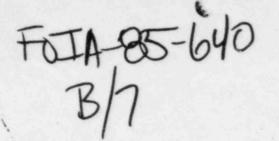
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APR 2 0 1973

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,

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Lester Rogers Director of Regulatory Standards 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.

 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.
- 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.

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

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	Da	ted 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.

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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

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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 prc vides forFEDERAL REGISTER nutice, 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 S 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.

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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] <u>An</u> application for an amendment to such a construction permit or operating license [shall] <u>may</u> 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

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

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.

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(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

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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

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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.

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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] <u>An</u> 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.

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].

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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.

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(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 <u>5 115.60</u>. [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. cach 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

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(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. Cach 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

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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

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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.

#### ATOMIC ENERGY COMMISSION

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

> Report to the Commission by the Director of Regulation

#### THE PROBLEM

 To consider publication for public comment of proposed amendments to Farts 2, 50 and 115, which would simplify the Commission's procedutes 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 Foderal 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 F.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 mearing procedures, a technique of authorizing modifications in facility licenses without formal license

FOIA-85-640 R/R

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

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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 Conmission approval. For power and test reactors, changes which involve en unreviewed safety question or a change in the technical specifications to the license, but which do not present a "significant bazarda 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 safery of the public will not be endangered. Such proposed changes it power and test reactors which present "a significant hazards considenation not described or implicit in the safety analysis report" are created as anendments and reviewed by the ACRS. Changes involving unneviewed 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 considuration not described or implicit in the safety analysis report" is presented. Except for changes in power and test reactors which present a significant hereards consideration not described or implicit in the safety analysis report, no motive 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 <u>prior</u> motice must be given in any instance where an amendment to a facility license "involves significant basends opposiderations 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 <u>following</u> 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 for such facilities 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 meed 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

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notice of proposed rule making to amend Part 50, published on August 16, 1965, 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.

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#### STAFF JUDGEENTS

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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) <u>Approve</u> 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) <u>Note</u> that the Joint Committee on Atomic Energy will be advised by letter such as Appendix "B"; and

(c) <u>Note</u> 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

Page No.

"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"

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#### 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 emendments 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 Fart 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. 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

APPENDIX "A"

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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.

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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

APPENDIX "A"

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 motice of issuance of amendments to facility licenses.

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Section 50.58 would be amended to reflect the discretion given the Commission by P.L. 87-215 to refer applications for license amendments Advisory Committee on Reactor Safeguards. to the/ 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 the REGISTER motice of/proposed action on an application for an operating license for such facility or an amendment to such construction permit or operating license which

APPENDIX "A"

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.

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(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 

(c) A notice of proposed action will set forth:

 the nature of the action proposed; and (2) the text
 any proposed license or amendment, <u>Provided</u>, however,
 that the technical specifications to any license shall
 not be published, if available for inspection at the
 Commission's Public Document Room.

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(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.

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(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.

 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

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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;

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

APPENDIX "A"

\$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.

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 Paragraph (a) of \$50.58 of 10 CFR Part 50 is revised to read as follows:

#### \$50.58 <u>Ecarings</u> 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 ACRI for the formula for review and report. Any report shall be made part of the record of the application and available to the public, guard for 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.

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(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,

APPENDIX "A"

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.

 Paragraph (a) of \$115.46 of 10 CFR Part 115 is revised to read as follows:

\$115.46 Nearline and toport of the Advisory Committee

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(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.

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

\$115.47 Changes, tests and experiments.

(1) The holder of an operating authorization may (1) make changes in the facility as described in the safety anniysis 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 parsgraph (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.

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(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.

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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, 22397)

, 1968.

