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APR 20 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 copy of a notice of proposed rule making to amend the Commission's regulations 10 CFR Parts 50 and 115. Sections 50.55 a. and 115.43 a. of Parts 50 and 115 presently require holders of construction permits to conform to the requirements of specified industry codes in the design, fabrication, construction, testing and inspection of specified reactor components and systems.

At present the editions of referenced Codes, Code Cases and Addenda whose requirements must be met include only the editions of Codes, Code Cases, and Addenda through 1971 or the Winter 1971 Addenda as appropriate. The proposed amendments of sections 50.55 a. and 115.43 a. would require compliance with Addenda of referenced Codes and Standards which have been issued through Winter 1972.

The enclosed notice of proposed rule making is being transmitted to the Office of the Federal Register and will allow 30 days for public comment after publication in the Federal Register.

In view of the minor nature of the proposed amendments we do not consider that a public announcement is warranted.

Sincerely,

Lester Rogers
Director of Regulatory Standards

Enclosure:
Notice of Proposed
Rule Making

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ATOMIC ENERGY COMMISSION
[10 CFR Parts 50 and 115]

Codes and Standards for Nuclear Power Plants

The Atomic Energy Commission has under consideration 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 incorporate new addenda to specified published industry codes.

On August 24, 1972, the Atomic Energy Commission published in the Federal Register (37 FR 17021) amendments to §50.55a and §115.43a, which provided that the editions of referenced Codes, Code Cases and Addenda whose requirements must be met include only the editions of Codes, Code Cases and Addenda through 1971 or the Winter 1971 Addenda as appropriate.

Since that date, Addenda have been issued to the referenced Codes through December 1972. The Commission proposes to amend §50.55a and §115.43a to incorporate the later addenda by reference.

Accordingly 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 wish to submit written comments or suggestions in connection with the proposed amendments should send them to

the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff by May

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

1. In §50.55a of 10 CFR Part 50, §50.55a(b) is amended to read as follows:

§50.55a Codes and Standards.

* * * * *

- (b) As used in this section, references to editions of Criteria, Codes and Standards include only those editions through 1971; references to Addenda include only those Addenda through the Winter 1972 Addenda.

* * * * *

2. In §115.43a of 10 CFR Part 115, §115.43a(b) is amended to read as follows:

§115.43a Codes and Standards.

* * * * *

- (b) As used in this section, references to editions of Criteria, Codes and Standards include only those editions through 1971; references to Addenda include only those Addenda through the Winter 1972 Addenda.

(Secs. 103, 104, 161i, 183, 68 Stat. 936, 937, 948, 954 as amended;
42 U.S.C. 2133, 2134, 2201(i), 2233).

Dated at _____ this _____
day of _____ 1973.

FOR THE ATOMIC ENERGY COMMISSION.

Paul C. Bender
Secretary of the Commission

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.

Enclosure A

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, within sixty days after publication of this notice in the FEDERAL REGISTER. 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. [Each] An application for an amendment to such a construction permit or operating license [shall] may be referred to the Advisory Committee on Reactor Safeguards for review and report [unless the Commission finds that no significant hazards consideration is presented]. 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 [, as defined in paragraph (c) of this section. If the proposed change, test or experiment involves a change in the technical specifications or an unreviewed safety question, it shall not be carried out unless authorized by the Commission pursuant to the procedures set forth in this section]. 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 [without prior Commission approval] 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 as described in the safety analysis report. The licensee shall also maintain records of tests and experiments carried out [without prior Commission approval] 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. [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.

(d) The licensee shall file a request for authorization of a change in technical specifications or of any change, test or experiment which requires authorization by the Commission pursuant to paragraph (a) of this section. The request shall include an appropriate safety analysis report. Each such request shall be filed with the Director of Licensing, U.S. Atomic Energy Commission, Washington, D. C., 20545. The licensee shall file three signed originals and 19 additional copies.

(e) With respect to requests for changes, tests, or experiments or for changes in technical specifications for a facility of a type described in § 50.21(b) or § 50.22, or a testing facility:

(1) If the Commission determines that the proposed change, test, or experiment presents significant hazards considerations not described or implicit in the safety analysis report it may refer the request to the Advisory Committee on Reactor Safeguards. The Commission will promptly notify the licensee of any referral to the Advisory Committee on Reactor Safeguards.

(2) If the Commission determined that the proposed change, test, or experiment does not present significant hazards considerations not described or implicit in the safety analysis report, it may authorize such change, test, or experiment without referral to the Advisory Committee on Reactor Safeguards for a report and without prior public hearing, upon finding that there is reasonable assurance that the health and safety of the public will not be

endangered.

(f) With respect to requests for changes, tests or experiments or for changes in technical specifications for a production or utilization facility which is not of a type described in § 50.21(b) or § 20.22 or a testing facility, the Commission may authorize the proposed change, test or experiment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered.

(g) Any report or request for authorization submitted by a licensee, and any determination by the Commission, or authorization issued by the Commission, pursuant to this section, will be made a part of the public record of the licensing proceeding. An authorization issued by the Commission will include appropriate changes in the technical specifications.]

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.

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. [Each] An application for an amendment to such a construction authorization or operating authorization [shall] may be referred to the Advisory Committee on Reactor Safeguards for review and report [, unless the Commission finds that no significant hazards consideration is presented]. 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 [, as defined in paragraph (c) of this section]. If the proposed change, test or experiment involves a change in the technical specifications or an unreviewed safety question, it shall not be carried out unless approved by the Commission pursuant to the procedures set forth in this section].

