shall evaluate any as-found conditions
that do not agree with the plant's pro-
grams, plans, policies, and operations
in accordance with paragraph (a) of
this section. These revisions must be
submitted before April 15 of each cal-
endar year, or at a shorter interval as
may be specified in the certificate. If a
renewal application for a certificate is
filed in accordance with §76.36 of this
part, the revisions shall be incor-
porated into the application.

(c) The Corporation shall maintain
records of changes in the plant and of
changes in the programs, plans, poli-
cies, procedures and operations de-
scribed in the approved application,
and copies of the safety analyses on
which the changes were based. The
records of plant changes must be re-
tained until the end of the duration of
the lease. The records of changes in
programs, plans, policies, procedures,
and operations and copies of the safety
analysis on which the changes were
based must be retained for a period of
2 years.

(d) The Corporation may at any time
apply under §76.45 for amendment of
the certificate to cover proposed new
or modified activities not permitted by
paragraph (a) of this section.

[59 FR 46960, Sept. 23, 1994, as amended at 62
FR 6670, Feb. 12, 1997]

§ 76.70 Post issuance.

(a) Amendment of certificate terms and
conditions. The terms and conditions
of a certificate of compliance or an ap-
proved compliance plan are subject to
modification by reason of amendments
to the Act, or by reason of rules, regu-
lations, or orders issued in accordance
with the Act.

(b) Revocation, suspension, or amend-
ments for cause. A certificate of compli-
cance or a compliance plan may be re-
voked, suspended, or amended, in whole
or in part for:

(1) Any material false statement in
the application or statement of fact re-
quired by the Commission in connec-
tion with the application;

(2) Conditions revealed by the appli-
cation, or any report, record, inspec-
tion, or other means which would war-
rant the Commission to refuse to grant
a certificate or approve a compliance
plan on an original application; and

(3) Violation of, or failure to observe
any of, the applicable terms and condi-
tions of the Act, or the certificate of
compliance, the compliance plan, or
any rule, regulation, or order of the
Commission.

(c) Procedures governing amendment,
revocation, suspension, or imposing re-
quirements by order. (1) Except in cases
of willfulness or those in which the
public health interest, common defense
and security, or safety requires other-
wise, no certificate of compliance or
compliance plan may be amended, sus-
pended, or revoked unless before the in-
stitution of proceedings therefore,
facts or conduct which may warrant
the action must have been called to the
attention of the Corporation in writing
and the Corporation shall have been ac-
corded an opportunity to demonstrate
or achieve compliance with the lawful
requirements related to such action.

(2) The Commission may institute a
proceeding to modify, suspend, or re-
voke a certificate or take such other
action as may be proper by serving on
the Corporation or other person subject
to the jurisdiction of the Commission
an order that will:

(i) Allege the violations with which
the Corporation or other person subject
to the Commission's jurisdiction is
charged, or the potentially hazardous
conditions or other facts deemed to be
sufficient ground for the proposed ac-
tion, and specify the action proposed;

(ii) Provide that the Corporation or
other person who is charged must, and
other interested persons may, submit a
written response to the order within a
reasonable period after publication of
the order as may be specified in the
order;

(iii) Specify the issues for resolution
should the order be contested;

(iv) State the effective date of the
order; if the Commission finds the pub-
lic health, common defense and secu-
ritv, or safety, so require or that the
violation or conduct causing the viola-
tion is willful, the order may provide
that the proposed action be imme-
diately effective pending further order
and include a statement of reasons for
making the proposed action imme-
diately effective;
(v) Provide that the Commission may make a final decision after consideration of the written submissions or may in its discretion adopt by order, upon the Commission’s own initiative or at the request of the Corporation or an interested person, further procedures for a hearing of the issues before making a final enforcement decision. These procedures may include requirements for further participation in the proceeding, such as the requirements for intervention under Part 2, subparts C, G or L of this chapter. Submission of written comments by interested persons do not constitute entitlement to further participation in the proceeding. Further procedures will not normally be provided for at the request of an interested person unless the person is adversely affected by the order.

(3) The Corporation or other person to whom the Commission has issued an immediately effective order may, in addition to submitting a written response, move the Commission to set aside the immediate effectiveness of the order on the ground that the order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. The motion must state with particularity the reasons why the order is not based on adequate evidence and must be accompanied by affidavits or other evidence relied on. The NRC staff shall respond within 5 days of the receipt of the motion.

(d) Notice of violation. (1) In response to an alleged violation of any provision of the Act or NRC regulations or the conditions of a certificate, compliance plan, or an order issued by the Commission, the Commission may serve on the Corporation or other person subject to the jurisdiction of the Commission a written notice of violation. A separate notice may be omitted if an order or demand for information pursuant to this section is issued that otherwise identifies the apparent violation. The notice of violation will concisely state the alleged violation and will require the Corporation or other person subject to it, within twenty (20) days of the date of the notice or other specified time, to submit a written explanation or statement in reply including:

(i) Corrective steps which have been taken by the Corporation or other person and the results achieved;
(ii) Corrective steps which will be taken; and
(iii) The date when full compliance will be achieved.

(2) The notice may require the Corporation or other person subject to the jurisdiction of the Commission to admit or deny the violation and to state the reasons for the violation, if admitted. It may provide that, if an adequate reply is not received within the time specified in the notice, the Commission may issue an order or a demand for information as to why the certificate should not be modified, suspended, or revoked or why such other action as may be proper should not be taken.

(e) Additional information. At any time after the granting of a certificate of compliance or approval of a compliance plan, the Commission may require further statements from the Corporation, signed under oath or affirmation, in order to enable the Commission to determine whether the certificate or approved compliance plan should be modified or revoked.

§ 76.72 Miscellaneous procedural matters.

(a) The filing of any petitions for review or any responses to these petitions are governed by the procedural requirements set forth in 10 CFR 2.302(a) and (c), 2.304, 2.305, 2.306, and 2.307. Additional guidance regarding the filing and service of petitions for review of the Director’s decision and responses to these petitions may be provided in the Director’s decision or by order of the Commission.

(b) The Secretary of the Commission has the authority to rule on procedural matters set forth in 10 CFR 2.346.

(c) There are no restrictions on ex parte communications or on the ability of the NRC staff and the Commission to communicate with one another at any stage of the regulatory process, with the exception that the rules on ex parte communications and separation of functions set forth in 10 CFR 2.347 and 2.348 apply to proceedings under 10