

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

January 20, 1975

OFFICE OF THE CHAIRMAN

Director, Office of Nuclear Reactor Regulation

DELEGATION OF AUTHORITY

The Nuclear Regulatory Commission intends to consider and decide upon the most appropriate organizational structure of NRC consistent with the Energy Reorganization Act of 1974, after you and other NRC officers study and report thereon to the Commission. Pending such future decision by the Commission, you are hereby delegated authority to:

1. issue, renew, and amend licenses for: construction and operation of utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants required by the Atomic Energy Act of 1954, as amended, and section 202 (1) and (2) of the Energy Reorganization Act of 1974, including amendments to such licenses with respect to safeguard matters and transportation within the site boundary, limited work authorizations pursuant to §50.10(e) of 10 CFR Part 50; operators of utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants; except where the decision rests with an Administrative Law Judge, an Atomic Safety and Licensing Board, an Atomic Safety and Licensing Appeal Board, or the Commission after a hearing pursuant to 10 CFR Part 2; and for byproduct, source, and special nuclear material used or produced in utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants.
2. issue, pursuant to 10 CFR Part 2, notices of the denial or the proposed denial of: applications for licenses for utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants; applications for operator licenses for utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants; and applications for amendment or renewal of such licenses.

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3. issue amendments to licenses changing the technical specifications for utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants, authorizing changes in the facility or facility procedures, or authorizing the conduct of tests and experiments, in accordance with 10 CFR Part 50.
4. take necessary or appropriate action in accordance with decisions of an Administrative Law Judge, an Atomic Safety and Licensing Board, the Atomic Safety and Licensing Appeal Board, or the Commission after a hearing pursuant to 10 CFR Part 2.
5. execute indemnification agreements with licensees pursuant to sections 170 c, 170 k, 170 l of the Atomic Energy Act of 1954, as amended.
6. consistent with NRC regulations, grant exemption from NRC regulations or impose special conditions on licensees of utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants.
7. evaluate, as requested, the nuclear safety aspects of proposals to build or significantly modify any facility owned by the U.S. Energy Research and Development Administration exempt from licensing.
8. pursuant to AEC-DOD memorandum of understanding dated February 4, 1967, evaluate the nuclear safety aspects of the design of military power, testing, and research reactors exempt from licensing; review and evaluate the health and safety aspects of the location and operation of reactor facilities of the Department of Defense and their general nuclear safety standards and instructions; and review reports submitted by the Department of Defense in connection with this program including operating reports, inspection reports, safety evaluation reports, and reports of potential health and safety problems and other significant events or conditions involving health and safety considerations.
9. serve as the principal point of staff contact with the Advisory Committee on Reactor Safeguards for matters within your delegated authority.

10. take such action as may be required to carry out the functions assigned pursuant to Sections 2.202, 2.204 and 2.206 of 10 CFR Part 2 pertaining to utilization facilities and production facilities other than fuel reprocessing plants and isotopic enrichment plants and materials used or produced in such facilities, other than action related to any alleged violation of the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Chapter 1 of the Code of Federal Regulations, and any orders or conditions of licenses.
11. pursuant to 10 CFR Part 51, prepare and circulate draft and final environmental impact statements and environmental appraisals on licensing actions within your delegated authority.
12. recommend to the Commission rules and regulations on matters within your delegated authority.
13. develop policy options for Commission consideration on matters within your delegated authority.

In exercising the above authority, you may communicate with or report directly to the Commission as provided in Section 209(b) of the Energy Reorganization Act of 1974.

The above authority may be redelegated. Any redelegation must be made in writing. A copy of any redelegation should be filed with the Executive Director for Operations.

The above delegation will be appropriately reflected in the NRC Management Directives System.



William A. Anders
Chairman

U. S. NUCLEAR REGULATORY COMMISSION
NRC MANUAL
TRANSMITTAL NOTICE

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CHAPTER NRC-0123 ORGANIZATION AND FUNCTIONS
OFFICE OF NUCLEAR REACTOR REGULATION

SUPERSEDED:

	Number	Date
Chapter	_____	_____
Page	_____	_____
	_____	_____
Appendix	NRC-0123 Part II, pg.3	5/23/80

TRANSMITTED:

	Number	Date
TN	0100-41	_____
Chapter	_____	_____
Page	_____	_____
	_____	_____
Appendix	NRC-0123 Part II, pg.3	9/8/80

REMARKS:

NRC Appendix 0123, Section F, is revised to add a delegation of authority for the Director, Division of Licensing.

see # 032

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022 reviews, evaluates, and makes safety findings on problems and incidents that result from the construction and operation of production and utilization facilities other than fuel reprocessing plants and isotopic enrichment plants subject to licensing.

023 develops and administers policies, programs, and procedures for implementation of the Commission's policy on standardization (10 CFR Part 50, Appendixes M, N, and O) of production and utilization facilities other than fuel reprocessing plants and isotopic enrichment plants; and reviews, evaluates, and processes applications for licenses and amendments to such licenses in accordance with such policies.

024 develops and administers programs, as delegated, for:

- a. antitrust review of license applications for production and utilization facilities and related compliance;
- b. financial protection requirements for licensees, and indemnification of licensees and others against public liability claims arising out of nuclear incidents (Price-Anderson).

025 approves applicants' programs for safeguarding nuclear material within the site boundary involving any license for a production and utilization facility other than fuel reprocessing and isotopic enrichment plants.

026 evaluates, as requested, the nuclear safety aspects of proposals to build or significantly modify any DOE-owned reactor, reactor-related facility, or other system exempt from licensing.

027 evaluates, as requested, the nuclear safety aspects of the design of Department of Defense power, testing, and research reactors exempt from licensing; reviews and evaluates the health and safety aspects of the location and operation of reactor facilities of the Department of Defense (DOD) and their general nuclear safety standards and instructions; and reviews reports submitted by the DOD in connection with this program including operating reports, inspection reports, safety evaluation reports, and reports of potential health and safety problems and other significant events or conditions involving health and safety considerations.

028 provides advice and assistance to the Office of Standards Development in the development of standards, guides, and codes.

029 serves as the principal point of contact for the NRC with the Advisory Committee on Reactor Safeguards for matters under review by the Office.

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U.S. NUCLEAR REGULATORY COMMISSION
NRC MANUAL

Volume: 0000 General Administration
Part : 0100 Organization

NRR

CHAPTER 0123 ORGANIZATION AND FUNCTIONS
OFFICE OF NUCLEAR REACTOR REGULATION

0123-01 SUPERVISION

Under the supervision of a Director who reports to the Executive Director for Operations. However, consistent with Section 209 of the Energy Reorganization Act of 1974, the Director may communicate with or report directly to the Commission when he deems it necessary to carry out his responsibilities. In such case, the Director shall keep the Executive Director for Operations fully and currently informed concerning the content of all such direct communications with the Commission.

0123-02 FUNCTIONS

Administers regulations governing the licensing of:

- a. production and utilization facilities other than fuel reprocessing plants and isotopic enrichment plants.
- b. operators of production and utilization facilities other than fuel reprocessing plants and isotopic enrichment plants.
- c. the receipt, possession, ownership and use of special nuclear and byproduct material used or produced in utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants.

Provides special assistance as requested in matters involving reactors or critical facilities exempt from licensing; and performs other functions required for implementation of NRC's licensing program such as those delegated involving antitrust and indemnity matters and the conduct of environmental impact reviews. Specifically, the Office:

021 reviews, evaluates, and processes applications for licenses and amendments to such licenses for the construction and operation of production and utilization facilities other than fuel reprocessing plants and isotopic enrichment plants subject to licensing; and applications for such facility operator licenses.

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Part 2. This authority may include the licensing of byproduct, source, and special nuclear material used or produced in utilization and production facilities other than fuel reprocessing and isotopic enrichment plants.

033 issue, pursuant to 10 CFR Part 2, notices of the denial or the proposed denial of: applications for licenses for utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants; applications for operator licenses for utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants; and applications for amendment or renewal of such licenses.

034 issue amendments to licenses changing the technical specifications for utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants, authorizing changes in the facility or facility procedures, or authorizing the conduct of tests and experiments, in accordance with 10 CFR Part 50.

035 take necessary or appropriate action in accordance with decisions of an Administrative Law Judge, an Atomic Safety and Licensing Board, the Atomic Safety and Licensing Appeal Board, or the Commission after a hearing pursuant to 10 CFR Part 2.

036 carry out antitrust reviews of license applications for nuclear facilities, pursuant to Section 105 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 50, and assure that activities under facility licenses would not create or maintain a situation inconsistent with the antitrust laws specified in Section 105a.

037 execute indemnification agreements with licensees pursuant to sections 170 c., 170 k., 170 l., of the Atomic Energy Act of 1954, as amended.

038 consistent with NRC regulations, grant exemptions from NRC regulations or impose special conditions on licensees of utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants.

