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Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 2—RULES OF PRACTICE

Review of Initial Decisions in Facility Licensing Cases

Statement of considerations. On October 21, 1964, the Atomic Energy Commission published for public comment (29 F.R. 14442) a proposed amendment of 10 CFR Part 2, Rules of Practice, to extend from the present period of thirty days to a period of forty-five days the time within which the Commission may review on its own motion initial decisions in facility licensing cases, including decisions which grant or amend construction permits or operating licenses under 10 CFR Part 50 and construction or operating authorizations under 10 CFR Part 115. The Commission has directed that the amendments be made effective.

The following rule is published as a document subject to codification, to be effective 30 days after publication in the FEDERAL REGISTER.

1. 10 CFR § 2.760(a) is amended to read as follows:

§ 2.760 Initial decision and its effect.

(a) After hearing, the presiding officer will render an initial decision which will constitute the final action of the Commission forty-five days after its date when it authorizes the issuance or amendment of a license for a facility, or thirty days after its date in any other case, unless a timely petition for review is filed or the Commission directs that the record be certified to it for final decision.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 2d day of December 1964.

For the Atomic Energy Commission.

W. B. McCool,
Secretary to the Commission.

[F.R. Doc. 64-12599; Filed, Dec. 7, 1964;
8:49 a.m.]

TECHNICAL MANAGEMENT, INC.
309 ANDERSON BUILDING
LINCOLN, NEBRASKA 68508
TELEPHONE 432-2317

November 4, 1964

Secretary,
United States Atomic Energy Commission
Washington, D. C. 20545

Dear Sir:

I have been asked to convey Consumers Public Power District's comments on the Commission's proposal to amend its regulations concerning the additional time for informal Commission review of reactor licensing decisions. Consumers current interest and experience occurs through the parallel procedures requirements while its future interest will rest in the licensing procedures.

In evaluating the proposed change, one must consider that this review period is added to a series of time delays imposed by the Commission's requirements. These steps start with several informal reviews by the staff of the hazard summary reports and technical specifications. The product of this effort is then referred to the Advisory Committee on Reactor Safeguards. Its opinion is handed to the Commission and a Board Hearing date is established and a decision issued. Depending on scheduling fortunes, these events may consume from five to seven months. This applies to decisions on the issuance of a construction permit or operating license as well as to amendments of permits and licenses. An applicant can be confident that he will be subjected to this sequence repeatedly.

In the absence of a filing of a petition for review, no additional staff work should be required after the decision of the Board, and a Commission review should be straightforward so that the decision can become final without undue burden on the Commission within a relatively short waiting period.

It is therefore suggested that the Board decision become final 25 days after the date of the initial decision or the date of receipt of a petition for review, whichever is later, while maintaining the present 20-day interval for the filing of such petitions.

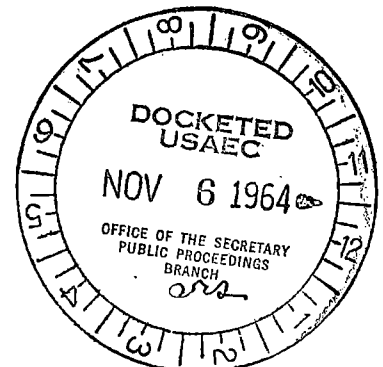
To artificially expand the waiting period in uncontested issues appears to be a needless addition to the applicants costs for government regulation which are already at unreasonable levels.

Sincerely,

Emerson Jones
Emerson Jones

EJ:lp

cc: Mr. D. W. Hill
Mr. J. D. Cochran
Mr. R. S. Kamber





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TITLE 10 - ATOMIC ENERGY

CHAPTER I - ATOMIC ENERGY COMMISSION

PART 2 - "RULES OF PRACTICE"

NOTICE OF PROPOSED RULE MAKING

Statement of Considerations. The Atomic Energy Commission is considering the amendment of § 2.760(a) of its Rules of Practice (10 CFR Part 2) to extend from the present period of thirty days to a period of forty-five days the time within which the Commission may review on its own motion initial decisions in facility licensing cases, including decisions which grant or amend construction permits or operating licenses under 10 CFR Part 50 and construction or operating authorizations for facilities owned by the Commission under 10 CFR Part 115. Under the existing provisions of § 2.760(a), an initial decision will become the final action of the Commission thirty days after its date in the absence of Commission action or the filing by a party of a petition for review.

It is the practice of the Commission to conduct an informal review of decisions in facility licensing cases whether or not a petition for review has been filed by a party. It has become apparent that this limited period of thirty days imposes considerable constraint upon the Commission. A petition for

review may be filed by mail under 10 CFR § 2.760(a) and is considered filed when it is deposited in the mails (10 CFR § 2.701(c)), so that the Commission may not be in a position to determine definitely the procedural status of a case until more than twenty days after the date of the initial decision. Since under the present terms of 10 CFR § 2.760(a) any order made on the Commission's own motion must be made within thirty days after the date of the initial decision, the Commission's informal review has been conducted under stringent time limitations.

Under 10 CFR § 50.57(e) and § 115.45(e), a forty-five day time limit is provided for Commission review when a decision in a provisional operating license or authorization case has been granted expedited effectiveness by the presiding officer (an atomic safety and licensing board or a hearing examiner). The proposed amendment would allow such a forty-five day period for review of a decision granting a construction permit or authorization as well as an operating license or authorization and amendment to one of these. Since the elimination in 1962 of the statutory mandatory hearing at the operating license stage (Atomic Energy Act of 1954, § 189(a); P. L. 87-615 (76 Stat. 409)), a hearing has ordinarily been held only at the construction permit stage.

Notice is hereby given that adoption of the following amendment to 10 CFR Part 2, "Rules of Practice," is contemplated.

Interested persons may submit written comments for consideration in connection with the proposed amendment to the Secretary, U. S. Atomic Energy Commission, Washington, D. C. 20545, within twenty 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 if the comments are not filed within the period specified.

10 CFR § 2.760(a) is amended to read as follows:

(a) After hearing, the presiding officer will render an initial decision which will constitute the final action of the Commission forty-five days after its date when it authorizes the issuance or amendment of a license for a facility, or thirty days after its date in any other case, unless a timely petition for review is filed or the Commission directs that the record be certified to it for final decision.

Dated at Washington, D. C., this 15th day of October, 1964.

FOR THE ATOMIC ENERGY COMMISSION



W. B. McCool
Secretary to the Commission