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 [without prior Commission approval] 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 [without prior Commission approval] 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 [annually] 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 39 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. [A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question if (1) the probability of occurrence of an accident previously analyzed in the safety analysis report may be increased; or (2) if consequences of an accident previously analyzed in the safety analysis report may be increased; or (3) if a possibility for a nuclear accident of a different type than any analyzed in the safety analysis report may be created.

(d) The holder of the authorization shall file a request for approval of a change in technical specifications or of any change, test, or experiment which required approval by the Commission pursuant to paragraph (a) of this section. This request shall include an appropriate safety analysis report. Each such request shall be filed with the Director of Licensing, U. S. Atomic Energy Commission, Washington, D. C. 20545. The holder of the authorization shall file three signed originals and 19 additional copies.

(e)(1) If the Commission determines that the proposed change, test or experiment presents significant hazards considerations not described or

(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 S 115.60. [A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question if (1) the probability of occurrence of an accident previously analyzed in the safety analysis report may be increased; or (2) if consequences of an accident previously analyzed in the safety analysis report may be increased; or (3) if a possibility for a nuclear accident of a different type than any analyzed in the safety analysis report may be created.

(d) The holder of the authorization shall file a request for approval of a change in technical specifications or of any change, test, or experiment which required approval by the Commission pursuant to paragraph (a) of this section. This request shall include an appropriate safety analysis report. Each such request shall be filed with the Director of Licensing, U. S. Atomic Energy Commission, Washington, D. C. 20545. The holder of the authorization shall file three signed originals and 19 additional copies.

(e)(1) If the Commission determines that the proposed change, test or experiment presents significant hazards considerations not described or

implicit in the safety analysis report it will refer the request to the Advisory Committee on Reactor Safeguards. The Commission will promptly notify the holder of the authorization of any referral to the Advisory Committee on Reactor Safeguards.

(2) If the Commission determines that the proposed change, test or experiment does not present significant hazards considerations not described or implicit in the safety analysis report, it may approve such change, test or experiment, without referral to the Advisory Committee on Reactor Safeguards for a report and without a prior public hearing, upon finding that there is reasonable assurance that the health and safety of the public will not be endangered.

(f) Any report or request for approval submitted by a holder of the authorization, and any determination by the Commission, or approval issued by the Commission, pursuant to this section, will be made a part of the public record of the authorization proceeding. An approval issued by the Commission will include appropriate changes in the technical specifications.]

6. A sentence is added at the end of § 115.61 of 10 CFR Part 115 to read as follows:

§ 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. (Sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply sections 182, 189, 68 Stat. 953, 955, as amended; 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.

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ATOMIC ENERGY COMMISSION

PROPOSED AMENDMENTS TO 10 CFR PARTS 2, 50 AND 115:
AMENDMENTS AND CHANGE PROCEDURES
FOR FACILITY LICENSES

Report to the Commission
by the
Director of Regulation

THE PROBLEM

1. To consider publication for public comment of proposed amendments to Parts 2, 50 and 115, which would simplify the Commission's procedures by eliminating "change procedures" and by providing a uniform system for amendment of facility operating licenses.

BACKGROUND AND SUMMARY

2. 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. Notice of every license amendment is published in the Federal Register, either before or after issuance, depending upon the type of facility and the nature of the change. No notice of "changes" in facilities is published. The standards for issuance of amendments and authorization of changes are also different.

3. These bifurcated procedures came about as a result of the Commission's interpretation of section 189 a. of the Act, as amended in 1957 by P.L. 85-256, as requiring a mandatory hearing on all applications for amendments of licenses for power and test reactors. In order to alleviate the burdens entailed in subjecting all applications for modifications of licenses to hearing procedures, a technique of authorizing modifications in facility licenses without formal license

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amendment was developed. This technique - so-called "change procedures" - was set out in §50.59 of Part 50, after having been used in individual cases for a number of years.

4. Section 50.59 permits facility licensees to make changes and conduct tests and experiments which do not involve unreviewed safety questions or changes in technical specifications, without prior Commission approval. For power and test reactors, changes which involve an unreviewed safety question or a change in the technical specifications to the license, but which do not present a "significant hazards consideration not described or implicit in the safety analysis report", require Commission authorization. Authorization is given upon finding that there is reasonable assurance that the health and safety of the public will not be endangered. Such proposed changes in power and test reactors which present "a significant hazards consideration not described or implicit in the safety analysis report" are treated as amendments and reviewed by the ACRS. Changes involving unreviewed safety questions or changes in technical specifications to research reactors, which are not subject to the mandatory hearing requirements of section 139, may be made upon the Commission's finding that there is reasonable assurance that the health and safety of the public will not be endangered, whether or not a "significant hazards consideration not described or implicit in the safety analysis report" is presented. Except for changes in power and test reactors which present a significant hazards consideration not described or implicit in the safety analysis report, no notice of "changes" is published in the Federal Register.

5. Modifications of licenses which are treated as applications for amendment are, on the other hand, subject to the provisions of Part 2 respecting notice. Section 2.105 provides that prior notice must be given in any instance where an amendment to a facility license "involves significant hazards considerations different from those

previously evaluated". Amendments to facility licenses which do not involve such considerations must, under the provisions of §2.106, be the subject of 15 days' notice to the public and opportunity for hearing following the issuance of the amendment. It should be noted that the criteria for prior notice of an amendment in §2.105 is different from that set out in section 189 of the Act.