039 pursuant to provisions of 10 CFR sections 2.202, 2.204, and 2.206, issue orders for imposing requirements, and other appropriate orders for modification, suspension, and revocation of licenses, concerning: (a) the manufacture, construction, and operation of utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants and materials used or produced in such facilities, (b) operators of such facilities, and (c) use of source, byproduct and special nuclear materials, except where the decision rests with an Administrative Law Judge, an Atomic Safety and Licensing Board, the Atomic Safety and

0210 develops procedures to assure the timely scheduling, review, and processing of all matters under review by the Office.

0211 cooperates with State and other Federal agencies in the parallel processing of licenses as noted above.

0212 identifies research needs required for above programs.

0213 prepares and processes environmental impact statements pertinent to reactor licensing activities.

0214 performs such other functions as may be assigned by the Commission *through the EDO.* ✓

0123-03 DELEGATION OF AUTHORITY TO THE DIRECTOR

The Director is authorized and directed to:

" 031 take such action as is necessary to carry out the functions assigned by this chapter or other official directives or communications, subject to the limitations prescribed therein. (Delegations of authority for specific actions and applicable limitations are contained in manual chapters or other directives covering specific subjects. In addition, delegations of authority for actions not within the scope of other manual chapters or other directives are given in succeeding paragraphs in this section.)

032 take action to:

- a. issue, renew, and amend licenses for manufacture, construction, and operation of utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants required by the Atomic Energy Act of 1954, as amended; sections 202(1), 202(2), and 203 of the Energy Reorganization Act of 1974; and 10 CFR Part 50, including amendments to such licenses with respect to safeguards matters and transportation within the site boundary; ✓
- b. issue, renew and amend licenses for operators of utilization and production facilities other than fuel reprocessing plants and isotopic enrichment plants; and
- c. issue and amend limited work authorizations pursuant to 10 CFR section 50.10(e)

except where the decision rests with an Administrative Law Judge, an Atomic Safety and Licensing Board, the Atomic Safety and Licensing Appeal Board, or the Commission, after a hearing pursuant to 10 CFR

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051 Such redelegation must be made in writing and a copy filed with the Executive Director for Operations and the Office of Management and Program Analysis.

052 The Director must stipulate any limitations on further redelegations of authority which the Director redelegates.

0123-06 ORGANIZATIONAL STRUCTURE AND INTERNAL ASSIGNMENTS

Organization charts showing internal organization of the Office and statements of functions of the subdivisions of the Office are issued as Appendix Parts I and II.

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ORGANIZATION AND FUNCTIONS
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NRC-0123-0310

Licensing Appeal Board, or the Commission after a hearing pursuant to the Act and 10 CFR Part 2, other than action related to any alleged violations of the Atomic Energy Act of 1954, as amended, the regulations in 10 CFR Chapter 1, and any orders or conditions of licenses.

0310 pursuant to 10 CFR Part 51, prepare and circulate draft and final environmental impact statements and environmental appraisals on licensing actions within delegated authority.

0311 evaluate, as requested, the nuclear safety aspects of proposals to build or significantly modify any DOE-owned reactor, reactor-related facility, or other system exempt from licensing.

0312 serve as the principal point of contact for the NRC with the Advisory Committee on Reactor Safeguards for matters under review by the Office.

0313 evaluate as requested the nuclear safety aspects of the design of Department of Defense (DOD) power, testing, and research reactors exempt from licensing; review and evaluate the health and safety aspects of the location and operation of reactor facilities of the Department of Defense (DOD) and their general nuclear safety standards and instructions; and review reports submitted by the DOD in connection with this program including operating reports, inspection reports, safety evaluation reports, and reports of potential health and safety problems and other significant events or conditions involving health and safety considerations.

0314 recommend to the Commission rules and regulations and develop policy options for Commission consideration on matters within delegated authority.

0315 perform, on behalf of the NRC, all functions of the Federal "Agency Official," as that term is defined in 36 CFR Part 800, and execute, on behalf of the NRC, such Memoranda of Agreement as are prescribed by those procedures.

0123-04 DELEGATION OF AUTHORITY TO THE DEPUTY DIRECTOR

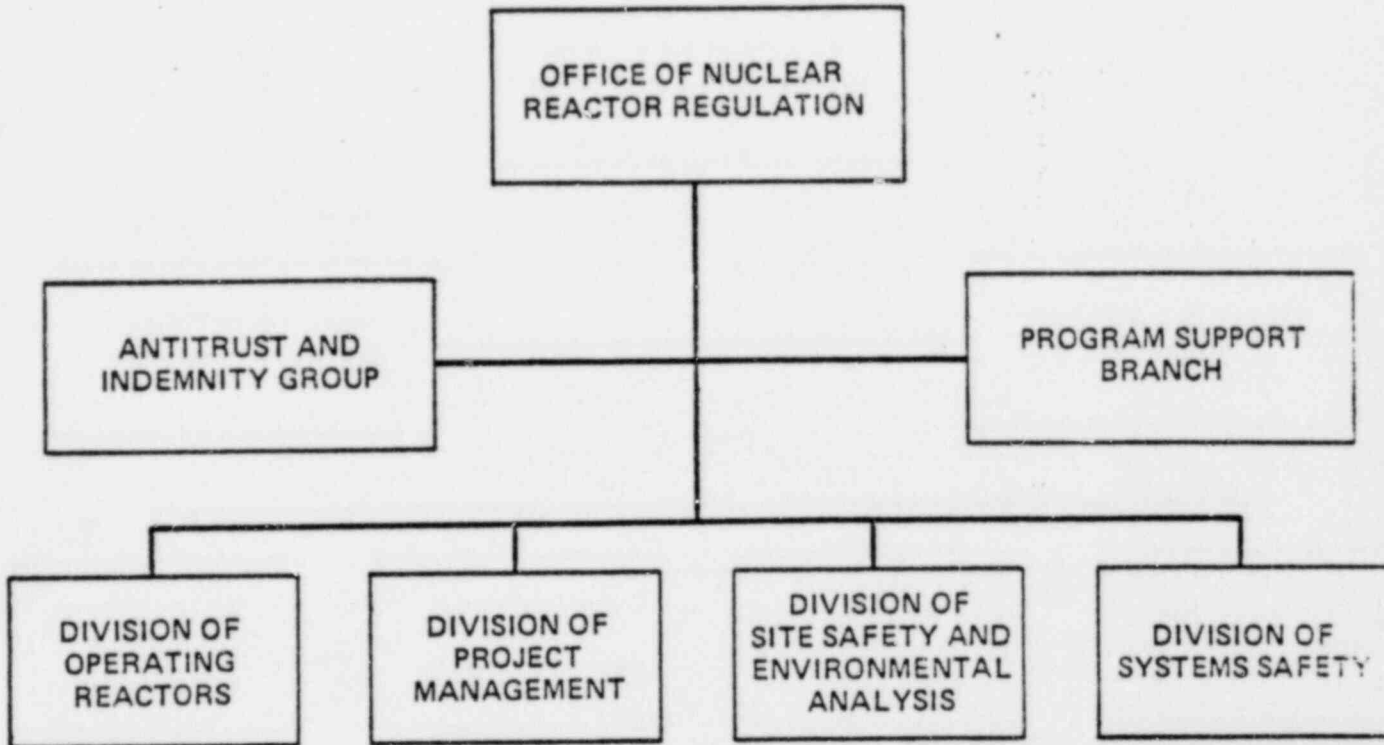
The Deputy Director is authorized and directed to act in the stead of the Director during the absence of the Director.

