

## § 50.92

(iii) To insist upon a postponement of the determination or upon issuance of the amendment.

(2) These procedures do not alter present provisions of law that reserve to the Commission exclusive responsibility for setting and enforcing radiological health and safety requirements for nuclear power plants.

[51 FR 7765, Mar. 6, 1986, as amended at 51 FR 40310, Nov. 6, 1986; 61 FR 39303, July 29, 1996; 69 FR 2276, Jan. 14, 2004; 72 FR 49504, Aug. 28, 2007]

### § 50.92 Issuance of amendment.

(a) In determining whether an amendment to a license, construction permit, or early site permit will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of initial licenses, construction permits, or early site permits to the extent applicable and appropriate. If the application involves the material alteration of a licensed facility, a construction permit will be issued before the issuance of the amendment to the license, provided however, that if the application involves a material alteration to a nuclear power reactor manufactured under part 52 of this chapter before its installation at a site, or a combined license before the date that the Commission makes the finding under § 52.103(g) of this chapter, no application for a construction permit is required. If the amendment involves a significant hazards consideration, the Commission will give notice of its proposed action:

(1) Under § 2.105 of this chapter before acting thereon; and

(2) As soon as practicable after the application has been docketed.

(b) The Commission will be particularly sensitive to a license amendment request that involves irreversible consequences (such as one that permits a significant increase in the amount of effluents or radiation emitted by a nuclear power plant).

(c) The Commission may make a final determination, under the procedures in § 50.91, that a proposed amendment to an operating license or a combined license for a facility or reactor licensed under §§ 50.21(b) or 50.22, or for a testing facility involves no significant hazards consideration, if oper-

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ation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

[51 FR 7767, Mar. 6, 1986, as amended at 72 FR 49504, Aug. 28, 2007]

REVOCA-TION, SUSPENSION, MODIFICATION, AMENDMENT OF LICENSES AND CONSTRUCTION PERMITS, EMERGENCY OPERATIONS BY THE COMMISSION

### § 50.100 Revocation, suspension, modification of licenses, permits, and approvals for cause.

A license, permit, or standard design approval under parts 50 or 52 of this chapter may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or in the supplemental or other statement of fact required of the applicant; or because of conditions revealed by the application or statement of fact of any report, record, inspection, or other means which would warrant the Commission to refuse to grant a license, permit, or approval on an original application (other than those relating to §§ 50.51, 50.42(a), and 50.43(b)); or for failure to manufacture a reactor, or construct or operate a facility in accordance with the terms of the permit or license, provided, however, that failure to make timely completion of the proposed construction or alteration of a facility under a construction permit under part 50 of this chapter or a combined license under part 52 of this chapter shall be governed by the provisions of § 50.55(b); or for violation of, or failure to observe, any of the terms and provisions of the act, regulations, license, permit, approval, or order of the Commission.

[72 FR 49504, Aug. 28, 2007]

### § 50.101 Retaking possession of special nuclear material.

Upon revocation of a license, the Commission may immediately cause

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the retaking of possession of all special nuclear material held by the licensee.

[21 FR 355, Jan. 19, 1956, as amended at 40 FR 8790, Mar. 3, 1975]

### § 50.102 Commission order for operation after revocation.

Whenever the Commission finds that the public convenience and necessity, or the Department finds that the production program of the Department requires continued operation of a production or utilization facility, the license for which has been revoked, the Commission may, after consultation with the appropriate federal or state regulatory agency having jurisdiction, order that possession be taken of such facility and that it be operated for a period of time as, in the judgment of the Commission, the public convenience and necessity or the production program of the Department may require, or until a license for operation of the facility shall become effective. Just compensation shall be paid for the use of the facility.

[40 FR 8790, Mar. 3, 1975]

### § 50.103 Suspension and operation in war or national emergency.

(a) Whenever Congress declares that a state of war or national emergency exists, the Commission, if it finds it necessary to the common defense and security, may,

- (1) Suspend any license it has issued.
- (2) Cause the recapture of special nuclear material.
- (3) Order the operation of any licensed facility.
- (4) Order entry into any plant or facility in order to recapture special nuclear material or to operate the facility.

(b) Just compensation shall be paid for any damages caused by recapture of special nuclear material or by operation of any facility, pursuant to this section.

[21 FR 355, Jan. 19, 1956, as amended at 35 FR 11416, July 17, 1970; 40 FR 8790, Mar. 3, 1975]

#### BACKFITTING

### § 50.109 Backfitting.

(a)(1) Backfitting is defined as the modification of or addition to systems,

structures, components, or design of a facility; or the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct or operate a facility; any of which may result from a new or amended provision in the Commission's regulations or the imposition of a regulatory staff position interpreting the Commission's regulations that is either new or different from a previously applicable staff position after:

(i) The date of issuance of the construction permit for the facility for facilities having construction permits issued after October 21, 1985;

(ii) Six (6) months before the date of docketing of the operating license application for the facility for facilities having construction permits issued before October 21, 1985;

(iii) The date of issuance of the operating license for the facility for facilities having operating licenses;

(iv) The date of issuance of the design approval under subpart E of part 52 of this chapter;

(v) The date of issuance of a manufacturing license under subpart F of part 52 of this chapter;

(vi) The date of issuance of the first construction permit issued for a duplicate design under appendix N of this part; or

(vii) The date of issuance of a combined license under subpart C of part 52 of this chapter, provided that if the combined license references an early site permit, the provisions in § 52.39 of this chapter apply with respect to the site characteristics, design parameters, and terms and conditions specified in the early site permit. If the combined license references a standard design certification rule under subpart B of 10 CFR part 52, the provisions in § 52.63 of this chapter apply with respect to the design matters resolved in the standard design certification rule, provided however, that if any specific backfitting limitations are included in a referenced design certification rule, those limitations shall govern. If the combined license references a standard design approval under subpart E of 10 CFR part 52, the provisions in § 52.145 of this chapter apply with respect to the design matters resolved in the standard