6. P.L. 87-615 (July 5, 1962) eliminated the mandatory hearing requirement of section 189 except in connection with applications for construction permits for power or testing facilities. As amended, section 189 permits the amendment of construction permits and operating licenses/after 30 days' notice and opportunity for hearing. That notice may be dispensed with where the amendment presents no significant hazards considerations. Accordingly, there is no further need for the retention of "change procedures" since the amendments to section 189 ^{prior} now require/notice of and opportunity for hearing for only a limited number of facility license amendments.

7. The availability of two different methods of modifying facility licenses has, at least theoretically, made it possible for the applicant, rather than the Commission, to determine which procedure - change or amendment - will be used. It has also resulted in the anomalous situation of some relatively significant modifications in facilities being treated as "changes" and accomplished without Federal Register notice and other minor modifications, such as the relocation of a fence in an exclusion area, being treated as amendments, subject to Federal Register notice and opportunity for hearing.

8. In view of the foregoing, it is our view that requests for modifications in facility licenses might now more appropriately be treated as applications for license amendment, except where such modifications would involve no changes in the technical specifications. Under the new system of technical specifications, as set out in a

notice of proposed rule making to amend Part 50, published on August 16, 1966, a change in a facility which raises an unreviewed safety question would require a change in technical specifications, and any change which involves significant hazards considerations would, of course, also require a change in technical specifications.

9. Appendix "A" hereto is a notice of proposed rule making proposing amendment of Parts 2, 50 and 115 to require all requests for modifications in facilities involving a change in technical specifications to be treated as applications for license amendment. The proposed amendments to Part 50 (§50.91) would provide common standards for amendments to licenses-findings that the health and safety of the public would not be endangered by the operation of the facility in accordance with the license as amended, and that the issuance of the amendment will not be inimical to the common defense and security, or to the health and safety of the public. Only amendments to the license, including technical specifications, which involve significant hazards considerations would be the subject of Federal Register notice. Such notice would be prior notice under §2.105 as proposed to be amended; 30 days for power and test reactors (as required by the Act) and 15 days for other facilities. (Since §2.105 also provides for publication of amendments to waste disposal licenses on the same basis as amendments to facility licenses, the proposed amendments would also provide for prior notice of amendments to waste disposal licenses where the license amendment presents "significant hazards considerations".) The requirement in §2.106 for post-issuance notice of amendments to facility licenses not involving significant hazards considerations not previously evaluated would be eliminated. Section 50.58 would be amended to reflect the discretion given the Commission by P.L. 87-615 to refer applications for license amendments to the ACRS. Conforming and editorial amendments to other sections of Parts 2, 50 and 115 are also proposed.

STAFF JUDGMENTS

10. The Office of the General Counsel concurs in the recommendation of this paper. The Office of Congressional Relations concurs in the draft letter to the Joint Committee on Atomic Energy. The Division of Public Information concurs in the draft public announcement.

RECOMMENDATION

11. The Director of Regulation recommends that the Atomic Energy Commission:

(a) Approve publication in the Federal Register of a notice of proposed rule making substantially in the form of Appendix "A", allowing sixty days for public comment;

(b) Note that the Joint Committee on Atomic Energy will be advised by letter such as Appendix "B"; and

(c) Note that a public announcement such as Appendix "C" will be issued when the notice of proposed rule making is filed with the Office of the Federal Register.

LIST OF ENCLOSURES

Appendix

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"A"	Notice of Proposed Rule Making
"B"	Draft Letter to the Joint Committee on Atomic Energy
"C"	Draft Public Announcement
"D"	Comparative Text

APPENDIX "A"

ATOMIC ENERGY COMMISSION

[10 CFR Parts 2, 50 and 115]

RULES OF PRACTICE;
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 2, Rules of Practice; 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 provide a uniform system for amendment of facility operating licenses and operating authorizations.

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 104 c. 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, except that that notice may be dispensed with upon a determination that the amendment involves no significant hazards considerations. For amendments to facility operating licenses other than those specified, section 189 requires only that the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding.

Under existing provisions of §50.59 of Part 50, changes may be made in a facility, 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. If a change in technical specifications or an unreviewed question is involved, the change must be authorized by the Commission. 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, except that with respect to a facility of a type described in §§50.21(b) or 50.22 or a testing facility (i.e., power or test reactors), the Commission may authorize the proposed change, test or experiment upon also determining that it does not present significant hazards considerations not described or implicit in the safety analysis report. If a proposed change, test or experiment in a power or test reactor presents significant hazards considerations not described or implicit in the safety analysis report, the Commission will refer the request to the Advisory Committee on Reactor Safeguards, and may schedule the matter for public hearing as an application for amendment of the license. Part 115 contains similar provisions with respect to operating authorizations for power reactors subject to that part. ⁶ Part 2 contains provisions which state that a notice of proposed action on an amendment to a facility license which "involves significant hazards considerations different from those previously evaluated:" will be published in the FEDERAL REGISTER, and will provide that, within fifteen days from date of publication of the notice, 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 notice, by publication in the FEDERAL REGISTER, of the issuance

of amendments to facility licenses, among other things.

The Commission, on August 16, 1966, published for comment proposed amendments to Part 50 which would institute a new system of technical specifications and provide further guidance as to the contents of safety analysis reports. (31 F.R. 10891) Under the proposed new system of technical specifications, no change would be made in the facility involving significant hazards considerations which would not also involve a change in technical specifications.