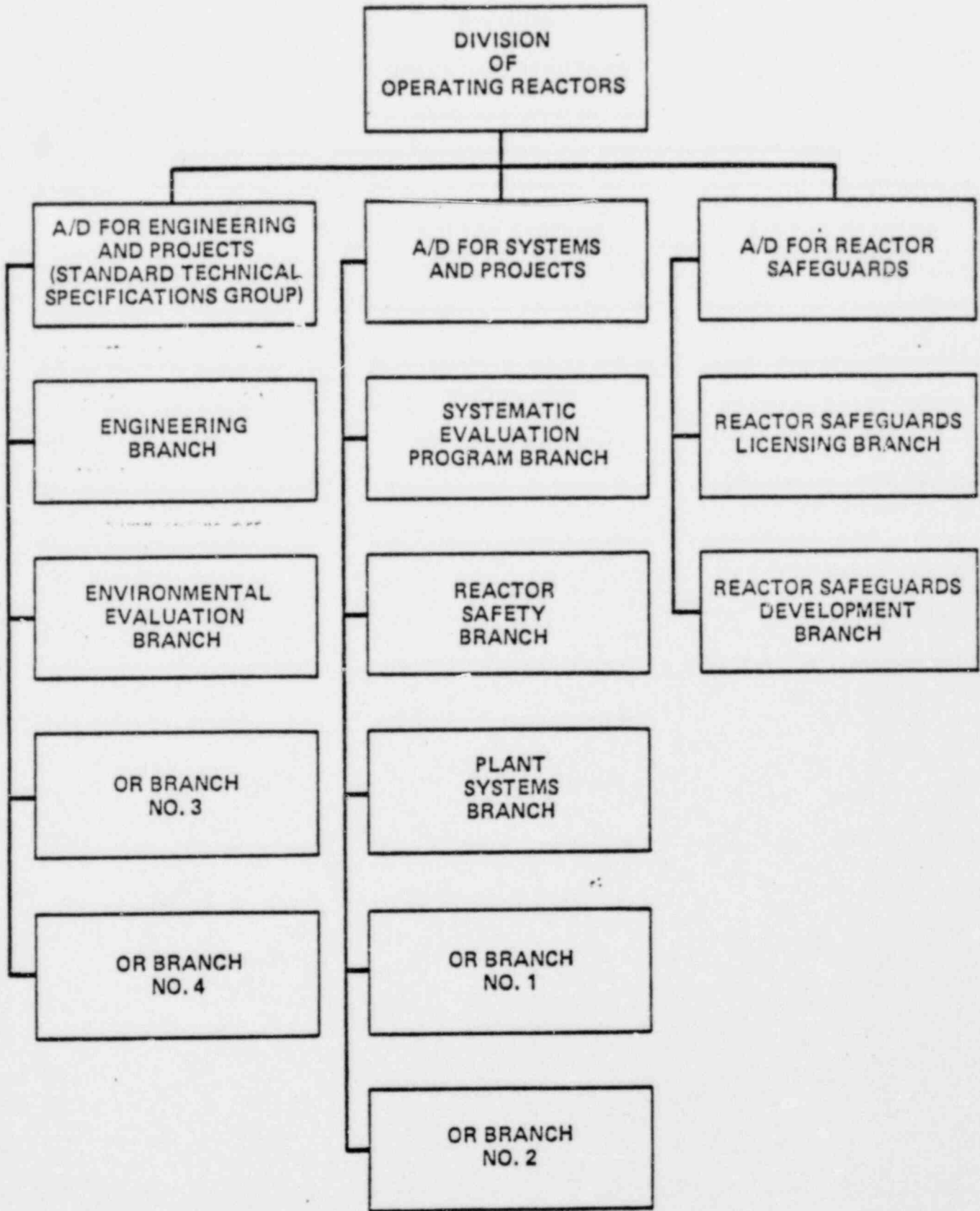
0123-05 REDELEGATION OF AUTHORITY BY THE DIRECTOR

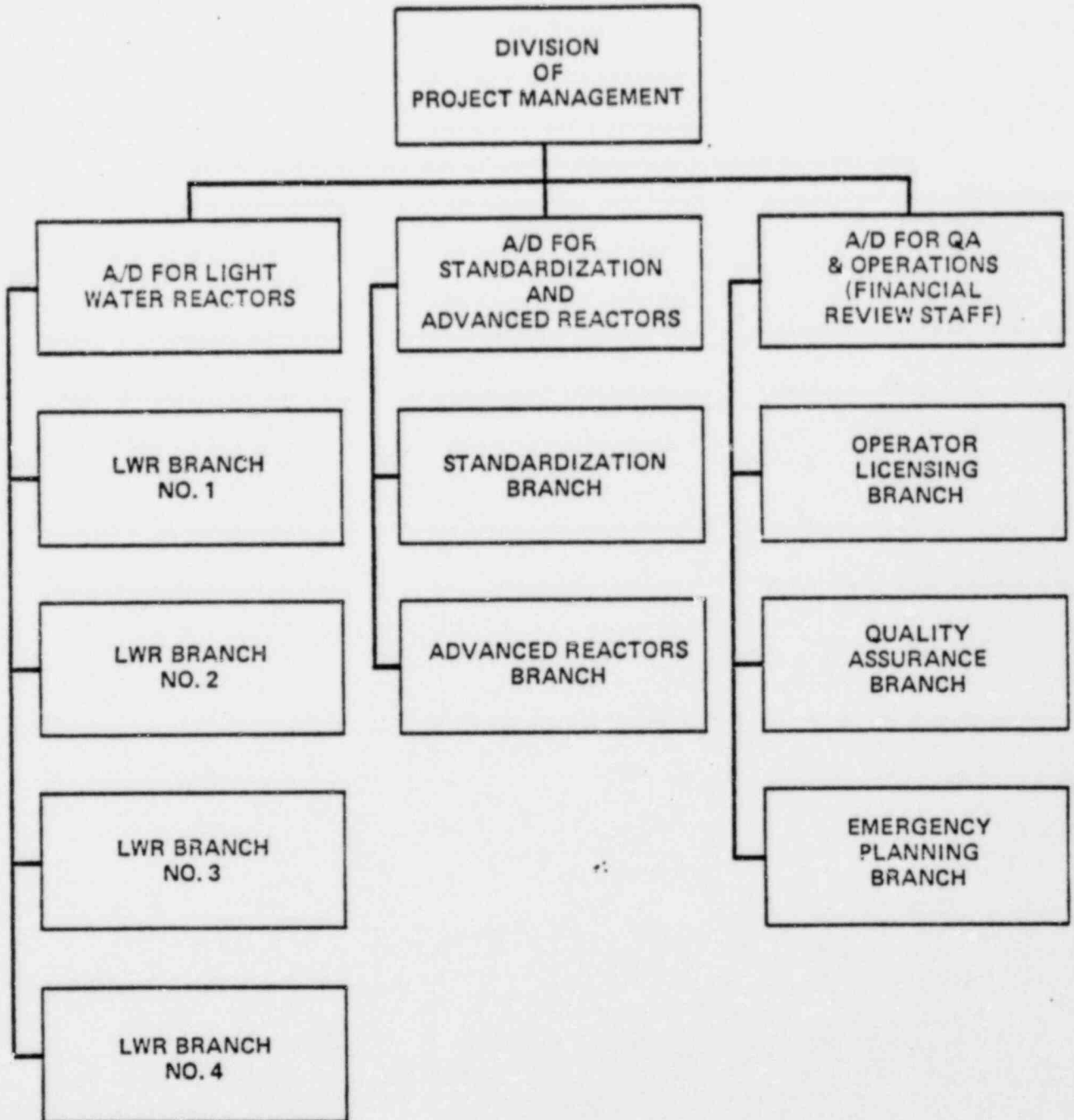
The Director may, except where expressly prohibited, redelegate to others authority delegated to the Director by this or other official directives or communications, subject to the limitations stated below and to such other stipulations as the Director may deem necessary.

