by card. 6/12/80 mdu

ENCLOSURE 1

§50.10 License required

(a) Except as provided in §50.11, no person within the United States shall transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, or use any production or utilization facility except as authorized by a license issued by the Commission.

(b) Except as provided in paragraph (c) of this section, no person shall effect commencement of construction of a production or utilization facility subject to the provisions of §51.5(a) of this chapter on a site on which the facility is to be operated until a construction permit has been issued. As used in this paragraph, the term "commencement of construction" means any clearing of land, excavation or other substantial action that would adversely affect the environment of a site, but does not mean:

(1) Changes desirable for the temporary use of the land for public recreational uses; and

(2) Initial site investigations, such as borings to determine foundation conditions or other preconstruction monitoring that is necessary to establish background information related to the suitability of the site or to the protection of environmental values; and

(3) Procurement or manufacture of components of the facility; and

(4) With respect to production or utilization facilities, other than testing facilities, required to be licensed pursuant to section 104a or section 104c of the Act, the construction of buildings which will be used for activities other than operation of a facility and which may also be used to

house a facility. (For example, the construction of a college laboratory building with space for installation of a training reactor is not affected by this paragraph.)

(c) (1) The Director of Nuclear Reactor Regulation may issue a Site Development Permit (SDP) to applicant(s) for a construction permit for a utilization facility which is subject to §51.5(a) of this chapter and is of the type specified in §50.21(b) (2) or (3) or 50.22 or is a testing facility.

(2) An SDP will authorize applicant(s) to perform a limited amount of work in conducting the following activities: (i) Preparation of the site for construction of the facility (including such activities as clearing, grading, construction of temporary access roads and borrow areas); (ii) installation of temporary construction support facilities (including such items as warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and construction support buildings); (iii) storage of equipment necessary for construction of the facility; (iv) excavation for facility structures; (v) construction of service facilities (including such facilities as roadways, paving, railroad spurs, fencing, exterior utility and lighting systems, transmission lines, and sanitary sewerage treatment facilities); and (vi) the construction of structures, systems, and components which are necessary to maintain the critical path construction effort or represent a logical end point to complete the activity undertaken. The authorized work shall be performed in accordance with the requirements of Appendix B to the extent applicable and conducted in such a manner as will minimize or reduce their environmental impact.

(3) A request for SDP must contain a description of the specific work activities that the applicant(s) wants authorized.

(4) An SDP shall be granted only after the presiding officer in the proceeding on the construction permit application has made all the findings required by §51.52(b) and (c) of this chapter to be made prior to issuance of the construction permit for the facility and has determined that there are no unresolved safety issues which relate to the specific work activities requested which would constitute good cause for withholding the authorization, and has made the findings under §50.35 of this part required for the issuance of the construction permit with respect to the following site safety issues: (i) Geography and Demography; (ii) Nearby Industrial, Transportation and Military Facilities; (iii) Meteorology; (iv) Hydrology; (v) Geology and Seismology; (vi) Foundation Engineering; (vii) Quality Assurance; (viii) Qualifications of Applicant to construct the facility; (ix) Any other issue which, in the opinion of the presiding officer, is related to the commencement of construction at the site.

(5) Any work activities undertaken pursuant to an SDP granted under this section shall be entirely at the risk of the applicant(s) and, except as to matters determined under paragraph (c)(4), the grant of the SDP shall have no bearing on the issuance of a construction permit with respect to the requirements of the Act, and rules, regulations or orders promulgated pursuant thereto.