FOR THE ATOMIC ENERGY COMMISSION

W. B. McCool Secritary

Dated at

this day of

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APPENDIX "A"

ATOMIC ENTERCY CO

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

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Report to the Commission by the Director of Regulation

THE PROBLEM

1. To consider publication for public comment of proposed andmands to Parts 2, 50 and 115, which would simplify the Commisby fiminating "change procedures" widers unifor system for amendment of facility 110 much

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VSection 50.50 of 10 CPR Part 50 now sets out in detail the entent to which decility licensees may make changes and conduct tests and experiments, which do not involve unreviewed safety questions or changes as archaical specifications, and prescribes the procedures to be collected in contining Commission approval of those changes which do involve unreviewed safety questions or changes in technical opecifications. When \$50.59 was adopted, and prior thereto, the comforion's posicion was that all amendments of licenses for power and test reactors were subject to the mandatory hearing requirements of section 100 of the Act as then in effect. Prior to adoption of . 50.59, in Commission had developed change procedures for particular lases, builtaning 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 ...fety thelycis 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

in ponce and take teasers which presented "a significant ..... condition dos dispribed or inplicit in the safety analysis report" were presect as emendments and reviewed by the ACRS. Changes involving unrevioued sefacy questions or changes in technical specileations to research reactors, which were not subject to/mandatory hearing requirements of section 100, could be made without formal chaningent up the Completion's funding that there is reasonable courses that the hatish and castory of the public will not be chimarce, chicker of nos a "cignificant metrus consideration not - , itels in the tiles they are report was presented. ---is the effect of eliminating hearing - ... E. . . . . . . . . . . . . . . . . for licence redificacion and thus בנוצבים לנו הסקט בבנובינים ניילפל וול , מוצבינים a few subficiencies in a facility to the hearing process. the providence of these to applicable to chemistry of facility licenses 6 not, that for eachy the limited category of requests for modific sions which your precise as requests for amendment of the

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secure in eralls (buly 5, 1962) eliminated the mona cory cions for contervoion perior for power or cecting facilities. As estima 10 perior die chemiaune of construction periors ... entrated, licences after 10 days' modies and opportunity for A ...... presente an agailitetas hestrai considerations.

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is our view share requests for changes or modifications iconnect might now note appropriately be created as appli-... 220. incrimente, anaspe where such changes would involve - - - 0 ----~ unwinered viel questo a ... china ... ware 50, publiched on August 16, 1968, & change in - declare, which raises an unreviewed valery que dion would require

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change in contained specificacions, and any change which involves significant include considerablene would, of course, also require a change in sochrical specificacions.

5. Appendia for hereis is a motics of proposed rule making copolary measured of Parts 2, 30 and 115 to treat requests for changes in declined. as angessed in paragraph 4. The proposed amendadade to bure 50 (160.61) would provide common standards for menutines to licentes to that this presenting "significant and a considerations" verie is the subjust of Fuderal Register mailer and episodeunity ded Measurge Second 2.105 and 2.105 of and i call also have to is revised. As present, [1.103 provides the second is shown in the same second where is an and the to a flotting alounde "intelves significant hastres considerations eliferant area andre providently evaluated? . Amendments to facility Licence, which do not involve such considerations west, under the provisions of filling he cha subjust of 15 days' motion to the public which prove and the second reaction the features of the continent. shall a spectrum assumption of the latter requirement abuid be commission in a second to the bicance, including technical specifications and antita anguilierne instités considerations nould an annual and Practal Regioner region. Such reside would as prior maine among (Likis) is days for power and test reactors (as sequites by the need whe is days for other facilities. The language in proposed (1.10) while reflects the substantive test provided in 350.61. (Since (1.10) the provide for publication of ansaiments to wabte Gioperia librates on the same backs as ameniments to facility ilesness, she proposed mendeenes would also provide for prior notice of another to where disposal biseness there the license miniment presente "lightiteine hasares considerations".) Conforming au contents of other sactions of Parts 2, 50 and 115 are 6105 975,500. ..



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6. The Office of the Control Councel concurs in the recommendation of this paper. The Office of Congressional Relations concurs in the could letter to the found Countrols on Atomic Emergy. The Div of Public Information concurs in the draft public announcement.

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7. The Electron of Regulation recommends that the Atomic Energy Commissions

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(c) \_\_\_\_ class a pailes concentration as appending for which to social when the rescies of proposed rate electric to state when the Object of the Federal Represert.