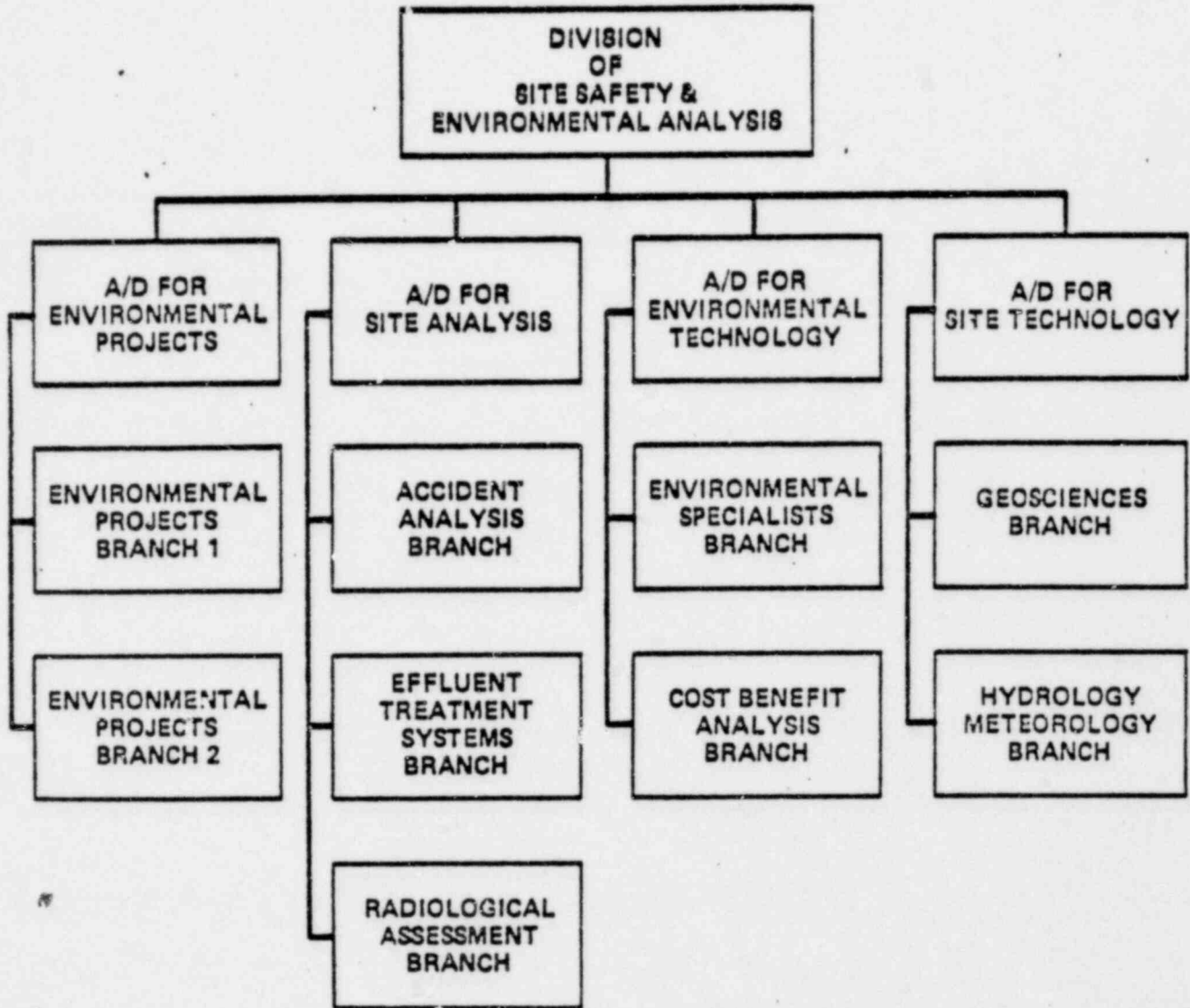
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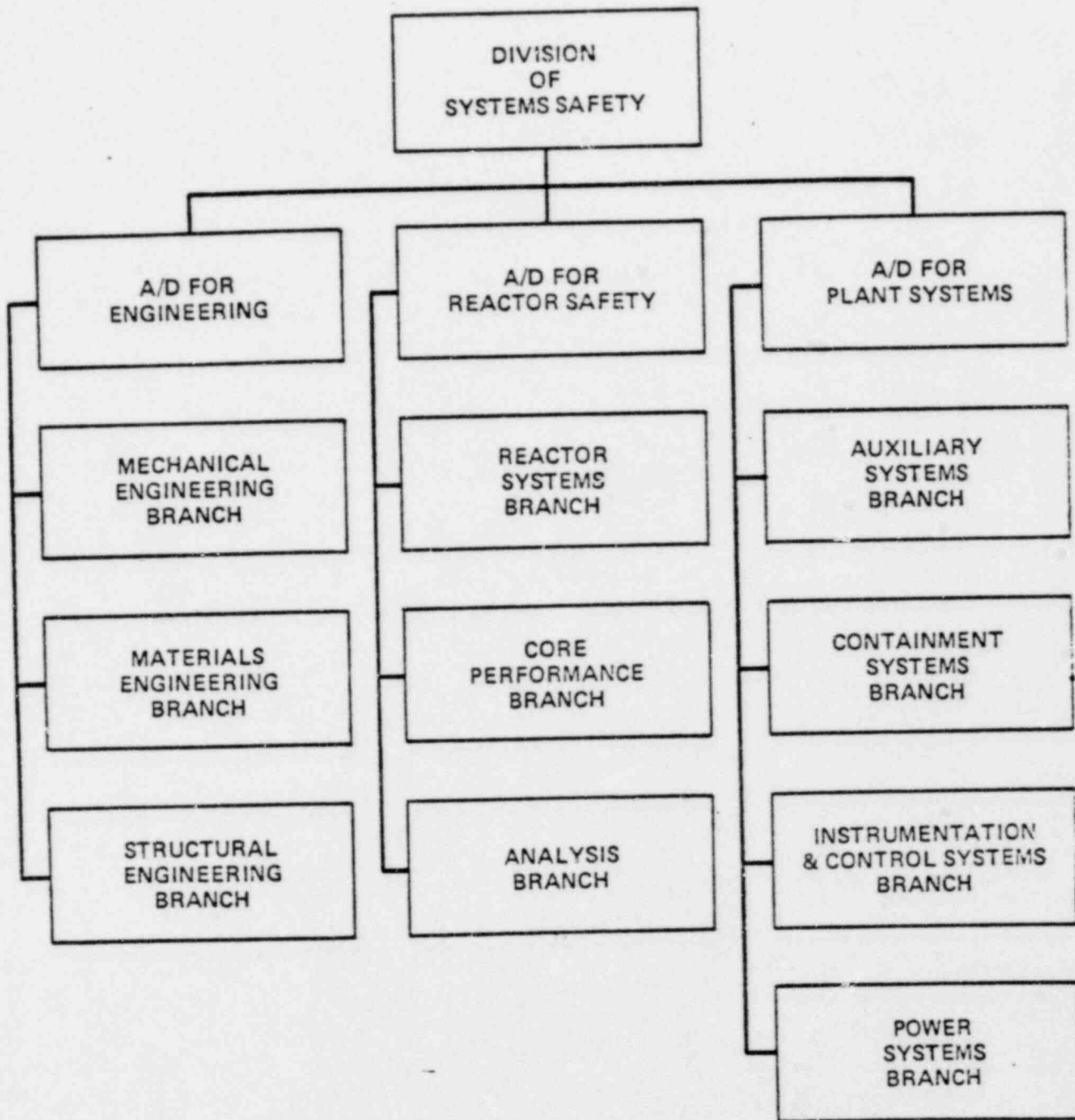
PART 1
ORGANIZATIONAL CHART











PART II

DISTRIBUTION OF FUNCTIONS

A. THE DIRECTOR:

1. Develops and administers regulations, policies, and procedures governing:
 - a. the licensing of manufacturing, production and utilization facilities other than those concerning fuel reprocessing plants and isotopic enrichment plants;
 - b. source, byproduct, and special nuclear material used or produced at such facilities; and
 - c. the licensing of operators of such facilities.
2. Reviews reactor safety aspects of proposed berthing of nuclear powered vessels.
3. Provides special assistance as required in matters involving facilities exempt from licensing and performs other functions required for implementation of the licensing program.

B. THE DEPUTY DIRECTOR:

Assists the Director in the accomplishment of Office functions, and oversees direction of management activities related to the Office's assigned missions. During the absence of the Director, acts for the Director with full and complete responsibility for the activities of the Office.

C. THE CHIEF, PROGRAM SUPPORT BRANCH:

Assists the Director in the planning, coordination, direction and execution of the administrative affairs of the Office. Administers the Office's activities in the areas of contractual arrangements and agreements; budget formulation; fiscal management; management surveys; management directives; personnel administration, development and training; and general office services. Provides technical assistance, new program development and support to the Director in evaluating proposed office activities or positions and in the administration of highly technical and diversified licensing projects. Responsible for the porting reviews of nuclear-powered vessels.

D. THE CHIEF, ANTITRUST AND INDEMNITY GROUP:

Establishes and administers delegated NRC functions as required to carry out (1) antitrust reviews of license applications for nuclear facilities, including responsibility for compliance with license conditions pertaining to antitrust matters; and (2) the indemnification of licensees against public liability claims arising out of nuclear incidents. The Chief, Antitrust and Indemnity Group, is authorized to execute indemnification agreements with licensees pursuant to sections 170 c., 170 k., and 170 l., of the Atomic Energy Act of 1954, as amended.


The Chief, Antitrust and Indemnity Group, is delegated the authority contained in Chapter NRC-0123, subsections 036, 037 and 024.

1. The Economics Section reviews, investigates, and evaluates existing and potential anticompetitive activities by applicants for nuclear power plants; prepares testimony relating principles of competition and monopoly to factual situations in each antitrust case, and furnishes technical assistance on economic aspects of theories applicable to investigations and development of antitrust cases; and prepares industry studies, analyzes broad economic issues and assists in antitrust policy formulation.
2. The Power Supply Analysis Section investigates and evaluates power supply and intersystem coordination activities by applicants for nuclear power plants and prepares testimony relating thereto; assesses potential license conditions and their impact, including need for power in the affected area; provides technical assistance on engineering and power supply aspects of antitrust cases; and carries out compliance activities with respect to antitrust license conditions.

E. THE DIRECTOR, DIVISION OF OPERATING REACTORS:

Directs and administers the regulatory program for all reactor facilities licensed for operation, the evaluation of applications and issuance of construction permits and operating licenses for nonpower reactors and the evaluation of operational and design modifications of DOE- and DOD-owned operating facilities exempt from licensing, as requested; directs and supervises the processing of applications for license amendments for all licensed reactor facilities; issues, denies and amends all permits and licenses for nonpower reactors and amends operating power reactor licenses; directs and administers the systematic evaluation program engaged in the overall technical safety review and evaluation in support of the re-review of operating

reactors; and directs and administers the program of reactor safeguards development and licensing review with respect to industrial security at all production and utilization facilities other than fuel reprocessing plants and isotopic enrichment plants.

The Director, Division of Operating Reactors, is delegated the authorities defined in Chapter NRC-0123, subsections 032 a., 033, 034, 035, 038, 039, 0311, 0312, 0313 and 021, 022, 025, 026, 027, 028, 029, 0210, 0211 and 0212. 

THE DEPUTY DIRECTOR, DIVISION OF OPERATING REACTORS:

Assists the Director in the accomplishment of Division functions and acts for the Director in his absence.

