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AUG 13 1973

Mr. Edward J. Bauser
Executive Director
Joint Committee on Atomic Energy
Congress of the United States

Dear Mr. Bauser:

Enclosed for the information of the Joint Committee on Atomic Energy is a notice of proposed rule making that proposes amendments to 10 CFR Parts 50 and 115 which would simplify the regulatory process by providing for certain changes in licensed facilities and operating procedures to be authorized by amendment of the operating license or authorization.

At present, there are two ways of modifying facility operating licenses: (a) by an "amendment" of the license or (b) by authorization of an appropriate "change" under the criteria and procedures in §50.59 of Part 50. The Commission believes that the separate procedures now in effect for "amendments" and "changes" can be simplified by the establishment of a uniform system for authorization of such actions.

The proposed amendments to Part 50 would continue to permit facility licensees to make changes and perform tests and experiments not described in the safety analysis report without prior Commission approval unless the change, test or experiment involves an unreviewed safety question or a change in the technical specifications. For proposed changes, tests or experiments which involve an unreviewed safety question or a change in technical specifications, an amendment to the operating license would be required, pursuant to §50.90. With respect to an application for amendment of a license which involves a significant hazards consideration, the Commission would act upon the application for the amendment after giving notice of its proposed action, pursuant to the applicable provisions of 10 CFR Part 2. Similar changes would be made in the pertinent provisions of Part 115.

Section 50.53 would be amended to reflect the discretion given the Commission in section 132 of the Atomic Energy Act to refer applications for license amendments to the Advisory Committee on Reactor Safeguards.

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The proposed amendments have been transmitted to the Federal Register for publication and will allow 60 days for comment after publication in the Federal Register.

Enclosed also is a public announcement which we plan to issue on this matter in the next few days.

(Signed) John F. O'Leary

John F. O'Leary
Director of Licensing

Enclosures:

- 1) Notice of proposed rule making
- 2) Public Announcement

bcc: L R/F
DR R/F
LVGossick, DDR
JMFelton, DRA
JMBecker, OGC
HKShapar, OGC
OGC Files
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JFO'Leary, L

OFFICE ▶	OGC	L	OCR			
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ATOMIC ENERGY COMMISSION
[10 CFR Parts 50 and 115]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES;
PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS
EXEMPTED FROM LICENSING REQUIREMENTS

Amendments and Change Procedures

For

Facility Licenses and Authorizations

The Atomic Energy Commission has under consideration certain amendments to its regulations, 10 CFR Part 50, Licensing of Production and Utilization Facilities, and 10 CFR Part 115, Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements, which would simplify the procedural process for AEC authorization of changes in production and utilization facilities and technical specifications relating to such facilities.

Section 189 of the Atomic Energy Act of 1954, as amended (the Act), provides that in cases where a construction permit for a facility under sections 103 or 104 b. of the Act, or a testing facility under section 104c. of the Act, has been issued following a hearing, the Commission may, in the absence of a request therefor by any person whose interest may be affected, issue an amendment to the operating license without a hearing, upon thirty days' notice and publication of its intent to do so in the FEDERAL REGISTER.

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Such notice may be dispensed with, however, upon a determination that the amendment does not involve a significant hazards consideration.

Under existing provisions of § 50.59 of Part 50, changes may be made in a facility and in the procedures described in the safety analysis report, and tests and experiments not described in the safety analysis report may be conducted, without prior Commission approval, unless the proposed change, test or experiment involves a change in the technical specifications or an unreviewed safety question. A change which involves a change in technical specifications or an unreviewed safety question must be authorized by the Commission, and the Commission may authorize such a change, test or experiment, upon finding that there is reasonable assurance that the health and safety of the public will not be endangered.

If a proposed change in a facility of a type described in §§ 50.21(b) or 50.22 or a testing facility (i.e., a power or test reactor or a fuel reprocessing plant), presents a significant hazards consideration, the Commission may refer the request to the Advisory Committee on Reactor Safeguards. Part 115 contains similar provisions with respect to operating authorizations for power reactors subject to that part.

Part 2 contains provisions which state that a notice of proposed action on an amendment to a facility license which "involves a significant hazards consideration" will be published in the FEDERAL REGISTER, and will provide

that, within thirty days from date of publication of the notice, or such lesser period authorized by law as the Commission may specify, the applicant may request a hearing or any person whose interest may be affected by the proceeding may file a petition for leave to intervene (§ 2.105). Section 2.106 provides for FEDERAL REGISTER notice, after issuance, of amendments to facility licenses.

