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CERTAIN NUCLEAR REACTORS EXEMPTED FROM
LICENSING REQUIREMENTS (CHANGE PROCEDURES)

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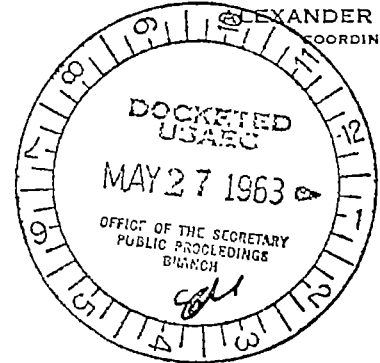
REGISTRATION RULE

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*Original filed
under Part 2*

May 24, 1963

Woodford B. McCool, Secretary
U. S. Atomic Energy Commission
Washington 25, D. C.



ALEXANDER GRENDON
COORDINATOR

Dear Mr. McCool:

Although limiting dates for comment on the following proposed rules have passed, I am submitting these comments for such use as you may make of them.

10 CFR 30; notice dated December 19, 1962:

1. In the proposed revision of Section 30.24(h) (2), the end of the last sentence could be clarified by changing to: "... in which the licensee introduces byproduct material into a product or material pursuant to license granted under this section." The text in the notice might be interpreted to mean that greater concentrations could be introduced without report. An alternative revision might be: "... in which the licensee engages in the activity licensed under this section."
2. In Section 30.30(a), the meaning might be clarified by changing the last portion to read: "..., which byproduct material has been added to the commodity or product by, or with the consent of, the manufacturer, processor, or producer in accordance with a specific license issued by an agreement state." The text in the notice might be interpreted to bar the service company role authorized in proposed Section 30.24(h).
3. In Section 30.30(c), the reporting responsibility is apparently placed on the distributor who transfers the commodity to the general public. Since knowledge of "the type and quantity of byproduct material introduced....", etc., comes from the service company, when the manufacturer uses such services, it would seem desirable to have the service company make such report.

4. Although proposed Section 30.30(a) takes cognizance of the licenses issued by agreement states, the proposed revision of Section 30.32(f) neglects this consideration. The end of the first sentence of subsection (f) should be revised to read: "... of this Part or in accordance with a specific license issued by an agreement state."

10 CFR 115; notice dated December 27, 1962:

1. Several typographical errors appear in this notice. One of these might escape attention; namely, in Section 115.25(b), the text should read: "Each operating authorization will include technical specifications. The technical specifications incorporated"
2. In proposed Section 115.47(f), in the phrase, "... submitted by a holder", a change to "the holder" seems desirable.

10 CFR 2; notice dated January 4, 1963:

1. The proposed revision of Section 2.106(a)(3) seems to establish the practice of issuance of a license before there is "opportunity for a public hearing", even though the Commission recognizes that such an "opportunity should be afforded." We believe that, in such cases, only a "notice of proposed action" is appropriate.
2. The proposed Section 2.106(c) offers too short a time interval within which "any person whose interest may be affected may file a petition for leave to intervene." If there is a reason to believe that the interests of others may be affected, either a notice of proposed action should be published or a longer time interval (say, 30 days) should be permitted following the notice of issuance to allow interested parties time to note, review, and act upon the matter.
3. The proposed amendment of Section 2.714 could result in a shortening rather than a lengthening of the time, in view of the language of Section 2.710. If a week-end and a holiday intervene, the seven-day interval could become effectively four days. The difficulty might be eliminated by changing "seven days" to "eight days" in Section 2.710.
4. The provisions regarding service and introduction of written testimony, as stated in the third sentence of Section 2.743(b), seem confusing. That the parties "may" serve copies in

certain numbers at certain times seems almost meaningless in view of the provision that "the presiding officer may permit the introduction" of such matter. Perhaps the intent is to require admission of written testimony under prescribed conditions; if not, the purpose of the first of these provisions needs clarification.

10 CFR 2; notice dated March 22, 1963:

1. The proposed Section 2.764(a) covers both issuance and amendment of construction permits and authorizations. It is possible that an amendment might involve "no substantial question of fact, law, or discretion"; but the original issuance must surely involve at least "discretion" in every case. We believe that, in its proposed form, this section will not in fact permit expedited effectiveness of a decision directing issuance of a construction permit or authorization and that, in view of the opportunity for any party to oppose the motion, subsection (a)(1) should be amended by deleting the word, "discretion".