1. The Assistant Director for Systems and Projects plans and directs the technical safety review and evaluation of licensed operating power reactors, licensed test, research and critical facilities, and the review of proposed amendments to operating licenses; the evaluation of operational safety and design modifications of DOE- and DOD-owned reactors exempt from licensing; the technical safety review and evaluation of reactor systems and plant systems; the technical review of applications and issuance of construction permits and operating licenses for nonpower reactors.
 - a. The Operating Reactors Branch 1 performs the overall project management for assigned licensed power operating reactors including review of technical and procedural aspects involving proposed amendments to operating licenses.
 - b. The Operating Reactors Branch 2 performs overall coordination and project management, including technical and procedural aspects, involving proposed amendments for those operating power reactors which are under re-review as part of the NRC's program to systematically evaluate the margins of safety of the design and operation with respect to current licensing requirements.
 - c. The Systematic Evaluation Program Branch performs multiple discipline technical evaluations of older operating power facilities to reconfirm and document their safety and to determine the extent to which they meet current licensing requirements. Bases may be established requiring plant or procedural modifications for selected facilities for particular safety considerations.

- d. The Reactor Safety Branch performs engineering safety reviews, analyses and evaluations of the reactor coolant systems, engineered safety features, and accidents and transients for all reactor facilities licensed for operation; evaluates applications for construction permits and operating licenses for nonpower reactors and evaluates the operational and design modifications of DOE- and DOD-owned operating facilities exempt from licensing as requested.
 - e. The Plant Systems Branch performs the technical safety review and evaluation of modifications to plant systems for all reactor facilities licensed for operation, of all applications to construct and operate nonpower reactors, and, as requested, of operational and design modifications of DOE- and DOD-owned reactor facilities exempt from licensing; performs technical safety review and evaluation of containment systems, power conversion systems, auxiliary systems, electrical systems, control systems and all other safety-related instrumentation for the above facilities.
2. The Assistant Director for Engineering and Projects plans and directs the safety and environmental reviews of licensed operating power reactors, licensed test, research and critical facilities, and the review of proposed amendments to operating licenses; the evaluation of operational safety and design modification of DOE- and DOD-owned reactors exempt from licensing; the technical evaluation of the engineering and environmental aspects of applications for license amendments for all licensed reactor facilities; the technical review of applications and issuance of construction permits and operating licenses for nonpower reactors. Supervises the Standard Technical Specification Group which develops and implements standard technical specifications for nuclear power plants, research and test reactors.
- a. The Operating Reactors Branch 3 performs the overall project management for assigned licensed power operating reactors including review of technical and procedural aspects involving proposed amendments to operating licenses.
 - b. The Operating Reactors Branch 4 performs the overall project management for assigned licensed power and non-power operating reactors including review of technical and procedural aspects involving proposed amendments to operating licenses and the processing of applications for construction permits and operating licenses for test reactors and critical facilities.

1. The Resources and Scheduling Branch develops and maintains data and records on priorities, schedules and assignments of NRR resources and of the status of all projects and tasks; performs long- and short-range program planning, resource forecasting, budget preparation and coordination, manpower and program support resource management, auditing of performance against established goals and objectives.
2. The Management Analysis Branch manages all personnel administration matters; performs management and organizational studies and prepares proposals thereon; recommends, prepares and reviews management and administrative operating procedures, policies and directives; implements procedures for fiscal control of all program support and travel resources; develops and implements procedures and models for analyzing and presenting NRR staff and program support expenditures; manages the personnel development and training function; controls and coordinates correspondence, FOIA requests, action items and records management.
3. The Technical Support Branch provides technical coordination and oversight for resolution of special technical problems and those which involve more than one division and other offices; provides technical assistance to the Director of NRR; serves as the staff interface with the ACRS; recommends and develops improvements to the licensing program; provides overall review, coordination, allocation and management of the NRR technical assistance program including development of procedures for resource control; establishes and coordinates Office procedures for contracting and interagency agreements; responds to correspondence and Commission actions of a general nature; prepares and coordinates NRR inputs to the NRC Annual Report.

F. THE DIRECTOR, DIVISION OF LICENSING

Directs and administers the licensing process for all utilization and production facilities, other than fuel reprocessing and isotopic enrichment plants, including safety and environmental evaluations of power and non-power reactors required to be licensed and facilities licensed for operation. Directs the evaluations of design, operation and modification of DOE- and DOD-owned facilities exempt from licensing, as requested. Directs and supervises the processing of applications and petitions for license amendments for all licensed reactor facilities. Develops related policies, procedures and programs and assures proper implementation. Issues, denies and amends all limited work authorizations permits and licenses for power and non-power reactors. Serves as NRR coordination with the Office of Inspection and Enforcement.

The Director, Division of Licensing, is delegated the authorities defined in Chapter NRC-0123, Subsections 021a, 022, 023, 025, 026, 0210, 0212, 032a, 032c, 033a, 033c, 034, 035, 038, 039 (only for orders pursuant to 10 CFR 2.202 and 2.204), 0310, 0311 and 0313.

THE DEPUTY DIRECTOR, DIVISION OF LICENSING

Assists the Director in the accomplishment of Division functions and acts for the Director in his absence.

- 1. The Assistant Director for Operating Reactors plans and directs the safety and environmental reviews of licensed operating power reactors and the review of proposed amendments to operating licenses. Supervises the programs and activities of the Operating Reactors Branches. Assists the Director in administering the Division's programs.

The Operating Reactors Branches 1-4 perform the overall safety and environmental project management for assigned licensed operating power reactors, including review of technical and procedural aspects involving proposed amendments to operating licenses.

- 2. The Assistant Director for Licensing plans and directs the program for safety and environmental review and evaluation of applications for limited work authorizations, construction permits, operating licenses, preliminary and final standard design approvals, early site approvals and topical report approvals. Evaluates design, operation and modification of test, research and critical facilities, Naval reactors, DOE- and DOD-owned facilities exempt from licensing, and advanced reactor concepts. Supervises the programs and activities of the Licensing and Standardization and Special Projects Branches. Assists the Director in administering the Division's programs.

- a. The Licensing Branches 1-3 perform the overall safety and environmental project management for assigned power reactor limited work authorization, construction permit and operating license applications.

- b. The Standardization and Special Projects Branch performs the overall safety and environmental project management for assigned preliminary and final standard design approval, early site approval, topical report approval, research and test reactor and critical facility applications. Performs similar functions for Naval reactors, advanced reactor concepts and DOE- and DOD-owned facilities exempt from licensing. Provides the NRR interface and coordination with NMSS on reactor safeguards matters; conducts porting reviews of nuclear-powered vessels.

- 3. The Assistant Director for Safety Assessment plans and directs the safety and environmental reviews of licensed operating power reactors undergoing systematic re-review and the technical evaluation of proposed routine operating license amendments. Supervises the programs and activities of the Operating Reactors Branch 5, the Systematic Evaluation Program Branch and the Operating Reactors Assessment Branch. Assists the Director in administering the Division's programs.

- c. The Engineering Branch performs evaluation of structural and mechanical components for all reactor facilities licensed for operation; evaluates applications for construction permits and operating licenses for nonpower reactors and evaluates the operational and design modifications of DOE- and DOD-owned operating facilities exempt from licensing, as requested.
 - d. The Environmental Evaluation Branch performs the safety and environmental reviews and evaluates modifications to systems for all reactor facilities licensed for operation, of all applications to construct and operate nonpower reactors, and, as requested, of operational and design modifications of DOE- and DOD-owned reactor facilities exempt from licensing; evaluates radioactive waste treatment methods and effluents, radiological accident analyses, radiation protection, emergency plans, and overall environmental assessments and analyses.
3. The Assistant Director for Reactor Safeguards plans, directs and administers the NRR reactor safeguards program; and provides management direction and supervision to the Reactor Safeguards Licensing Branch and the Reactor Safeguards Development Branch.
 - a. The Reactor Safeguards Licensing Branch reviews safeguard-related sections of PSAR's and FSAR's; reviews applicants' physical security plans and contingency plans; reviews amendments to these plans for operating reactors; participates in operating reactors re-reviews; and directs technical assistance programs.
 - b. The Reactor Safeguards Development Branch develops reactor safeguards policy recommendations; develops and analyzes new regulatory requirements involving safeguards; coordinates research and development programs; develops evaluation criteria for use in the licensing function; identifies and initially develops required standards; and prepares and maintains NRR/IE reactor safeguards response plans.

F. THE DIRECTOR, DIVISION OF PROJECT MANAGEMENT:

Directs and administers the reactor licensing process for all utilization and production facilities, other than fuel reprocessing and isotopic enrichment plants, including safety evaluations in connection with facilities required to be licensed, including amendments, emergency plans, quality assurance and transportation within the site boundary, operator licenses, and as requested, on facilities

owned by DOD. Develops related policies, procedures and programs, and assures proper implementation. Issues, denies and amends all permits and licenses through full power operating license issuance for above facilities; issues, denies, and amends all operator licenses; issues, denies, and amends limited work authorizations.