The Commission believes that the separate procedures now in effect for "amendments" and "changes" can be simplified by the establishment of a uniform system for authorization of such actions.

The proposed amendments to Part 50 which follow would continue to permit facility licensees to make changes and perform tests and experiments not described in the safety analysis report without prior Commission approval unless the change, test or experiment involves an unreviewed safety question or a change in the technical specifications. For proposed changes, tests or experiments which involve an unreviewed safety question or a change in technical specifications, an amendment to the operating license would be required, pursuant to § 50.90. With respect to an application for amendment of a license which involves a significant hazards consideration, the Commission would act upon the application for the amendment after giving notice of its proposed action, pursuant to the applicable provisions of 10 CFR Part 2. Similar changes would be made in the pertinent provisions of Part 115.

Section 50.58 would be amended to reflect the discretion given the Commission in section 182 of the Atomic Energy Act to refer applications for license amendments to the Advisory Committee on Reactor Safeguards.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 50 and 115 is contemplated. 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, United States Atomic Energy Commission, Washington, D. C. 20545, Attention: Chief, Public Proceedings Staff, by September 24, 1973.

Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C.

1. Paragraph (a) of § 50.58 of 10 CFR Part 50 is revised to read as follows:

§ 50.58 Hearings and report of the Advisory Committee on Reactor Safeguards.

(a) Each application for a construction permit or an operating license for a facility which is of a type described in § 50.21(b) or § 50.22, or for a testing facility, shall be referred to the Advisory Committee on Reactor Safeguards for a review and report. An application for an amendment to such a construction permit or operating license may be referred to the Advisory Committee on Reactor Safeguards for review and report."

Any report shall be made part of the record of the application and available to

the public, except to the extent that security classification prevents disclosure.

2. Section 50.59 of 10 CFR Part 50 is revised to read as follows:

§ 50.59 Changes, tests and experiments.

(a) The holder of a license authorizing operation of a production or utilization facility may (1) make changes in the facility as described in the safety analysis report, (2) make changes in the procedures as described in the safety analysis report, and (3) conduct tests or experiments not described in the safety analysis report, without prior Commission approval, unless the proposed change, test or experiment involves a change in the technical specifications incorporated in the license or an unreviewed safety question. A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question (1) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased; or (2) if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created; or (3) if the margin of safety as defined in the basis for any technical specification is reduced.

(b) The licensee shall maintain records of changes in the facility and of changes in procedures made _____ pursuant to _____ this section, to the extent that such changes constitute changes in the facility as described in the safety analysis report or constitute changes in procedures as described in the safety analysis report. The licensee shall also maintain records of tests and experiments carried out _____ pursuant to paragraph (a) of this section. These records shall include a written safety evaluation which provides the bases for the determination that the change, test or experiment does not involve an unreviewed safety question. The licensee shall furnish to the Commission, annually or at such shorter intervals as may be specified in the license, a report containing a brief description of such changes, tests and experiments, including a summary of the safety evaluation of each. Any report submitted by a licensee pursuant to this paragraph will be made a part of the public record of the licensing proceeding. In addition to a signed original, 39 copies of each report of changes in a facility of the type described in §§ 50.21(b) or 50.22 or a testing facility, and 12 copies of each report of changes in any other facility, shall be filed.

(c) The holder of a license authorizing operation of a production or utilization facility who desires (1) a change in technical specifications or (2) to make a change in the facility or the procedures described in the safety analysis report or to conduct tests or experiments not described in the safety analysis report, which involve an unreviewed safety question or a change in technical specifications, shall submit an application for amendment of his license pursuant to § 50.90.

3. A sentence is added at the end of § 50.91 of 10 CFR Part 50 to read as follows:

§ 50.91 Issuance of Amendment.

In determining whether an amendment to a license or construction permit will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of initial licenses or construction permits, to the extent applicable and appropriate. If the application involves the material alteration of a licensed facility, a construction permit will be issued prior to the issuance of the amendment to the license. If the amendment involves a significant hazards consideration, the Commission will give notice of its proposed action pursuant to § 2.105 of this chapter before acting thereon. The notice will be issued as soon as practicable after the application has been docketed.

4. Paragraph (a) of § 115.46 of 10 CFR Part 115 is amended to read as follows:

§ 115.46 Hearings and report of the Advisory Committee on Reactor Safeguards.

