

## Nuclear Regulatory Commission

## § 2.105

in the case of an application for a limited work authorization, construction permit, early site permit, or combined license for a facility of the type described in § 50.22 of this chapter, or a testing facility, the notice must be issued as soon as practicable after the NRC has docketed the application. If the Commission decides, under § 2.101(a)(2), to determine the acceptability of the application based on its technical adequacy as well as completeness, the notice must be issued as soon as practicable after the application has been tendered.

(b) The notice of hearing must state:

(1) The nature of the hearing;

(2) The authority under which the hearing is to be held;

(3) The matters of fact and law to be considered;

(4) The date by which requests for hearing or petitions to intervene must be filed;

(5) The presiding officer designated for the hearing, or the procedure that the Commission will use to designate a presiding officer for the hearing.

(c)(1) The Secretary will transmit a notice of hearing on an application for a license for a production or utilization facility, including a limited work authorization, early site permit, combined license, but not for a manufacturing license, for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, for a license under part 61 of this chapter, for a construction authorization for a high-level waste repository at a geologic repository operations area under parts 60 or 63 of this chapter, for a license to receive and possess high-level radioactive waste at a geologic repository operations area under parts 60 or 63 of this chapter, and for a license under part 72 of this chapter to acquire, receive or possess spent fuel for the purpose of storage in an independent spent fuel storage installation (ISFSI) to the governor or other appropriate official of the State and to the chief executive of the municipality in which the facility is to be located or

the activity is to be conducted or, if the facility is not to be located or the activity conducted within a municipality, to the chief executive of the county (or to the Tribal organization, if it is to be located or conducted within an Indian reservation).

(2) The Secretary will transmit a notice of hearing on an application for a license under part 72 of this chapter to acquire, receive or possess spent fuel, high-level radioactive waste or radioactive material associated with high-level radioactive waste for the purpose of storage in a monitored retrievable storage installation (MRS) to the same persons who received the notice of docketing under § 72.16(e) of this chapter.

[72 FR 49472, Aug. 28, 2007, as amended at 72 FR 57439, Oct. 9, 2007]

### § 2.105 Notice of proposed action.

(a) If a hearing is not required by the Act or this chapter, and if the Commission has not found that a hearing is in the public interest, it will, before acting thereon, publish in the FEDERAL REGISTER, as applicable, or on the NRC's Web site, <http://www.nrc.gov>, or both, at the Commission's discretion, either a notice of intended operation under § 52.103(a) of this chapter and a proposed finding that inspections, tests, analyses, and acceptance criteria for a combined license under subpart C of part 52 have been or will be met, or a notice of proposed action with respect to an application for:

(1) A license for a facility;

(2) A license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee. All licenses issued under part 61 of this chapter shall be so noticed;

(3) An amendment of a license specified in paragraph (a) (1) or (2) of this section and which involves a significant hazards consideration;

(4) An amendment to an operating license, combined license, or manufacturing license for a facility licensed under §§ 50.21(b) or 50.22 of this chapter, or for a testing facility, as follows:

(i) If the Commission determines under § 50.58 of this chapter that the amendment involves no significant hazards consideration, though it will

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the initial hearing for a later date or reconvene a recessed hearing without again providing at least 30 days notice.

provide notice of opportunity for a hearing pursuant to this section, it may make the amendment immediately effective and grant a hearing thereafter; or

(ii) If the Commission determines under §§ 50.58 and 50.91 of this chapter that an emergency situation exists or that exigent circumstances exist and that the amendment involves no significant hazards consideration, it will provide notice of opportunity for a hearing pursuant to § 2.106 (if a hearing is requested, it will be held after issuance of the amendment);

(5) A license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to parts 60 or 63 of this chapter, or an amendment thereto, when the license or amendment would authorize actions which may significantly affect the health and safety of the public;

(6) An amendment to a construction authorization for a high-level radioactive waste at a geologic repository operations area pursuant to parts 60 or 63 of this chapter, when such an amendment would authorize actions which may significantly affect the health and safety of the public;

(7) A license under part 72 of this chapter to acquire, receive or possess spent fuel for the purpose of storage in an independent spent fuel storage installation (ISFSI) or to acquire, receive or possess spent fuel, high-level radioactive waste or radioactive material associated with high-level radioactive waste for the purpose of storage in a monitored retrievable storage installation (MRS);

(8) An amendment to a license specified in paragraph (a)(7) of this section when such an amendment presents a genuine issue as to whether the health and safety of the public will be significantly affected; or