The Director, Division of Project Management, is delegated the authorities defined in Chapter NRC-0123, subsections 032, 033, 034, 035, 038, 039, 0311, 0312, 0313, 0315 and in 021, 022, 023, 026, 027, 028, 029, 0210, 0211, and 0212.

THE DEPUTY DIRECTOR, DIVISION OF PROJECT MANAGEMENT:

Assists the Director in the accomplishment of Division functions and acts for the Director in his absence.

1. The Assistant Director for Light Water Reactors plans and directs the program for safety review, analysis, and evaluation of applications for construction permits and operating licenses and performs similar functions for certain reactors exempt from licensing; evaluates technical specifications for these reactors; evaluates operational safety and design modification of DOD-owned reactors exempt from licensing.

The Light Water Reactors Branches 1-4 analyze, evaluate and manage the safety aspects of applications for construction permits, operating licenses and standard plant designs; perform similar functions for DOD-owned reactors exempt from licensing; evaluate technical specifications for these reactors.

2. The Assistant Director for Standardization and Advanced Reactors plans and directs the Commission's Standardization program and the project management functions for standard plant design reviews and for review of applications for construction permits, operating licenses and amendments, and licensability reviews for fast breeder, gas-cooled and other advanced power reactors; plans and directs reviews of military and non-military nuclear propulsion and power systems and nuclear-related facilities; plans and directs safety reviews of certain aspects of fast breeder, gas-cooled and other advanced reactor concepts. Develops and implements standardization policy and procedures.
 - a. The Standardization Branch coordinates the Standardization program including development and implementation of policies and procedures and the project management functions associated with safety reviews for approval of designs of standard plants and major portions thereof, plant systems and components; provides project management functions for reviewing design, construction

and operation of licensed nuclear power reactors and for other military and non-military government nuclear systems and facilities, as assigned.

- b. The Advanced Reactors Branch evaluates design and performance of fast breeder, gas-cooled and other advanced reactor concepts; manages safety reviews of applications to construct and operate such reactors; performs licensability evaluations of advanced reactor concepts; reviews and evaluates advanced reactors exempt from licensing, including technical specifications for such reactors.
3. The Assistant Director for Quality Assurance and Operations plans and directs programs for the review of license applications to assure compliance with quality assurance criteria as applied to design, fabrication, construction, operation and maintenance of nuclear power plants; for evaluation of the adequacy of applicants' plans for actions in the event of radiological emergency; for examination and licensing of senior reactor operators and reactor operators; for review of applicants' financial qualifications.

The Financial Review Staff reviews financial qualifications of reactor license applicants and licensees; prepares hearing testimony on financial qualifications; and specifies license conditions to assure utility commitments for construction and operation of plants.

- a. The Operator Licensing Branch examines and licenses candidates for reactor operator and senior operator licenses; develops qualifications requirements, testing techniques, and standards for evaluation of candidates; and approves the operator requalification program.
- b. The Quality Assurance Branch reviews reactor license applications to assure compliance with Commission quality assurance criteria during plant design, construction and operation; and evaluates technical and administrative competence of reactor operating organization for the protection of the public health and safety; evaluates adequacy of preoperational and startup test programs.
- c. The Emergency Planning Branch reviews and evaluates reactor site plans regarding radiological emergencies; evaluates and specifies license conditions related to these areas; and performs a coordinating role in the area of state emergency plans with the Office of Nuclear Material Safety and Safeguards, the Office of State Programs, and other Federal and State agencies.

G. THE DIRECTOR, DIVISION OF SITE SAFETY AND ENVIRONMENTAL ANALYSIS:

Directs and administers the program for safety and environmental evaluations of proposed and existing sites for nuclear facilities. The program encompasses the suitability of proposed sites with respect to radiological safety considerations and the assessment of the environmental impacts of construction and operation of nuclear facilities including the preparation and processing of environmental impact statements for such facilities. Issues, denies or amends limited work authorizations.

The Director, Division of Site Safety and Environmental Analysis, is delegated the authorities defined in Chapter NRC-0123, subsections 032 c., 0310, 0315, and 028, 0210, 0211, 0212, 0213.

THE DEPUTY DIRECTOR, DIVISION OF SITE SAFETY AND ENVIRONMENTAL ANALYSIS:

Assists the Director in the accomplishment of Division functions and acts for the Director in his absence.

1. The Assistant Director for Environmental Projects plans and directs the program for assessing the environmental impact of construction and operation of reactor facilities proposed for licensing and for the preparation and processing of environmental impact statements for such facilities.

The Environmental Project Branches 1 and 2 review, evaluate, and manage all NRC activities pertaining to the environmental evaluation and processing of applications for construction permits and operating licenses for reactors; directs and manages environmental and site suitability review activities for early site reviews.

2. The Assistant Director for Site Analysis plans and directs the Division's program for safety and environmental evaluations of proposed applications for construction permits and operating licenses for nuclear facilities with respect to the physical location of the proposed site, the potential radiological effects to the public of routine operation and postulated accidents, the program for radiation protection of the plant work force to assure that exposures are ALARA, the radioactive waste treatment systems and plant systems to reduce radiological and environmental effects; conducts and supervises reviews of population distribution, fission product removal system designs, radiological exposure pathways, accident assumptions, and area hazards to the safe operation of the facility.

- a. The Accident Analysis Branch reviews and evaluates design and performance of containment spray systems, and secondary containment systems for fission product removal effectiveness; reviews and evaluates control rooms for habitability under postulated radiological and toxic release conditions, reviews and evaluates capability of plant to safely withstand postulated turbine failures, tornado and other missiles from causes external to the facility; evaluates risks associated with nearby industrial, transportation and military facilities; develops models for and performs calculations of radiological consequences of the spectrum of postulated accidents for both environmental statements and safety evaluations; develops criteria for and performs evaluations of suitability of proposed and alternate sites from the standpoint of population and land use.
 - b. The Effluent Treatment Systems Branch reviews reactor license applications to evaluate plant systems and equipment for fission product removal, and the treatment of radioactive waste; and process and effluent monitoring systems, including the development of analytical models, assumptions, and calculation methods for evaluating the effectiveness of proposed systems.
 - c. The Radiological Assessment Branch reviews reactor license applications to evaluate the radiological impact of the facilities on the environment, including all potential pathways for radiation exposure to man, and to determine the adequacy of the program for radiation protection of the plant work force, to keep radiation exposures ALARA. Develops analytical models, assumptions and calculational methods to support these reviews, and in support of other NRC offices regarding the protection of the health and safety of the work force and population related to nuclear fuel cycle facilities.
3. The Assistant Director for Environmental Technology plans and directs the Division's program for the technical review and evaluation of the nonradiological environmental impact and benefits and costs of proposed nuclear power reactor facilities.
 - a. The Environmental Specialists Branch provides specialized technical capabilities in the areas of water quality engineering, aquatic and terrestrial ecology, and land use assessments; provides technical overview of NRC contractors in the preparation of Environmental Statements; interfaces with other NRC divisions and Federal, and State agencies in the resolution of generic and case-related environmental issues; identifies NRC research

needs and monitors research activities; develops guides for the preparation of environmental reports and statements.

- b. The Cost-Benefit Analysis Branch provides specialized technical capabilities in the areas of socioeconomic impacts and the benefits and costs of nuclear facilities; provides technical overview of NRC contractors in the preparation of Environmental Statements; interfaces with other NRC divisions and Federal and State agencies in the resolution of generic and case-related environmental issues; identifies NRC research needs and monitors research activities; develops guides for the preparation of environmental reports and statements.
4. The Assistant Director for Site Technology plans and directs the Division's program for safety and environmental evaluations of proposed sites for nuclear facilities with respect to the physical characteristics of the proposed area. Reviews meteorology, seismology, geology, hydrology, and geotechnical engineering aspects of the proposed facilities.
 - a. The Geosciences Branch performs the technical review and evaluation of the acceptability of proposed nuclear power sites with respect to the seismological, geological and geotechnical engineering aspects of the site; directs the analytical effort of consultants and assesses their input in the preparation of appropriate portions of the site selection of safety evaluation reports; identifies areas in which appropriate earth science methodology needs further research and development; and assists in developing programs required to fill these needs.
 - b. The Hydrology-Meteorology Branch performs the technical review and evaluation of the acceptability of proposed nuclear power sites with respect to hydrologic engineering, coastal engineering and meteorological characteristics of the proposed reactor site; directs the analytical effort of consultants and assesses their input in the preparation of the hydrology and meteorology section of safety evaluation and environmental reports. Identifies areas in which the hydrological or meteorological methodology needs further research and development; assists in developing licensing, standards and research programs required to fill these needs.

H. THE DIRECTOR, DIVISION OF SYSTEMS SAFETY:

Directs and administers the detailed safety reviews and evaluations of nuclear power reactor applications through the operating license

stage. Develops and administers related safety programs and policies governing the licensing and authorization of nuclear reactors other than for export.

The Director, Division of Systems Safety, is delegated the authorities defined in Chapter NRC-0123, subsections 023, 028, 0212.