The proposed amendments to Part 50 which follow would provide that facility licensees may 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 a change in technical specifications. For proposed modifications which involve a change in technical specifications, an amendment to the license would be required, pursuant to §50.90. A proposed new §50.91 would provide that, with respect to an application for amendment of a facility license or construction permit which the Commission finds does not involve significant hazards considerations, the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with the license as amended, and that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. In such a case, no notice would be published. With respect to an application for amendment of a license which does involve significant hazards considerations, 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 2.105 of Part 2 would be revised to provide, among other things, for thirty days' notice of proposed action on applications for amendments to power and test reactor licenses involving significant

hazards considerations and fifteen days' notice of proposed action on applications for amendments to licenses for facilities other than power and test reactors (and amendments to waste disposal licenses) which involve significant hazards considerations. Section 2.106 would be amended to eliminate the provision for publication of notice of issuance of amendments to facility licenses.

Section 50.58 would be amended to reflect the discretion given the Commission by P.L. 87-215 to refer applications for license amendments to the Advisory Committee on Reactor Safeguards. Other editorial and conforming amendments would also be made to pertinent sections of Parts 2, 50 and 115.

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 2, 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, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within sixty days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

1. Section 2.105 of 10 CFR Part 2 is revised to read as follows:

§2.105 Notice of proposed action.

(a) In cases where a construction permit has been issued for a facility following a public hearing on an application under sections 103 or 104 b. of the Act for a facility or on an application under section 104 c. of the Act for a testing facility as defined in Part 50 of this chapter, the Director of Regulation will cause to be published in the FEDERAL REGISTER ^{the} notice of/proposed action on an application for an operating license for such facility or an amendment to such construction permit or operating license which

involves significant hazards considerations, upon determining that no hearing is required in the public interest. The notice shall provide that within thirty (30) days from the date of publication, the applicant may request a hearing and that any other person whose interest may be affected by the proceeding may also request a hearing and file a petition for leave to intervene.

(b) In cases of licensing actions on applications for (1) facility construction permits and operating licenses not within the purview of paragraph (a) of this section, (2) licenses authorizing the receipt of waste radioactive packaging, storage or material from other persons for the purpose of disposal, and (3) amendments to construction permits or operating licenses specified in subparagraph (1) of this paragraph and amendments to licenses specified in subparagraph (2) of this paragraph which involve significant hazards considerations, or (4) any other license or amendment as to which the Commission or the Director of Regulation determines that an opportunity for a public hearing should be afforded, the Director of Regulation will cause to be published in the FEDERAL REGISTER notice of the proposed action, which shall provide that within fifteen (15) days from the date of publication, the applicant may request a hearing, and that any other person whose interest may be affected by the proceeding may also request a hearing and file a petition for leave to intervene.

(c) A notice of proposed action will set forth: (1) the nature of the action proposed; and (2) the text of any proposed license or amendment, Provided, however, that the technical specifications to any license shall not be published, if available for inspection at the Commission's Public Document Room.

(d) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice, the Director of Regulation will issue the license and will inform the appropriate State and local officials. If a request for hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission will issue a notice of hearing or an appropriate order.

(e) If an application for a license for a facility, except for applications described in paragraph (a) of this section, is complete enough to permit all evaluations, other than completion inspection, necessary for the issuance of a construction permit and operating license, the notice of proposed issuance of a construction permit may provide that on completion of construction and inspection the operating license will be issued without further notice.

2. Subparagraph (a)(2) of §2.106 of 10 CFR Part 2 is revised to read as follows:

§2.106 Notice of issuance.

(a) The Director of Regulation will cause to be published in the FEDERAL REGISTER notice of, and will inform the State and local officials specified in §2.104(c), as appropriate, of the issuance of:

* * * *

(2) An amendment of a license to receive waste radioactive material from other persons for packaging, storage or the purpose of disposal, whether or not a notice of proposed action has been previously published;

3. Section 50.23 of 10 CFR Part 50 is amended to read as follows:

§50.23 Construction permits.

A construction permit for the construction of a production or utilization facility will be issued prior to the issuance of a license if the application is otherwise acceptable, and will be converted upon due completion of the facility and Commission action into a license as provided in §50.56. A construction permit for the alteration of a production or utilization facility will be issued prior to the issuance of an amendment of a license, if the application for amendment is otherwise acceptable, as provided in §50.92.

confirming

4. 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 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.*

5. 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 license, including technical specifications.

(b) The licensee 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 and the reasons therefor. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. The licensee shall furnish annually to the Commission, 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 reasons for each change, test or experiment.

(c) The holder of a license authorizing operation of a production or utilization facility who desires to make a change in the facility which involves a change in technical specifications shall submit an application for amendment of his license pursuant to §§50.90.

6. Section 50.91 of 10 CFR Part 50 is redesignated §50.92 and a new §50.91 is added to read as follows:

§50.91 Action on applications for amendment.

(a) With respect to an application for amendment of a license or construction permit which the Commission finds does not involve significant hazards considerations,

the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with the license as amended, and that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

(b) With respect to an application for amendment of a license or construction permit which involves significant hazards considerations, the Commission may issue the amendment after giving notice of its proposed action pursuant to §2.105 of this chapter and upon finding that there is reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility, in accordance with the license as amended, and that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

7. Section 115.7 of 10 CFR Part 115 is amended to read as follows:

§115.7 Construction and operating authorizations.

