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50-332

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Docket No. 50-332

Allied-General Nuclear Services
ATTN: Mr. George T. Stribling
P. O. Box 847
Barnwell, South Carolina 29812

Gentlemen:

On Friday, March 28, 1980 the NRC had published in the Federal Register proposed amendments to its regulations dealing with determination of no significant hazards consideration. The proposed amendments result from a petition for rule making (PRM 50-17) filed on May 7, 1976 requesting that criteria be specified to determine when no significant hazards consideration is involved.

We thought that you might be interested in this matter. If you wish to provide comments, please note that the comment period expires on May 27, 1980. In case you had not seen the Federal Register Notice when it was published last month, a copy is enclosed with this letter.

Sincerely,

Original signed by
Leland C. Rouse

Leland C. Rouse, Chief
Advanced Fuel and Spent Fuel
Licensing Branch
Division of Fuel Cycle and
Material Safety

Enclosure:
Federal Register Notice
dtd 3/28/80

OFFICE	FCAF	FCAF				
SURNAME	Ploysen:flb	LCRouse				
DATE	4/28/80	6/7/80				

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**NUCLEAR REGULATORY
COMMISSION**

10 CFR Parts 2 and 50

No Significant Hazards ConsiderationAGENCY: Nuclear Regulatory
Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to specify criteria for determining whether a proposed amendment to an operating license or to a construction permit for a commercial or large production or utilization facility involves no significant hazards consideration. If the Commission determines that no significant hazards consideration is involved, it may issue an amendment to an operating license or to a construction permit and then publish a notice of the amendment in the Federal Register. Otherwise, it must publish the notice at least 30 days before the amendment is issued.

The proposed amendments to the regulations are in response to a petition for rulemaking filed on May 7, 1976, by Mr. Robert Lowenstein on behalf of three petitioners (Boston Edison Company, Florida Power and Light Company, and Iowa Electric Light and Power Company) requesting that criteria be specified to determine when no significant hazards consideration is involved.

DATE: Comment period expires May 27, 1980.

ADDRESSES: All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch, by May 27, 1980. Copies of comments received on the proposed rulemaking and comments received on the petition for rulemaking (PRM 50-17) may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. W. E. Campbell, Jr., Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone 301-443-5913.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has under consideration amendments to its regulations in 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings," and 10 CFR Part 50, "Domestic Licensing of Production and

Utilization Facilities." The purpose of the amendments is to revise §§ 2.105(a)(3), 50.58(b) and 50.91 to specify criteria for determining whether a proposed amendment to an operating license or to a construction permit for a commercial or other large production or utilization facility (one licensed under section 103 or 104(b)); or a testing facility licensed under 104(c) of the Atomic Energy Act of 1954, as amended ("the Act"), involves no significant hazards consideration. The proposed amendments result from a petition for rulemaking (PRM 50-17) submitted by letter to the Secretary of the Commission on May 7, 1976, by Mr. Robert Lowenstein of the law offices of Lowenstein, Newman, Reis and Axelrad, acting on behalf of the Boston Edison Company, Florida Power and Light Company and Iowa Electric Light and Power Company. The petitioners request the Nuclear Regulatory Commission to amend 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings," and 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," with respect to the issuance of amendments to operating licenses for production and utilization facilities.

Section 189a of the Act provides that, upon thirty days notice published in the Federal Register, the Commission may issue an operating license or an amendment to an operating license or an amendment to a construction permit for a facility licensed under section 103 or 104(b), or a testing facility licensed under section 104(c) without a public hearing if no hearing is requested by any interested person. However, § 189a permits the Commission to dispense with such thirty days notice and Federal Register publication with respect to the issuance of an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration. In cases where the Commission determines that there is no significant hazards consideration, the Commission may issue the amendment and then publish a notice in the Federal Register. In such cases, interested members of the public who wish to object to the amendment and request a hearing may do so, but a request for hearing does not, by itself, suspend the effectiveness of the amendment. Sections 50.58(b) and 50.91, 10 CFR, of the Commission's regulations implementing § 189a contain no criteria for determining when an amendment involves no significant hazards consideration.

The petitioners' proposed amendments to the regulations would require that the staff take into consideration, in determining whether a proposed amendment to an operating license involves a significant hazards consideration, whether operation of the plant under the proposed license amendment will (1) substantially increase the probability or consequences of a major credible reactor accident or (2) decrease the margins of safety substantially below those previously evaluated for the plant and below those approved for existing licenses. It is proposed that, if the staff reaches a negative conclusion as to both of these criteria, the proposed amendment shall be considered not to involve a significant hazards consideration.

The petition (Docket 50-17) was published for comment in the Federal Register on June 14, 1976 (41 FR 24006). Comments have been received from eight persons, four of whom are in favor of granting the petition and four of whom are opposed. Those in favor generally argued that the petitioners' proposed amendments, if adopted, would help eliminate unnecessary delays in effecting amendments to an operating license. Those opposed generally argued that the petitioners' proposed amendments would be contrary to congressional intent since they would tend to eliminate public participation. Opposing arguments were also made to the effect that the petitioners' proposed amendments would change the standard of review from one of finding "non-significance" to one of finding "substantial change," thus shifting the burden of proof. One opposing commenter also stated that the amendments could result in lengthy litigation over the meanings of the criteria proposed by the petitioners.

After consideration of the petitioners' proposed amendments and public comments received, the Commission believes that the licensing process can be improved by specifying criteria with respect to the meaning of "no significant hazards consideration." The Commission, however, does not agree with the petitioners' proposed criteria because of the limitation to "major credible reactor accidents" and their failure to include accidents of a type different from those previously evaluated.

During the past several years, the Staff has been guided in reaching its findings with respect to "no significant hazards consideration" by staff criteria and examples of amendments likely to involve, and not likely to involve,