THE DEPUTY DIRECTOR, DIVISION OF SYSTEMS SAFETY:

Assists the Director in the accomplishment of Division functions and acts for the Director in his absence.

1. The Assistant Director for Reactor Safety plans and directs the Division program for the review, analysis and evaluation of reactor plant safety systems designs pertaining to licensing (construction and operation) of nuclear power plants and provides technical bases for guides and standards.
 - a. The Reactor Systems Branch reviews and evaluates the design and performance of reactor thermal-hydraulic systems, reactor coolant systems and emergency core cooling systems and associated auxiliary systems.
 - b. The Core Performance Branch reviews, develops, and executes calculational methods in the physics, thermal and hydraulic, and reactor fuel aspects of nuclear reactor design.
 - c. The Analysis Branch reviews, analyzes, and evaluates calculational methods used by applicants for the licensing of nuclear power plants in the nuclear, thermal, and hydraulic areas of reactor and engineered safety features design; develops, in conjunction with consultants, independent calculational methods, including complex computer codes, for analyzing nuclear, thermal, and hydraulic performance during steady-state, transient and accident conditions.
2. The Assistant Director for Engineering plans, directs, and supervises the programs and activities of the Mechanical Engineering, Materials Engineering, and Structural Engineering Branches.
 - a. The Mechanical Engineering Branch reviews and evaluates seismic and pipe whip design and the mechanical design of reactor vessels, reactor core supports, reactor fuel components, reactor coolant pumps, steam generators, reactor coolant piping, pressurizers, component supports, and other safety-related mechanical components.

- b. The Materials Engineering Branch evaluates materials of pressure retaining components of fluid systems important to safety and performs general technical review, analysis, and evaluation of the materials, fabrication, inspection and testing of nuclear power reactor components and systems.
 - c. The Structural Engineering Branch reviews and evaluates missile design, design of concrete and steel containments, and design of other safety-related plant structures; and performs technical review, analysis, and evaluation of the design, construction and operation of nuclear power reactor structures.
3. The Assistant Director for Plant Systems plans and directs the programs and activities of the Auxiliary Systems, Containment Systems, Instrumentation and Control Systems, and Power Systems Branches.
- a. The Auxiliary Systems Branch reviews reactor license applications and related documents to evaluate the design, fabrication and operation of auxiliary systems and fire protection programs.
 - b. The Containment Systems Branch reviews reactor license applications and related documents to evaluate the containment system and associated subsystems, including such factors as heat removal, heating and ventilation, isolation equipment and controls, and combustible gas control systems.
 - c. The Instrumentation and Control Systems Branch reviews and evaluates the design, fabrication, and operation of reactor protection and safety instrumentation, and control instrumentation; and participates in the development of guides and regulations pertaining to instrumentation and control systems.
 - d. The Power Systems Branch reviews reactor license applications and related documents to evaluate the design, fabrication and operation of onsite and offsite electrical power systems and the steam and power conversion systems; participates in the development of guides and regulations pertaining to these systems.

closed under these procedures include: consideration of petitions to review or cases that have been reopened or reviewed pursuant to 5 C.F.R. § 1201.114 through 1201.117; administrative law judge disciplinary cases heard initially by an administrative law judge under 5 C.F.R. § 1201.131 et seq.; and Special Counsel actions heard by an administrative law judge under 5 C.F.R. § 1201.129.

(b) *Announcement:* Public announcement of the time, place, and subject matter of meetings or portions thereof that are closed under this provision shall be made at the earliest practicable time.

(c) *Procedure for Closing:* At the beginning of a meeting or portion of a meeting to be closed under this section, the Board may, by recorded vote of two of its members, determine to close the meeting or portion thereof to public observation following receipt of a General Counsel's certification pursuant to § 1206.6(b).

(d) *Record Availability:* In the case of a meeting or portion of a meeting closed pursuant to this subsection, as soon as practicable, the Board shall make publicly available:

(1) A written record reflecting the vote of each participating member of the Board to close the meeting; and

(2) The General Counsel certification pursuant to § 1206.6(b).

(5 U.S.C. 552b)

FR Doc. 79-34900 Filed 11-4-79; 8:45 am
BILLING CODE 6225-20-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 225]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

SECTION: Final rule.

SUMMARY: This regulation establishes quantity of fresh California-Arizona lemons that may be shipped to market during the period November 11-17, 1979. An action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 11, 1979.

FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

ADDITIONAL INFORMATION: Findings. Regulation is issued under the

marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on November 6, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is somewhat easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975.

§ 910.525 Lemon Regulation 225.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period November 11, 1979, through November 17, 1979, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 7, 1979.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 79-34940 Filed 11-4-79; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Domestic Licensing Proceedings; Modified Adjudicatory Procedures

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Suspension of 10 CFR 2.764 and Statement of Policy on Conduct of Adjudicatory Proceedings.

SUMMARY: As a result of the Three Mile Island accident, the Commission has decided to make interim modifications to the procedures by which it supervises and reviews adjudicatory licensing decisions involving power reactors. It has decided to suspend until further notice 10 CFR 2.764 which is its rule of practice on issuance of licenses after adjudicatory decisions.¹ Furthermore, it has specified the procedures by which new licenses, permits and authorizations may be issued. As provided in the Interim Statement on Policy and Procedure, 44 FR 58559 (October 10, 1979), this action will not affect non-adjudicatory proceedings or other adjudicatory matters including enforcement and license amendment proceedings, appellate decisions and partial initial decisions not authorizing issuance of new licenses or permits.

This suspension of 10 CFR 2.764 and the related statement of policy deal with Commission rules of practice. For that reason, and because prior notice and comment and delayed effectiveness would further delay adjudicatory decisions from being rendered and from being addressed by the Commission, and so would be contrary to the public interest, this suspension and statement of policy shall be effective without prior public notice and comment and good cause exists for making the suspension and statement effective upon publication. However, the Commission will consider any public comments on these modified procedures which are filed with the Secretary of the

¹ The Commission currently has underway a study of whether, apart from this temporary measure, the immediate effectiveness rule should be retained, modified, or abolished. Nothing in today's action is intended to prejudice the outcome of that study.

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Commission within 30 days of publication of this notice.

The actions described herein constitute the Commission's final action on the petitions it has received in the Black Fox and Skagit proceedings.

EFFECTIVE DATE: November 9, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen S. Ostrach, Esq., Office of the General Counsel, (202) 634-3224.

SUPPLEMENTARY INFORMATION: The Commission's Interim Statement of Policy and Procedure, 44 FR 58559 (October 10, 1979), indicated that the Commission would subsequently decide the procedures by which it would exercise increased supervision over adjudicatory licensing decisions in the aftermath of the investigations of the Three Mile Island accident. That Statement also indicated that new construction permits, limited work authorizations and operating licenses for power reactors would be issued "only after action of the Commission itself."

The Commission has now determined that, until further notice, adjudicatory proceedings will be conducted as described below. The Commission has adopted this approach because it achieves the objective of increased Commission supervision of licensing actions while (1) avoiding undue delay and duplication of effort by adjudicators and parties; and (2) allowing the Commission maximum flexibility in terms of deciding whether, in light of its other responsibilities, particular proceedings or issues warrant its early intercession or can appropriately be left to the ordinary adjudicatory processes (subject, of course, to ultimate Commission review at the conclusion of the proceeding).

When no formal adjudicatory proceeding has been conducted on an application for an operating license for a power reactor, and insofar as issues have not been placed in controversy or determined by the Licensing Board or Appeal Board in a formal adjudicatory proceeding on such an application, the Commission will informally review the recommendations of its staff on license issuance and any such license will be issued only after action of the Commission itself. In conducting such an informal review, there will be due regard for rights to a hearing as provided under present law.

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, the following amendments to Title 10 Chapter I, Code of Federal Regulations, Part 2, are

published as a document subject to codification.

§ 2.764 (Amended)

1. Section 2.764 of 10 CFR Part 2 is amended by adding a footnote 1 at the end thereof.¹

2. 10 CFR Part 2 is amended by adding an Appendix B at the end thereof to read as follows: "Appendix B—Suspension of 10 CFR 2.764 and Statement of Policy on Conduct of Adjudicatory Proceedings".

Appendix B—Suspension of 10 CFR § 2.764 and Statement of Policy on Conduct of Adjudicatory Proceedings

1. Atomic Safety and Licensing Boards

Atomic Safety and Licensing Boards shall hear and decide all issues that come before them, indicating in their decisions the type of licensing action, if any, which their decision would otherwise authorize. The Boards' decisions shall not become effective until the Appeal Board and Commission actions outlined below have taken place.