(9) Any other license or amendment as to which the Commission determines that an opportunity for a public hearing should be afforded;

(10) In the case of an application for an operating license for a facility of a type described in § 50.21(b) or § 50.22 of this chapter or a testing facility, a notice of opportunity for hearing shall be issued as soon as practicable after the application has been docketed; or

(11) In the case of an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area, a notice of opportunity for hearing, as required by this paragraph, shall be published prior to Commission action authorizing receipt of such wastes; this requirement is in addition to the procedures set out in §§ 2.101(f)(8) and 2.104 of this part, which provide for a hearing on the application prior to issuance of a construction authorization.

(12) An amendment to an early site permit issued under subpart A of part 52 of this chapter, as follows:

(i) If the early site permit does not provide authority to conduct the activities allowed under § 50.10(e)(1) of this chapter, the amendment will involve no significant hazards consideration, and though the NRC will provide notice of opportunity for a hearing under this section, it may make the amendment immediately effective and grant a hearing thereafter; and

(ii) If the early site permit provides authority to conduct the activities allowed under § 50.10(e)(1) and the Commission determines under §§ 50.58 and 50.91 of this chapter that an emergency situation exists or that exigent circumstances exist and that the amendment involves no significant hazards consideration, it will provide notice of opportunity for a hearing under § 2.106 of this chapter (if a hearing is requested, which will be held after issuance of the amendment).

(13) A manufacturing license under subpart F of part 52 of this chapter.

(b) A notice of proposed action published in the FEDERAL REGISTER will set forth:

(1) The nature of the action proposed;

(2) The manner in which a copy of the safety analysis and of the ACRS report, if any, may be obtained or examined.

(3) For a notice of intended operation under § 52.103(a) of this chapter, the following information:

(i) The identification of the NRC action as making the finding required under § 52.103(g) of this chapter;

(ii) The manner in which the licensee notifications under 10 CFR 52.99(c) which are required to be made available by 10 CFR 52.99(e)(2) may be obtained and examined;

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(iii) The manner in which copies of the safety analysis may be obtained and examined; and

(iv) Any conditions, limitations, or restrictions to be placed on the license in connection with the finding under § 52.103(g) of this chapter, and the expiration date or circumstances (if any) under which the conditions, limitations or restrictions will no longer apply.

(c) If an application for a license 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 prior notice.

(d) The notice of proposed action will provide that, within the time period provided under § 2.309(b):

(1) The applicant may file a request for a hearing; and

(2) Any person whose interest may be affected by the proceeding may file a request for a hearing or a petition for leave to intervene if a hearing has already been requested.

(e)(1) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice, the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, may take the proposed action, inform the appropriate State and local officials, and publish in the FEDERAL REGISTER a notice of issuance of the license or other action.

(2) If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the presiding officer who shall be an Atomic Safety and Licensing Board established by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the presiding officer will issue a notice of hearing or an appropriate order.

[27 FR 377, Jan. 13, 1962]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 2.105, see the List of CFR Sections Affected, which appears in the

Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### § 2.106 Notice of issuance.

(a) The Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, will inform the State and local officials specified in § 2.104(c) and publish a document in the FEDERAL REGISTER announcing the issuance of:

(1) A license or an amendment of a license for which a notice of proposed action has been previously published;

(2) An amendment of a license for a facility of the type described in § 50.21(b) or § 50.22 of this chapter, or a testing facility, whether or not a notice of proposed action has been previously published; and

(3) The finding under § 52.103(g) of this chapter.

(b) The notice of issuance will set forth:

(1) In the case of a license or amendment:

(i) The nature of the license or amendment;

(ii) The manner in which copies of the safety analysis, if any, may be obtained and examined; and

(iii) A finding that the application for the license or amendment complies with the requirements of the Act and this chapter.

(2) In the case of a finding under § 52.103(g) of this chapter:

(i) The manner in which copies of the safety analysis, if any, may be obtained and examined; and

(ii) A finding that the prescribed inspections, tests, and analyses have been performed, the prescribed acceptance criteria have been met, and that the license complies with the requirements of the Act and this chapter.

(c) The Director of Nuclear Material Safety and Safeguards will also cause to be published in the FEDERAL REGISTER notice of, and will inform the State, local, and Tribal officials specified in § 2.104(c) of any action with respect to an application for construction authorization for a high-level radioactive waste repository at a geologic repository operations area, a license to receive and possess high-level