A construction authorization for the construction of a nuclear reactor will be issued prior to the issuance of an operating authorization, if the application is otherwise acceptable. The construction authorization will be converted upon due completion of the reactor and Commission action into an operating authorization, as provided in §115.44. If the application involves the material alteration of a reactor for which an operating authorization has been issued, a construction authorization will be issued prior to the issuance of an amendment of an operating authorization, as provided in §115.62.

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

§115.46 Hearings and report of the Advisory Committee
on the proposed amendment.

(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 review and report. Each 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.

9. 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 authorization, including technical specifications.

(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 and the reasons therefor. The holder of the authorization shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. The holder of the authorization shall furnish annually to the Commission, 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 reasons for each change, test or experiment.

(c) The holder of an authorization who desires to make a change in the facility which involves a change in technical specifications shall submit an application for amendment of his authorization pursuant to §115.60.

10. Section 115.61 of 10 CFR Part 115 is redesignated §115.62 and a new §115.61 is added to read as follows:

§115.61 Action on applications for amendment.

(a) With respect to an application for amendment of an authorization which the Commission finds does not involve significant hazards considerations, the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered by the operation of the reactor in accordance with the authorization as amended, and that the issuance of the amendment will not be inimical to the health and safety of the public.

(b) With respect to an application for amendment of an authorization which involves significant hazards considerations, the Commission may issue the amendment after giving notice of its proposed action, pursuant to §2.105 of this chapter, and upon finding that there is reasonable assurance that the health and safety of the public will not be endangered by the operation of the reactor in accordance with the authorization as amended, and that the issuance of the amendment will not be inimical to the health and safety of the public.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply sections 103, 104, 189, 68 Stat. 936, 937, 76 Stat. 409; 42 U.S.C. 2133, 2134, 2239-)

FOR THE ATOMIC ENERGY COMMISSION

W. B. McCool
Secretary

Dated at

this day of , 1968.

APPENDIX "A"

ATOMIC ENERGY COMMISSION

PROPOSED AMENDMENTS TO 10 CFR PARTS 2, 50 AND 115:
AMENDMENTS AND CHANGE PROCEDURES
FOR FACILITY LICENSES

FOIA-85-640
B/9

Report to the Commission
by the
Director of Regulation

THE PROBLEM

1. To consider publication for public comment of proposed amendments to Parts 2, 50 and 115, which would simplify the Commission's present ~~process~~ by eliminating "change procedures" and which ~~will~~ provide a uniform system for amendment of facility operating licenses ~~of power and test reactors~~.

BACKGROUND AND SUMMARY

2. Section 50.59 of 10 CFR Part 50 now sets out ~~in detail~~ the extent to which facility licensees may make changes and conduct tests and experiments, which do not involve unreviewed safety questions or changes in technical specifications, and prescribes the procedures to be followed in obtaining Commission approval of those changes which do involve unreviewed safety questions or changes in technical specifications. When §50.59 was adopted, and prior thereto, the Commission's position was that all amendments of licenses for power and test reactors were subject to the mandatory hearing requirements of section 169 of the Act as then in effect. Prior to adoption of §50.59, the Commission had developed change procedures for particular cases, beginning in 1960. The change procedures, codified in §50.59, required, for power and test reactors, Commission approval for changes which involved an unreviewed safety question or a change in the technical specifications to the license, but did not present a "significant hazards consideration not described or implicit in the safety analysis report". Commission authorization for such changes could be given upon finding that there is reasonable assurance that the health and safety of the public will not be endangered. Such proposed

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changes in power and test reactors which presented "a significant hazard consideration not described or explicit in the safety analysis report" were treated as amendments and reviewed by the ACRS. Changes involving unreviewed safety questions or changes in technical specifications to research reactors, which were not subject to ⁷⁴²mandatory hearing requirements of section 100, could be made without formal amendment if the Commission's finding that there is reasonable assurance that the health and safety of the public will not be endangered, whether or not a "significant hazard consideration not described or explicit in the safety analysis report" was presented. The Commission's decision and the effect of eliminating hearing procedures in such applications for license modification and thus relieving, to a large extent, the safety assessment upon subjecting such a facility to modification in a facility to the hearing process. The provisions of such a applicable to amendment of facility licenses have, and will, cover not only the limited category of requests for license amendment which are treated as requests for amendment of the license.

3. Article 101 of the (July 5, 1955) eliminated the mandatory licensing requirements of Section 100 except in connection with applications for construction permits for ponds or testing facilities. As amended, Section 100 permits the amendment of construction permits and operating licenses after 10 days' notice and opportunity for a hearing, which notice may be dispensed with where the amendment involves no significant hazard considerations.

4. It is our view that requests for changes or modifications in Federal standards might now more appropriately be treated as applications for rule amendments, except where such changes would involve changes in the technical specifications. Under the new system of standards regulations, as set out in a notice of proposed rule making, 40 CFR Part 55, published on August 16, 1966, a change in a Federal standard raises an unreviewed safety question would require

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change in technical specifications, and any change which involves significant hazards considerations would, of course, also require a change in technical specifications.