In reaching their decisions the Boards should interpret existing regulations and regulatory policies with due consideration to the implications for those regulations and policies of the Three Mile Island accident. In this regard it should be understood that as a result of analyses still under way the Commission may change its present regulations and regulatory policies in important respects and thus compliance with existing regulations may turn out to no longer warrant approval of a license application. As provided in paragraph 3 below, in addition to taking generic rulemaking actions, the Commission will be providing case-by-case guidance on changes in regulatory policies in conducting its reviews in adjudicatory proceedings. The Boards shall, in turn, apply these revised regulations and policies in cases then pending before them to the extent that they are applicable. The Commission expects the Licensing Boards to pay particular attention in their decisions to analyzing the evidence on those safety and environmental issues arising under applicable Commission regulations and policies which the Boards believe present serious, close questions and which the Boards believe may be crucial to whether a license should be come effective before full appellate review is completed. Furthermore, the Boards should identify any aspects of the case which, in their judgment, present issues on which prompt Commission policy guidance is called for. The Boards may request the assistance of the parties in identifying such policy issues but, absent specific Commission directive, such policy issues shall not be the subject of discovery, examination, or cross-examination.

2. Atomic Safety and Licensing Appeal Boards

Within sixty days of the service of any Licensing Board decision that would

¹The temporary suspension of this rule in certain proceedings and related matters are addressed in Appendix B to this part.

otherwise authorize licensing action, the Appeal Board shall decide any stay motions that are timely filed.* For the purpose of this policy, a "stay" motion is one that seeks to defer the effectiveness of a Licensing Board decision beyond the period necessary for the Appeal Board and Commission action described herein. If no stay papers are filed, the Appeal Board shall, within the same time period (or earlier if possible), analyze the record and decision below on its own motion and decide whether a stay is warranted. It shall not, however, decide that a stay is warranted without giving the affected parties an opportunity to be heard.

In deciding these stay questions, the Appeal Board shall employ the procedures set out in 10 CFR 2.788. However, in addition to the factors set out in 10 CFR 2.788(e), the Board will give particular attention to whether issuance of the license or permit prior to full administrative review may: (1) Create novel safety or environmental issues in light of the Three Mile Island accident; or (2) prejudice review of significant safety or environmental issues. In addition to deciding the stay issue, the Appeal Board will inform the Commission if it believes that the case raises issues on which prompt Commission policy guidance, particularly guidance on possible changes to present Commission regulations and policies, would advance the Board's appellate review. If the Appeal Board is unable to issue a decision within the sixty-day period, it should explain the cause of the delay to the Commission. The Commission shall thereupon either allow the Appeal Board the additional time necessary to complete its task or take other appropriate action, including taking the matter over itself. The running of the sixty-day period shall not operate to make the Licensing Board's decision effective. Unless otherwise ordered by the Commission, the Appeal Board will conduct its normal appellate review of the Licensing Board decision after it has issued its decision on any stay request.

3. Commission

Reserving to itself the right to step in at any earlier stage of the proceeding, including the period prior to issuance of the Licensing Board's initial decision, the Commission shall, promptly upon receipt of the Appeal Board decision on whether the effectiveness of a Licensing Board decision should be further delayed, review the matter on its own motion. The parties shall have no right to file pleadings with the Commission with regard to the Appeal Board's stay decision unless requested to do so.

The Commission will seek to issue a decision in each case within 20 days of receipt of the Appeal Board's decisions. If it

*Such motions shall be filed as provided by 10 CFR 2.788. No request need be filed with the Licensing Board prior to filing with the Appeal Board. Cf. *Public Service Company of New Hampshire*, (Seabrook Station, Units 1 and 2), ALAB-338, 4 NRC 10 (1978).

The sixty-day period has been selected in recognition of two facts. First, allowing time for service by mail, close to thirty days may elapse before the Appeal Board has all the stay papers before it. Second, the Appeal Board may find it necessary to hold oral argument.

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does not act finally within that time, it will state the reason for its further consideration and indicate that time it anticipates will be required to reach its decision. In such an event, if the Appeal Board has not stayed the Licensing Board's decision, the initial decision will be considered stayed pending the Commission's decision.

In announcing the result of its review of any Appeal Board stay decision, the Commission may allow the proceeding to run its ordinary course or give whatever instructions as to the future handling of the proceeding it deems appropriate (for example, it may direct the Appeal Board to review the merits of particular issues in expedited fashion; furnish policy guidance with respect to particular issues; or decide to review the merits of particular issues itself, bypassing the Appeal Board). Furthermore, the Commission may in a particular case determine that compliance with existing regulations and policies may no longer be sufficient to warrant approval of a license application and may alter those regulations and policies.

4. Application of Procedures

The above procedures apply only to matters considered in adjudicatory proceedings for the issuance of nuclear power reactor construction permits (including limited work authorizations) and operating licenses. They do not govern the issuance of an operating license (a) where no formal adjudicatory proceeding has been conducted on the merits of the application for the license or (b) to the extent that some of the matters considered in the course of the staff review of the operating license application have been neither placed in issue before nor determined by the Licensing Board or Appeal Board in the formal adjudicatory proceeding which was conducted on the application. Further, these procedures will not apply to appellate decisions in cases where a complete initial decision has been issued by a Licensing Board before the effective date of this Statement of Policy, or to partial initial decisions not authorizing issuance of new permits or licenses.

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

Dated at Washington, D. C., this 5th day of November 1979.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

(FR Doc. 79-34830 Filed 11-9-79; 8:45 am.)

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Reg. Y; Docket No. R-0050-B]

Bank Holding Companies and Change in Bank Control; Nonbank Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The United States Court of Appeals for the Fifth Circuit, in *Alabama Association of Insurance Agents, Inc. v. Board of Governors of the Federal Reserve System*, 533 F2d 224 (5th Cir. 1976); rehearing denied, 558 F2d 729 (5th Cir. 1977); cert. denied, 435 U.S. 904 (1978), remanded to the Board for further consideration that part of the Board's Regulation Y authorizing bank holding companies to act as agents or brokers with respect to general insurance sold in a community that has a population not exceeding 5,000 persons, 12 CFR 225.4(a)(9)(iii)(a). The Board published that provision, together with the provision of Regulation Y authorizing bank holding companies to sell insurance in towns with inadequate insurance facilities (12 CFR 225.4(a)(9)(iii)(b)) for public comment in accordance with the Court's opinion, 43 FR 23588 (1978).

The Board has considered all comments received and has determined that the sale of general insurance by bank holding companies in communities with populations not exceeding 5,000 is an activity "closely related" to banking within the meaning of section 4(c)(8) of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1843(c)(8). The Board also has determined that the regulatory language authorizing that activity was so broad as to permit remote insurance agency activities not intended to be authorized and the Board appropriately restricted the scope of that activity. Finally, the Board has found that the sale of insurance in communities having inadequate insurance facilities is not an activity "closely related" to banking within the meaning of the Act and has deleted that provision from Regulation Y.

EFFECTIVE DATE: December 5, 1979.

FOR FURTHER INFORMATION CONTACT: Richard M. Whiting, Senior Attorney (202/452-3779), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) The Fifth Circuit Court of Appeals remanded to the Board for further consideration that part of 12 CFR 225.4(a)(9) that authorized bank holding companies to engage in general insurance agency activities in communities with a population not exceeding 5,000. The Court instructed the Board to make further findings to establish whether that activity is closely related to banking within the meaning of the Act. Also, the Court instructed the Board to make findings directed toward determining whether the language of

that provision permits remote insurance agency activities not intended to be authorized by the Act.

The Board solicited public comments in accordance with the Court's opinion regarding the provision of Regulation Y authorizing bank holding companies to conduct general insurance agency activities in communities with a population not exceeding 5,000 inhabitants. In addition, the Board solicited comments from the public regarding whether the activity as acting as general insurance agent in communities demonstrated to have inadequate insurance agency facilities is closely related to banking within the meaning of section 4(c)(8) of the Act.

The Board has considered all comments received and completed its review of 12 CFR 225.4(a)(9)(iii). No requests for a hearing were received by the Board. The Board now makes certain findings and adopts certain amendments to that portion of Regulation Y in order to conform it to the opinion of the Fifth Circuit Court of Appeals.

From the record, including public comments received, the Board has concluded that the sale of general insurance in communities with a population not exceeding 5,000 is an activity closely related to banking within the meaning of section 4(c)(8) of the Act. In this connection, the Board notes that since 1916 national banks in fact have been authorized pursuant to 12 U.S.C. 92 to sell general insurance in communities having a population not exceeding 5,000. Additionally, it appears that state banks in approximately 34 states may conduct general insurance agency activities to the extent that national banks may engage in that activity and, in fact, many state banks are engaged in that activity. Moreover, the record shows that many commentators view the sale of general insurance in a small town to be a financial service similar to banking and that in small towns bankers often are the only persons qualified to provide insurance agency services. Finally, numerous commentators noted that the economic viability of banks located in small towns frequently depends upon the income derived from general

¹ The courts have set forth the following general guidelines for determining whether a proposed activity may be found by the Board to be closely related to banking: (1) Banks generally have in fact provided the proposed services; (2) banks generally provide services that are operationally or functionally so similar to the proposed services as to equip them particularly well to provide the proposed service; or banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form. *National Courier Association v. Board of Governors*, 516 F2d 1229 (D.C. Cir. 1975).

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