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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 ENEMPTED FROM LICENSING REQUIREMENTS

> Amendments and Change Procedures For Facility Licenses and Authorizations

The Atomic Energy Commission has under consideration certain emendments to its regulations, 10 CFR Part 2, Rules of Practice; 10 CFR 1 re 50, Licensing of Production and Utilization Facilities; and 10 CFR Part 115, Procedures for Review of Certain Nuclear Reactors Emerpted from Licensing Requirements, which would provide a uniform system for emendment of facility operating licenses and operating authorizations.

Section 160 of the Atomic Emergy 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 FELERAL REGISTER, except that that notice may be dispensed with upon a determination that the emendment involves no significant hazards considerations. For emendments 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.

Cheese end that provisions of 350.59 of Part 50, changes may be made in a dictincy, in the procedures described in the safety analysis report and tests and experiments not described in the cafety analysis report may be conducted, without prior Commission approval, unless the proposed change, test or experiment involves a change in the submittel specifications or an unreviewed safety question. If a change in technical specifications or an unreviewed question is invelved, the change must be authorized by the Commission. ing Consideration and according such a change, test of emperiment upon cubling that there is reasonable accurance that the health and safety of the public will not be endergozed, encept that with respect to a Fibed in (150.21(b) or 50.22 or a testing Levens, al ..... desilies (i.e., junce or test relators), the Collission may authorize the proper i charge, such or experiment upon also determining that LE épes mos prois se cignédicant hesards considerations not described or implicat in the affect their to report. If a proposed change, sees a anyotanta in a power of cost recept presents aignificant learth contractions not i lovided or implicit in the subary univers reports, the Commission will refer the request to the Advisory Commisses on Assessor Saleguardo, and may schedule the matter for public hearing as an application for anomalous of the license. Part 115 conwhich similar provisions with respect to operating authorizations for piler relative subject to thus pirt. Part 2 contains provisions which cluse this a usides of proposed action on an ameniment to a facility licente ville: 'unvolves plinédieune hazarés consideracions different iron these per facely evaluated" will be published in the FEDERAL hIOISTIN, and will provide that, within diffeen days from date of publication of the notice, the applicant may request a hearing or ing person whose interest muy be affected by the proceeding may lile a peticion for leave to intervene (22.105). Section 2.106 provides for notice, by publication in the FIDERAL REGISTER, of the islance

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of themations to ducidity licenses, among other things.

The Commendation, on august 10, 1966, published for comment proposed menuments to Baro 50 which would institute a new system of contained specifications. As provide further puidance as to the container of subscription toports. (51 P.R. 10391) Under the proposed new system of cochaical specifications, no change would be made in the facility involving significant hazards considerations which were not also involve a change in cochaical specifications.

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The proposed anonements to Part 50 which follow would provide the fighter literation may make changes and perform tests and Therefore and electrical in the cafety analysis report without . ..... Commission approval talest the change, test of emperiment Lucives a surge as formatic specifications. Any proposed change union des unions a change en recimient episidientione would be + too . 200 protoco as an approximing for literate continent purposets to (20.90 the a new plante, proposed and plante provide that, with respect at an application for monitors of a facility figure or construction Somee which she domination dimit does not involve significant haterds staticore ment, the Consistion may iteres the emenimous upon finding the shore is reasonable esturance that the health and cafety of the while which not to changered. In such a case, no public notice would To devent and a set of a side of a license for an end of a license unich and in sine significant hastric considerations, the Commission totic ass spon one application for the manimum after giving notice of its property action, purchase to the applicable provisions of 10 OFA Pare 1. Similar changes would be made in the pertinent provisions of Part 115.

Section 2.105 of bury 2 would be revised to provide, among other chings, for therey days' notice of proposed action on applications for anonadiones to power and sect reactor licenses involving significant

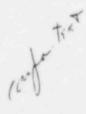
APPENDEX "A"

La réclamation de difficien days' notice of proposed action on applications for aconditates to licenses for facilities other than (and aconditates to ussue disposal licenses) power and taxe velocate. Anich involve significant hazards consideracions. Seccion 1.100 yould be anonded to climitate the provision for publication of notice of locates of amoniments to facility licenses. Gener constrain and conforming amoniments to facility licenses. portinear sections of Verse 2, 50 and 115.

