



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20565

OFFICE OF THE
SECRETARY

June 30, 1980

Director
Office of the Federal Register
National Archives and Records Service
Washington, D.C. 20403

Dear Sir:

Enclosed for publication in the Federal Register are an original and two certified copies of a document entitled:

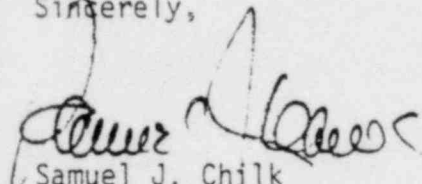
10 CFR Part 2

AMENDMENT TO PROVIDE EXCEPTION FROM PROCEDURAL RULES FOR ADJUDICATIONS
INVOLVING CONDUCT OF MILITARY OR FOREIGN AFFAIRS FUNCTIONS

Please publish on Thursday, July 3, 1980.

This material is to be charged to requisition number F-131.

Sincerely,


Samuel J. Chilk
Secretary of the Commission

Enclosures:
Original & 2 certified copies

bcc: Records Facility Branch
Office of Public Affairs
Executive Legal Director
Office of Congressional Affairs
Office of the General Counsel
SECY - C&R Branch

L-4-1, Pt. 2

8008080

413

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 2]

AMENDMENT TO PROVIDE EXCEPTION FROM PROCEDURAL RULES
FOR ADJUDICATIONS INVOLVING CONDUCT OF MILITARY
OR FOREIGN AFFAIRS FUNCTIONS

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Immediately Effective Final Rule

SUMMARY: The Commission is amending its "Rules of General Applicability" for the conduct of adjudicatory proceedings in 10 CFR Part 2 to provide an exception from those rules for adjudications involving the conduct of military or foreign affairs functions. The amendment permits the Commission to exercise greater flexibility within due process limits in fashioning procedures for proceedings involving military or foreign affairs functions. The amendment involves the conduct of military or foreign affairs functions and is thereby exempt from the notice of proposed rulemaking and deferred effectiveness provisions of § 553 of the Administrative Procedure Act (APA). It is also exempt from these provisions as an interpretative rule and a rule of agency procedure.

DATE:

1980.

DUPLICATE DOCUMENT

Entire document previously
entered into system under:

ANC

No. of pages: 12

8007020660

SUPPLEMENTARY INFORMATION: The Commission is amending its rules governing procedures for adjudications in subpart G of 10 CFR Part 2 to provide an exception from those procedures for proceedings to the extent that there is involved the conduct of military or foreign affairs functions.

This rule change has developed from the Commission's consideration of Natural Resources Defense Council's February 6, 1980 request for a hearing in the matter of a proposed amendment to the special nuclear materials license of Nuclear Fuel Services at Erwin, Tennessee. The Commission has been reflecting on whether the public interest would be better served by a legislative type hearing in light of the fact that sensitive issues and basic regulatory policy questions involving the conduct of military functions may be bound up in the adjudication of this matter.

Because there have previously been no NRC hearings involving the conduct of military functions, the Commission has not specifically addressed such hearings in its rules. However, the Administrative Procedure Act (APA) provides for just such an exception as the Commission proposes. 5 U.S.C. § 554 entitled "Adjudications" provides in relevant part:

(a) This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved -- (4) the conduct of military or foreign affairs functions.