5. Appendix 100 refers to a notice of proposed rule making proposing amendments of Parts 2, 50 and 115 to treat requests for changes in facilities as suggested in paragraph 4. The proposed amendments to Part 50 (50.61) would provide common standards for amendments to licenses to that only those presenting "significant hazards considerations" would be the subject of Federal Register notice and opportunity for hearing. Sections 2.103 and 2.104 of Part 2 and also have to be revised. At present, 2.103 provides that all notices must be given in any instance where an amendment to a facility license "involves significant hazards considerations different from those previously evaluated". Amendments to facility licenses which do not involve such considerations must, under the provisions of 2.103, be the subject of 15 days' notice to the public and opportunity for hearing regardless of the substance of the amendment. Under the proposed amendment, the latter requirement would be eliminated. Only amendments to the license, including technical specifications, which involve significant hazards considerations would be the subject of Federal Register notice. Such notice would be prior notice under 2.103; 30 days for power and test reactors (as required by the law) and 15 days for other facilities. The language in proposed 2.103 truly reflects the substantive test provided in 50.61. (Since 2.103 also provides for publication of amendments to waste disposal licenses on the same basis as amendments to facility licenses, the proposed amendments would also provide for prior notice of amendments to waste disposal licenses where the license amendment presents "significant hazards considerations".) Conforming and editorial amendments to other sections of Parts 2, 50 and 115 are also proposed.

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6. The Office of the General Counsel concurs in the recommendation of this paper. The Office of Congressional Relations concurs in the draft letter to the Joint Committee on Atomic Energy. The Division of Public Information concurs in the draft public announcement.

RECOMMENDATIONS

7. The Director of Regulation recommends that the Atomic Energy Commission:

(a) publish publication in the Federal Register of a notice of proposed rule making substantially in the form of Appendix "A", allowing sixty days for public comment;

(b) advise the Joint Committee on Atomic Energy with or without by letter such as Appendix "B"; and

(c) issue a public announcement such as Appendix "C" will be issued when the notice of proposed rule making is filed with the Office of the Federal Register.

TABLE OF EXHIBITS

<u>Exhibit No.</u>	<u>Page No.</u>
"A"	Notice of Proposed Rule Making
"B"	Draft Letter to the Joint Committee on Atomic Energy
"C"	Draft Public Announcement
"D"	Comparative Table

APPENDIX "A"

ATOMIC ENERGY COMMISSION

[10 CFR Parts 2, 50 and 115]

RULES OF PRACTICE;
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 2, Rules of Practice; 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 provide a uniform system for amendment of facility operating licenses and operating authorization. *sample*

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 104 c. 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, except that that notice may be dispensed with upon a determination that the amendment involves no significant hazards considerations. For amendments to facility operating licenses other than those specified, section 189 requires only that the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding.

Under existing provisions of §50.59 of Part 50, changes may be made in a facility, 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. If a change in technical specifications or an unreviewed question is involved, the change must be authorized by the Commission. 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, except that with respect to a facility as defined in §50.21(b) or 50.22 or a testing facility (i.e., power or test reactors), the Commission may authorize the proposed change, test or experiment upon also determining that it does not present significant hazards considerations not described or implied in the safety analysis reports. If a proposed change, test or experiment in a power or test reactor presents significant hazards considerations not described or implied in the safety analysis reports, the Commission will refer the request to the Advisory Committee on Reactor Safeguards, and may schedule the matter for public hearing as an application for amendment of the license. 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 significant hazards considerations different from those previously evaluated" will be published in the FEDERAL REGISTER, and will provide that, within fifteen days from date of publication of the notice, 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 notice, by publication in the FEDERAL REGISTER, of the issuance

of amendments to facility licenses, among other things.

The Commission, on August 18, 1968, published for comment proposed amendments to Part 50 which would institute a new system of technical specifications and provide further guidance as to the contents of safety analysis reports. (41 F.R. 10391) Under the proposed new system of technical specifications, no change would be made in the facility involving significant hazards considerations which would not also involve a change in technical specifications.

The proposed amendments to Part 50 which follow would provide that facility licensees may make changes and perform tests and experiments not described in the safety analysis reports without prior Commission approval unless the change, test or experiment involves a change in technical specifications. Any proposed change which does involve a change in technical specifications would be treated as an application for license amendment pursuant to 150.90 and 150.91. Proposed new 150.91 would provide that, with respect to an application for amendment of a facility license or construction permit which the Commission finds does not involve significant hazards considerations, the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered. In such a case, no public notice would be given. In response to an application for amendment of a license which does involve significant hazards considerations, 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 1. Similar changes would be made in the pertinent provisions of Part 115.

Section 1.105 of Part 1 would be revised to provide, among other things, for early type notice of proposed action on applications for amendments to power and test reactor licenses involving significant

thirty-day consultations and fifteen days' notice of proposed action on applications for amendments to licenses for facilities other than (and amendments to waste disposal licenses) power and heat reactors/which involve significant hazards considerations. Section 1.106 would be amended to eliminate the provision for publication of notices of issuance of amendments to facility licenses. Other editorial and conforming amendments would also be made to pertinent sections of Parts 2, 50 and 115.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, as amended, notice is hereby given that adoption of the following amendments to 10 CFR Parts 2, 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, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within sixty days after publication of this notice in the FEDERAL REGISTER. Comments received after this period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

1. Section 1.106 of 10 CFR Part 2 is revised to read as follows:

Confidential

1.106 Issuance of operating license.

(a) In cases where a construction permit has been issued for a facility following a public hearing on an application under section 103 or 104 b. of the Act for a facility or on an application under section 104 c. of the Act for a testing facility as defined in Part 50 of this chapter, the Director of Regulation will cause to be published in the FEDERAL REGISTER notice of the proposed action on an application for an operating license for such facility or an amendment to such construction permit or operating license which

involves significant hazards considerations, upon determining that no hearing is required in the public interest. The notice shall provide that within thirty (30) days from the date of publication, the applicant may request a hearing and that any other person whose interest may be affected by the proceeding may also request a hearing and file a petition for leave to intervene.