(a) Each application for an authorization to construct or operate a nuclear reactor subject to this part shall be referred to the Advisory Committee on Reactor Safeguards for a review and report. [An application for an amendment to such a construction authorization or operating authorization may be referred to the Advisory Committee on Reactor Safeguards for review and report.

Any report shall be made part of the record of the application and available to the public, except to the extent that security classification prevents disclosure.

5. Section 115.47 of 10 CFR Part 115 is revised to read as follows:

§ 115.47 Changes, tests and experiments.

(a) The holder of an operating authorization may (1) make changes in the facility as described in the safety analysis report, (2) make changes in the procedures as described in the safety analysis report, and (3) conduct tests and experiments not described in the safety analysis report, without prior Commission approval, unless the proposed change, test or experiment involves a change in the technical specifications incorporated in the license or an unreviewed safety question.

A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question (1) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased; or (2) if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created; or (3) if the margin of safety as defined in the basis for any technical specification is reduced.

(b) The holder of the authorization shall maintain records of changes in the facility and of changes in procedures made

pursuant to paragraph (a) of this section, to the extent that such changes constitute changes in the facility as described in the safety analysis report or constitute changes in procedures described in the safety analysis report. The holder of the authorization shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. These records shall include a written safety evaluation which provides the bases for the determination that the change, test or experiment does not involve an unreviewed safety question. The holder of the authorization shall furnish to the Commission, annually or at such shorter intervals as may be specified in the authorization, a report containing a brief description of such changes, tests and experiments, including a summary of the safety evaluation of each. Any report submitted by a holder of an authorization pursuant to this paragraph will be made a part of the public record of the authorization proceeding. In addition to a signed original 33 copies of each report shall be filed.

(c) The holder of an authorization who desires a change in technical specifications or who desires to make a change in the facility or the procedures described in the safety analysis report, or conduct tests or experiments not described in the safety analysis report which involve an unreviewed safety question or a change in technical specifications, shall submit an application for amendment of his authorization pursuant to § 115.60

§ 115.61 Issuance of amendment.

In determining whether an amendment to an authorization will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of authorizations, to the extent applicable and appropriate. If the application involves the material alteration of a nuclear reactor, a construction authorization will be issued prior to issuance of the amendment to the authorization. If the amendment involves a significant hazards consideration, the Commission will give notice of its proposed action pursuant to § 2.105 of this chapter before acting thereon. The notice will be issued as soon as practicable after the application has been docketed.

(Sec. 161, Pub. Law 83-703, 68 Stat. 948; (42 U.S.C. 2201). Interpret or apply Secs. 2, 3, Pub. Law 87-615, 79 Stat. 409; (42 U.S.C. 2232, 2239.))

FOR THE ATOMIC ENERGY COMMISSION

Gordon M. Grant
Acting Secretary of the Commission

Dated at

this

day of

, 1973

AEC PROPOSES TO SIMPLIFY METHODS
FOR MODIFYING OPERATING LICENSES

The Atomic Energy Commission is proposing to amend its Regulations to require that certain modifications in operating nuclear facilities be handled as amendments to the operating license.

At present, modifications to these facilities may be made either by amending the license or by what is termed a "change procedure." This procedure may require AEC authorization but not an amendment to the license itself.

The AEC believes that the separate procedures now in effect for amendments and changes can be simplified by the establishment of a uniform system for authorizing these actions.

As proposed, an action which does not involve unreviewed safety questions or changes in the technical specifications to the license could be made without prior AEC approval as at present. Licensees must continue to keep records of such actions and to report them to the Commission annually.

If the proposed modification involves an unreviewed safety question or change in the technical specifications, prior review and approval by the AEC Regulatory Staff would be required before the license could be amended. The licensee would be required to submit a safety analysis with the application for a license amendment. If the AEC determines that the proposed change does not involve a serious hazards consideration, it may issue the amendment and give notice in the Federal Register of its action.

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If the application involves a serious hazard consideration, the AEC will publish a notice of its intent to issue the requested amendment in the Federal Register at least 30 days in advance.

A proposed change, test or experiment would be considered to involve an unreviewed safety question if: (1) the probability of occurrence, or the consequences of, an accident or malfunction of equipment important to safety which was previously evaluated may be increased; (2) a possibility for an accident or malfunction of a different type than previously evaluated might be created; and (3) the margin of safety, as defined in the basis for any technical specification in the license, may be reduced by the action.

The proposed amendments are to Parts 50 and 115 of AEC Regulations and were published in the Federal Register on _____. All interested persons who wish to submit written comments or suggestions should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff by _____.