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Publicade to the Accord Energy Act of 1954, as amended, and the Administrative Procedure Act of 1546, as amended, motice is hereby (even this adapted of the following measures to 10 CFR Parts 2, 20 and 100 is concemplated. All interacted periods the following to which the project and all interacted periods the following the following the project and all other for configuration is connecsion with the project and all of the following the to the Secretary, thread Secret Rearry Configuration, Vichington, D.C. 10545, memories. Only, Public Proceedings Drucch, within they days after publication of this motice in the fitter. Recept as to commence differ this period will be confidered if it is practicable to do do, but appended will be confidered if it is practicable to do do, but appended will be confidered if it is practicable to do do, but appended will be confidered if it is practicable to do do, but appended will be confidered if it is practicable to do do, but appended to the formitable is builte Dominents received may be unamined as the Commission's Dublic Dominent Room, 1717 % accord, Nethergreen, D.C.

1. Classica 1.100 of 10 Cld Part 2 is revised to read as follows:



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(a) In cases where a construction permit has been issued for a facility following a public hearing on an application where accesses, will be 104 b, of the Act for a facility or on an application where section 10- c, of the Act for a testing facility as defined in Part 50 of this chapter, the Director of Regulation will coupe to be publiched in the FIDIRAL REGISTER modes of the proposed device on an application for an exercise license for such facility or an americant to usek construction permit or operating license which

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considerations, upon determining chuc no hauring is required in the public interest. The nuclea shall provide that within thirty (30) days from the date of publication, the applicant may request a hearing and this any other person whose interest may be addressed by the producting may also request a hearing and file a publication for loove op incorvens.

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(2, In close of licensing sections on applications for (1) displicy concernation paralles and operating licenses nes vising the purview of puregraph (a) of this section, (1) licenses such or fully the receipt of maste rulique rive packaging, storage of esterial area casher percent for the purpose of/disposely, and (c) and and to construction periods or operating licenses specified in subjurggraph (1) of this paragraph and inclusance of bloodses specified in subparagraph (2) of this yestgraph which involve significant histris considerucione, or (a) any when licence or amendment as to which the Counterlow of the Distotor of Regulation distributes that an epictronicy for a public hearing checkle of allowers, the Division of Regulation will cause to be provide in the Filmer Middella source of the proported assisted, which shall provide that within faithen (15) ing them are dure of publication, the applicant may request e marine, and that any other person whose interest may be . Descal by the proceeding may also request a hearing and file a posicion for latve to invervene.

(c) a appleo of proposed ection will set forth: (c) the nature of the Lotion proposal; and (2) the text of c., proposed licence or exempleant, <u>Provided</u>, however, that the technical specifications to any license shall not be publiched, if evaluable for inspection at the Commission's Public Document Room.

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(c) 12 no request for a hearing or petition for leave to intervant 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 intervane is filed within the time prescribed in the notice, the Commission will issue a motice of hearing or an appropriate order.

(a) IS an application for a license for a facility, except for applications becaribed in paragraph (a) of this section, is complete enough to permit all evaluations, other the completion inspection, mecasolary for the issuence of a sector value parado and operating license, the notice of proposed issuence of a componential permit may provide that an empletion of concernences and inspection the operating income with the issued without further motice.

 Subjurgeraph (a)(2) of 32.105 of 10 07% Perc 2 is revised to read as follows:

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(1) Une concessor of Rejulation will cause to be provided in the UTERIC CONSTRUCTOR detice of, and will inders and Space and local officials specified in (2.100(c), as appropriate, of the issuance of:

 (1) An emonément of a libean do receive
 valuation relative material from other persons for pacinging, storage or
 an purpose of /disposal, whether or not a notice
 of proposed nesion has been providently published;

\* \* \* V

 Section 50.21 of 10 CFR Part 50 is zmended to read au follows: 252.22 <u>Pre-emodulat martifut.</u>.