(c) In cases of licensing actions on applications for (1) facility construction permits and operating licenses not within the purview of paragraph (1) of this section, (2) licenses authorizing the receipt of waste radioactive packaging, storage or material from other persons for the purpose of disposal, and (3) amendments to construction permits or operating licenses specified in subparagraph (1) of this paragraph and amendments to licenses specified in subparagraph (2) of this paragraph which involve significant hazards considerations, or (4) any other license or amendment as to which the Commission or the Director of Regulation determines that an opportunity for a public hearing should be afforded, the Director of Regulation will cause to be published in the FEDERAL REGISTER notice of the proposed action, which shall provide that within fifteen (15) days from the date of publication, the applicant may request a hearing, and that any other person whose interest may be affected by the proceeding may also request a hearing and file a petition for leave to intervene.

(d) A notice of proposed action will set forth: (1) the nature of the action proposed; and (2) the text of the proposed license or amendment. Provided, however, that the technical specifications to any license shall not be published, if available for inspection at the Commission's Public Document Room.

(b) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice, the Director of Regulation will issue the license and will inform the appropriate State and local officials. If a request for hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission will issue a notice of hearing or an appropriate order.

(c) If an application for a license for a facility, except for applications described in paragraph (a) of this section, is complete enough to permit all evaluations, other than completion inspection, necessary for the issuance of a construction permit and operating license, the notice of proposed issuance of a construction permit may provide that on completion of construction and inspection the operating license will be issued without further notice.

2. Paragraph (b)(2) of 12.106 of 10 CFR Part 2 is revised to read as follows:

12.106 Notice of issuance.

(a) The Director of Regulation will cause to be published in the FEDERAL REGISTER notice of, and will inform the State and local officials specified in 12.104(c), as appropriate, of the issuance of:

* * * *

(c) An amendment of a license to receive waste radioactive material from other persons for packaging, storage or the purpose of disposal, whether or not a notice of proposed action has been previously published;

3. Section 50.25 of 10 CFR Part 50 is amended to read as follows:

§50.55 Construction permits.

A construction permit for the construction of a production or utilization facility will be issued prior to the issuance of a license if the application is otherwise acceptable, and will be converted upon due completion of the facility and Commission action into a license as provided in §50.56. A construction permit for the alteration of a production or utilization facility will be issued prior to the issuance of an amendment of a license, if the application for amendment is otherwise acceptable, as provided in §50.92.

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

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

(c) Each application for a construction permit or an operating license for a facility which is of a type described in §50.51(c) or §50.55, or for a testing facility, shall be referred to the Advisory Committee on Reactor Safeguards for 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.

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

§50.59 Changes, tests and maintenance.

(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 license, including technical specifications.

(c) The licensee 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 and the reasons therefor. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. The licensee shall furnish annually to the Commission, 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 reasons for such change, test or experiment.

(d) The holder of a license authorizing operation of a production or utilization facility who desires to make a change in the facility which involves a change in technical specifications shall submit an application for amendment of the license pursuant to §§50.90 and 50.92.

6. The new §50.91 of 10 CFR Part 50 is redesignated §50.92 and a new §50.91 is added to read as follows:

§50.91 Application for amendment for amendment

(a) With respect to an application for amendment of a license or construction permit which the Commission finds does not involve significant hazards considerations,

the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered.

(c) Which respects an application for amendment of a license or construction permit which involves significant hazards considerations, the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered, and after giving notice of its proposed action pursuant to §15.45 of this chapter.

7. Section 115.7 of 10 CFR Part 115 is amended to read as follows:

§115.7 Construction authorization requirements.

A construction authorization for the construction of a nuclear reactor will be issued prior to the issuance of an operating authorization, if the application is otherwise satisfactory. The construction authorization will be converted upon the completion of the reactor and Commission action into an operating authorization, as provided in §115.46. If an application involves the material alteration of a reactor for which an operating authorization has been issued, a construction authorization will be issued prior to the issuance of an amendment of an operating authorization, as provided in §115.62.

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

§115.46 Review 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 review and report. Each 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.

9. 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 authorization, including technical specifications.

(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 and the technical specifications. The holder of the authorization shall also maintain records of tests and experiments made pursuant to paragraph (a) of this section. The holder of the authorization shall furnish annually to the Commission, 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 reasons for each change, test or experiment.

(c) The holder of an authorization who desires to make a change in the facility which involves a change in technical specifications shall submit an application for amendment of his authorization pursuant to §115.60 and §115.61.

10. Section 115.61 of 10 CFR Part 115 is redesignated §115.62 and a new §115.61 is added to read as follows:

§115.61 Application for amendment.

(a) With respect to an application for amendment of an authorization which the Commission finds does not involve significant hazards considerations, the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered.

(b) With respect to an application for amendment of an authorization which involves significant hazards considerations, the Commission may issue the amendment upon finding that there is reasonable assurance that the health and safety of the public will not be endangered, and after giving notice of its proposed action, pursuant to §2.105 of this chapter.

(See, also, 48 Stat. 540; 42 U.S.C. 2201. Interpret or apply sections 103, 104, 105, 80 Stat. 506, 507, 75 Stat. 406; 42 U.S.C. 2133, 2134, 2135.)