Sincerely

Alexander Grendon

Alexander Grendon
Coordinator

Title 10 - Atomic Energy

Chapter I - Atomic Energy Commission

Part 115 - Procedures for Review of Certain
Nuclear Reactors Exempted from
Licensing Requirements

Notice of Proposed Rule Making

Statement of Considerations

At page 5491 of the Federal Register, June 9, 1962, the Commission published amendments to 10 CFR Part 50, "Licensing of Production and Utilization Facilities," designed to clarify the procedures under which licensees may make changes, and conduct tests and experiments, which are not specifically provided for in their reactor facility licenses. To carry out the purpose of 10 CFR Part 115, which is to establish procedures and requirements for certain license-exempt nuclear reactors paralleling those established for license-subject nuclear facilities, the Commission now proposes to adopt parallel amendments for Part 115. The proposed Part 115 amendments follow the corresponding provisions of the Part 50 amendments, with such modifications as are appropriate to adapt them to the reactor projects subject to Part 115, but no substantive change is intended.

As with the amendments of Part 50, in conjunction with the adoption of these proposed Part 115 amendments, the Commission plans to delegate appropriate authority to the staff to determine whether a proposed change, test or experiment involves significant hazards considerations not described or implicit in the hazards summary report and to issue approval for a change, test or experiment which the rule does not require be referred to the Advisory Committee on Reactor Safeguards.

All reports, requests, determinations and approvals will be made part of the public record of the authorization proceedings.

Notice is hereby given that the Commission is considering adoption of the following regulations. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed regulations should send them to the Secretary, United States Atomic Energy Commission, Washington, 25, D. C., within 60 days after publication of this notice in the Federal Register. Comments received after this period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified.

1. Section 115.25 is amended to read as follows:

§115.25 Designation of Technical Specifications.

(a) Each applicant for an operating authorization shall, and each applicant for a construction authorization may, designate those provisions

of his hazards summary report which he ~~proposes~~ be incorporated as technical specifications in the authorization.

(b) Each operating authorization will include technical specifications incorporated in an authorization will be designed to include those significant design features, operating procedures and operating limitations which are considered important in providing reasonable assurance that the facility will be constructed and operated without undue hazard to public health and safety. Appendix A is provided as a guide to the type of matters which the Commission would generally expect to be covered by the technical specifications. The Commission may include technical specifications on such additional matters as the Commission finds appropriate to provide reasonable assurance that the facility will be constructed and operated without undue hazard to public health and safety; and may omit items listed in Appendix A if such omission is consistent with the protection of the health and safety of the public.

(c) This section shall not be deemed to modify the technical specifications included in any authorization issued prior to the effective date of this section. An authorization issued prior to the effective date of this section in which technical specifications have not been designated, shall be deemed to include the entire hazards summary report as technical specifications.

At the initiative of the Commission or the holder of the authorization, any authorization may be amended to include technical specifications of the scope and content which would be required if a new authorization were being issued.

2. Add the following new 115.47:

§115.47 Approval of Changes, Tests and Experiments

(a) The holder of an operating authorization may (1) make changes in the facility as described in the hazards summary report, (2) make changes in the procedures as described in the hazards summary report, and (3) conduct tests or experiments not described in the hazards summary report, unless the proposed change, test or experiment involves a change in the technical specifications incorporated in the authorization 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.

(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 this section, to the extent that such changes constitute changes in the facility as described in the hazards summary report or constitute changes in procedures as described in the hazards summary report. The holder of the authorization shall also maintain records of tests and experiments carried out without prior Commission approval pursuant to 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.

((d) 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 hazards summary report may be increased; or (2) if consequences of an accident previously analyzed in the hazards summary report may be increased; or (3) if a possibility for a nuclear accident of a different type than any analyzed in the hazards summary 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 requires approval by the Commission pursuant to paragraph (a) of this section. This request shall include

an appropriate hazards analysis. Each such request shall be filed with the Atomic Energy Commission, Attention: Director, Division of Licensing and Regulation. The holder of the authorization shall file three signed originals and 19 additional copies.

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

3. Add the following Appendix A:

Appendix A - Guide to Contents of Technical Specifications for Nuclear Reactors.

1. This Appendix is a guide to matters which are typical of those the Commission would generally expect to be covered by technical specifications in operating authorizations. (From the second sentence to end of Appendix A to Part 50 will be herein inserted.)

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

Dated at Germantown, Maryland, this 27th day of December, 1962.

FOR THE ATOMIC ENERGY COMMISSION

Harold D. Anamosa

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Acting Secretary