In concernation partie for the construction of a production or utilization decidity will be issued prior to the issuence 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 fusionly will be issued prior to the issuence of an amenimum of a license, if the application for amendment is otherwise acceptable, as provided in \$50.92.

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 Surgering (1) of 150.50 of 10 CTR Part 50 is revised to read as deliver:

# 250.50 <u>Hereine al menora al the divisory Cornittae</u> genteratur Statutet.

(a) Electropilection for a contruction permit or an optimizing literate for a facility which is of a type determine in (55.51(6) or (55.52, or for a testing instituty, that is referred to the Advisory Commutee on historic Suffigurate for review and report. An application for an extension to such a construction permit or operating literate may be released to the Advisory Committee on Resource Sufficience for review and report, any report that is note part of the record of the upplication and evaluate to the public, encode no are entered that thereign classification prevints distinct.

5. Subdic 50.59 of 10 GPR Part 50 is revised to read as solious:

250.50 Ch. tonte rai ernerintate.

(a) The holder of a license authorizing operation
 a) a production or utilization facility may (1) make changes in the facility is described in the safety
 enalytic report, (2) take changes in the procedures

as assertiated in the sadety suplyeis report, and (3) conclude topos or experiments not described in the substy analysis report without prior Commission approval, unless the proposed change, test or experiment involves a change in the Macense, including technical operations.

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(a) The licenses shall moderate records of chappes in the facility and of charges in precedures made pursuant to partyraph (a) of this castles, to the extent that such charges constitute charges in the facility as described in the success charges in the facility as described in the success analysis copers of the matters therefor. The biseries shall also indecede recence of terms and on contents correct out pursuant to prooproph (a) of the indecede, for an even charter intervals at may be specified in the biseries shall denote contailly to the indecedent of the scenes charter intervals at may be specified in the biseries, a report containing a brief description of such diargue, tests and experiments, including a summery of the recents for anth charge, toth of experiment,

(a) the holder of a lifetane antipartizing operation of a production of a lifetane facility who desires to make a change in the desirity which fourthes a change in electronic specifications shall askeds an application for antiparticles liketane persent to 5150.90 and 50.554

du luc con sourt of 10 WD Port 50 is tedesignaded \$50,92 and a con 350.51 is added to yead as tollows:

055.51 April 1 Langest for environments

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(2) Nucl respect to an application for amendeust of a literary of construction partit which the Commission that for non-involve significant facords considerations,

APPENDIX "A"

end commenced any issue the amenicant upon finding that there is reactively accurance that the health and safety of the public will not be estimated.

(2) Sich respect to an application for amendment of a tisket or conservation parage which involves significant matrix constructions, she Commission may inter the conducte spon disking that there is reasonable construct the health of sedary of the public will not be enumpered, and after giving notice of its protes interes purchase to (2,103 of this chapter.

 Success 113.7 of 10 CDN Pure 115 is emended to read as Sullens

 Dereis of (1) of cliptes of 10 CTA Pere 115 is revised to read as follows:

\$115.45 <u>Station and Provided the Advisory Condition</u>

(2) Lick applies fion for an authorization to construct or operate a nuclear reactor subject to this part shall be

APPENDIX "A"

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evilares co the Advisory Constitute of Resource Safeguards for sivile and report. Each applied that for an americant to such a construction authorization or openanting periorization may be referred to the Advisory Conmittee on Recover sufequards for review and report. May report shall be made pure of the twend of the application and available to the public, exampt to the extent that security electification prevents direlocute.

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9. Cuccion 115.47 of 10 CDR Part 115 is revined to meed as follows:

WILL OF THE REAL PROPERTY OF THE PROPERTY.

(c) the balance of an operating authorization may (c) the sharper is the facility to described in the safety event, in contrast the facility to described in the safety event, in the colory enditors supers, and (c) conduct super one experiments need departicle in the safety endysis experience actions prior Sectionaries approval, unless the proyated energy, there or experiments involves a change in the superior many, there or experiments involves a change in the superior many, including protocol specifications.