FOR THE ATOMIC ENERGY COMMISSION

W. D. McCool
Secretary

Dated at _____

this _____ day of _____, 1957.

Final draft
Second draft
9/1/67

ATOMIC ENERGY COMMISSION

PROPOSED AMENDMENTS TO 10 CFR PARTS 2, 50 AND 115:
AMENDMENTS AND CHANGE PROCEDURES
FOR FACILITY LICENSES

Report to the Commission
By the
Director of Regulation

THE PROBLEM

1. To consider publication for public comment of proposed amendments to Parts 2, 50 and 115, which would revise the Commission's procedures and terminology relating to changes in *to make for a uniform system for amendment of* production and utilization facilities and amendment of facility

and by operating licenses ~~to make such procedures and terminology~~ consistent with the Commission's statutory authority ~~to amend facility licenses.~~

BACKGROUND AND SUMMARY

2. Section 50.59 of 10 CFR Part 50 now sets out in detail the extent to which facility licensees may make changes and

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conduct tests and experiments, which ^{raise unresolved safety questions or are} not specifically provided for in their facility licenses, and prescribes the procedures to be followed in obtaining Commission approval of those changes for which approval is required. When § 50.59 was ~~originally~~ adopted ^{and prior thereto}, the Commission's position was that all amendments of licenses for power and test reactors were subject to the mandatory hearing requirements of section 189 of the Act. The change ^{had the effect of eliminating hearing procedures in most} procedures of § 50.59, mitigated, to ^{application for changes and thus} ~~large~~ extent, the delays attendant upon subjecting every request

for modification in a facility to the hearing process. ^{The provisions}

^{was not a modification to amendment of facility license thus}
3. Public Law 87-615 (July 5, 1962) eliminated the mandatory hearing requirement of section 189 except in connection with applications for construction permits for power or testing facilities. As amended, section 189 now permits the amendment of construction permits and operating licenses after 30 days' notice and opportunity for hearing, which notice may be dispensed with where the application presents no significant hazards considerations.

4. It is our view that requests for changes or modifications in facility licenses might now more appropriately be

was not a modification to amendment of facility license thus

treated as applications for license amendment, except where such changes would involve no changes in the technical specifications. Under the new system of technical specifications, as set out in a notice of proposed rule making to amend ~~the~~ Part 50, published on August 16, 1966, a change in a facility which raises an unreviewed safety question would require a change in technical specifications, and any change which involves significant hazards considerations would, of course, also require a change in technical specifications.

5. Appendix "A" hereto is a notice of proposed rule making proposing amendment of Parts 2, 50 and 115 to treat requests for changes in facilities as outlined in paragraph 4. It discusses in detail the present regulation ^{as in Parts 2 and 50} and the changes which would be affected by the proposed amendments.

STAFF JUDGMENTS

6. The Office of the General Counsel concurs in the recommendation of this paper. The Office of Congressional Relations concurs in the draft letter to the Joint Committee on Atomic Energy. The Division of Public Information concurs in the draft public announcement.

RECOMMENDATION

7. The Director of Regulation recommends that the Atomic Energy Commission:

- (a) Approve publication in the Federal Register of a notice of proposed rule making substantially in the form of Appendix "A", allowing sixty days for public comment;
- (b) Note that the Joint Committee on Atomic Energy will be advised by letter such as Appendix "B"; and
- (c) Note that a public announcement such as Appendix "C" will be issued when the notice of proposed rule making is filed with the Office of the Federal Register.

LIST OF ENCLOSURES

<u>Appendix</u>		<u>Page No.</u>
"A"	Notice of Proposed Rule Making	
"B"	Draft Letter to the Joint Committee on Atomic Energy	
"C"	Draft Public Announcement	

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Appendix "A"

ATOMIC ENERGY COMMISSION

[10 CFR Parts 2, 50 and 115]

RULES OF PRACTICE;
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 2, Rules of Practice, 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 *provide a uniform system for* ~~revise procedures and terminology~~ relating to ~~changes in production and utilization facilities~~ ~~and~~ amendment of facility operating licenses and operating authorizations.

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 section 103 or 104 of the Act or a testing facility under section 105 of the Act has been issued following a hearing, the Commission may, in the absence of a request for a hearing, or where interest may be affected, or, in other cases, an amendment of the operating license without a hearing, but upon what does not involve a substantial change in the design of the reactor, except that that notice may be dispensed with in such cases."

a determination that the ~~so~~ ^{fact} involves no significant hazards considerations. For ~~amendment~~ ^{to the flight operating license} ~~other than those~~ ^{specified in Article 129} ~~the Commission shall grant a hearing upon the request of~~ ^{an person whose interest may be affected by} ~~the proceeding~~

Under existing provisions of § 50.59 of Part 50, changes may be made in a facility, 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. If a change in technical specifications or an unreviewed question is involved, the change must be authorized by the Commission. 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, except that with respect to a facility of a type described in §§ 50.21(b) or 50.22 or a testing facility (i.e., power or test reactors), the Commission may authorize the proposed change, test or experiment upon ~~also~~ determining that it does not present significant hazards considerations not described or implicit in the safety analysis report, ~~upon finding that there is reasonable assurance that the health and safety of the public will not be endangered. If the a~~ ^{in a power or test reactor} proposed change, test or experiment, presents significant hazards consideration, not described or implicit in the safety analysis

Appendix "A"

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