

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy
Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Implementation of National
Environmental Policy Act of 1969

On September 9, 1971, the Atomic Energy Commission published in the Fed-

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RULES AND REGULATIONS

FEDERAL REGISTER (36 FR. 18071) a revision of Appendix D of its regulation in 10 CFR Part 50, effective on publication. Revised Appendix D as published is an interim statement of Commission policy and procedure for the implementation of the National Environmental Policy Act of 1969 (NEPA) in light of the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Calvert Cliffs' Coordinating Committee, Inc., et al. v. United States Atomic Energy Commission, et al.*, Nos. 24,839 and 24,871. The procedures in Appendix D apply to licensing proceedings for nuclear power reactors; testing facilities; fuel reprocessing plants; and other production and utilization facilities whose construction or operation may be determined by the Commission to have a significant impact on the environment. The procedures also apply to proceedings involving certain specified activities subject to materials licensing.

Paragraph 13 of section A of Appendix D of Part 50 provides that:

The Commission will incorporate in all construction permits and operating licenses for production and utilization facilities described in paragraph 1, a condition, in addition to any conditions imposed pursuant to paragraph 11, to the effect that the licensee shall observe such standards and requirements for the protection of the environment as are validly imposed pursuant to authority established under Federal and State law and as are determined by the Commission to be applicable to the facility that is subject to the licensing action involved. This condition will not apply to radiological effects since radiological effects are dealt with in other provisions of the construction permit and operating license.

The central premise of Appendix D prior to its revision in light of the earlier referenced *Calvert Cliffs'* decision, was the concept that the preservation of environmental values could best be accomplished through the establishment of environmental quality standards and requirements by appropriate Federal, State, and regional agencies having responsibility for environmental protection. The condition referred to was an aspect of NEPA implementation by the Commission reflecting that concept. Since the decision in the *Calvert Cliffs'* case, the Commission, in compliance with the mandate of the Court of Appeals, has revised its NEPA regulations to provide for an independent review of the environmental impact of the matters covered by such standards and requirements. Accordingly, the condition no longer serves the purpose intended. Any license conditions resulting from the Commission's independent review will be tailored to the particular facility. The Commission has, therefore, revoked paragraph 13 of section A of Appendix D of Part 50 since it is no longer necessary or appropriate. This amendment does not, of course, relieve holders of AEC licenses of any obligation which they otherwise have in regard to applicable standards and requirements imposed by other agencies under Federal or State law.

Because this amendment relates solely to elimination of an obsolete requirement, the Commission has found that good cause exists for omitting notice of proposed rule making and public procedure thereon as unnecessary and for making the amendment effective without the customary 30-day notice.

Accordingly, pursuant to the National Environmental Policy Act of 1969, the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 50, is published as a document subject to codification to be effective upon publication in the FEDERAL REGISTER (5-13-72).

In Appendix D, paragraph 13 of section A is revoked.

(Sec. 102, 83 Stat. 853; secs. 3, 161; 68 Stat. 922, 948, as amended; 42 U.S.C. 2013, 2201)

Dated at Germantown, Md., this 8th day of May 1972.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc. 72-7344 Filed 5-12-72; 8:51 am]