(2) The balant of the authorization shall monstern receive of demonst in the ducidity this of this section, produced and purchase to paragraph (c) of this section, as the essent thet such ducides startistute changes in the decidity of described in the option emilysis report and the reasons charafor. The bolder of the authorization shall size unincles records of tests and experiments contained on purchase to purchash (c) of this section. The holder of the conteriorization for sold the test and the best of the conteriorization shall durate as may be openified in the outhorization, a report containing a stal characteristics of costs and experiments, including a summary of the reasons for each change, test or experiments.

AP221521: "A"

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

Substant 15.01 of 10 CTR Pare 115 is redesignated §115.62
 a new glistel is club to read as follows:

(2) With respect to an application for emendment of an authorization which the Commission finds does not should algorificant hazards considerations, the Commission may found the authomate upon finding that there is reacontable contained the health and cafety of the public will not be emergered.

... Need request to an application for anothers of en underivation which involves significant hazards concitarizion, the Consistion may issue the amendment upon finding and there is reasonable assurance that the halith and unlery of the public will not be encongared, and after giving mesice of ice proposed action, pursuant to \$2.105 of thes support.

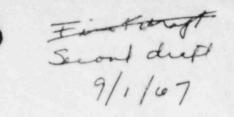
(Sue, 155, 10 Suid, 540; 42 U.S.C. 2201. Interpret or apply sections 105, 104, 105, 60 Saud. 508, 557, 76 Saud. 405; 42 U.S.C. 2133, 2134, 2005.)

FOR THE ATOMIC ENERGY CONTISSION

W. S. McCool Secretary

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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 revise the Commission's procedures and terminology relating to changes in the first of an amendment of facility production and utilization facilities and amendment of facility der log operating licenses to make such procedures and terminology consistent with the Commission's statutory authority to emend

facility Intenses.

#### 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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none unresolved safety quistions or are conduct tests and experiments, which are not specifically provided for in their facility licenses, and preacribes the procedures to be followed in obtaining Commission approval of those changes for which approval is required. When § 50.59 and pren thereto was originated adopted for got 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 procedures of § 50.59 mitigated, to the fi cha land th some extent, the delays attendant upon subjecting every request The prov for modification in a facility to the hearing process. 3. Public Lew 87-615 (July 5, 1962) eliminated the mandatory the 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

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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 motice 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.

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 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.

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## RECOMMENDATION

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

(a) <u>Approve</u> 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) <u>Note</u> that the Joint Committee on Atomic Energy will be advised by letter such as Appendix "B"; and

(c) <u>Note</u> 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	Page No.
"A"	Notice of Proposed Rule Making
"В"	Draft Letter to the Joint Committee on Atomic Energy
"C "	Draft Public Announcement

agongenty "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 revise procedures and terminology relating to changes in production and utilization facilities and the amendment of facility operating licenses and operating authorizations.

Butnorizations. Section 189 : The Atomic Energy ist is 1954 as americal child of the in case where a construction security due the action into the section 100 certoy due the action into the fact the under sector 10 de is the art these these interest following as a therein of the art of the and in the absolution of the art of the art of the sector interest the applied of the art of the sector interest the applied of the art of the sector interest the art of the art of the sector interest the art of the art of the art of the sector interest the art of the applied of the art of the sector interest the art of the art of the art of the sector is the art of the art of the art of the art of the sector is the art of the art of the art of the art of the sector is the art of the art of the art of the art of the sector is the art of the sector is the art of the sector is a an except the art of the art of the art of the art of the sector is a an except the art of the art of the art of the art of the sector is a art of the sector is a art of the art of

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a definition that the an fast involves no For amaliat to bee finite operating licenses other the the spin fich which 189 preside ong that the Comment shad gues to keing up the request of an person where interest may be appreted of Ald moulding

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 un a prover or the reactor proposed change, test or experiment presents significant hazards consideration not described or implicit in the safety analysis

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Appendix "A"