

Nuclear Regulatory Commission

§ 2.105

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.

[27 FR 377, Jan. 13, 1962]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 2.104, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 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, prior to acting thereon, cause to be published in the FEDERAL REGISTER 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 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 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 part 60 of this chapter;

(6) An amendment to a license specified in paragraph (a)(5) of this section, or an amendment to a construction authorization granted in proceedings on an application for such a license, 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.

(b) The notice of proposed action 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.

§ 2.106

10 CFR Ch. I (1–1–01 Edition)

(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 thirty (30) days from the date of publication of the notice in the FEDERAL REGISTER, or such lesser period authorized by law as the Commission may specify:

(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 of Nuclear Reactor Regulation or the Director 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. The presiding officer designated to rule on a request or petition concerning the antitrust aspects of an application may be either an Administrative Law Judge or an Atomic Safety and Licensing Board.

(f) Applications for facility licenses under section 103 of the Act and for facility operating licenses under section 104b of the Act as to which any person intervened or sought by timely written notice to the Commission to intervene in the construction permit proceeding

to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination are also subject to the provisions of §§ 2.101(b) and 2.102(d).

[27 FR 377, Jan. 13, 1962, as amended at 28 FR 10152, Sept. 17, 1963; 31 FR 12776, Sept. 30, 1966; 34 FR 9702, June 21, 1969; 34 FR 12255, July 25, 1969; 35 FR 19658, Dec. 29, 1970; 36 FR 4686, Mar. 11, 1971; 37 FR 15131, July 28, 1972; 37 FR 28711, Dec. 29, 1972; 38 FR 9585, Apr. 18, 1973]

EDITORIAL NOTE: For additional 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 on GPO Access.

§ 2.106 Notice of issuance.

(a) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will cause to be published in the FEDERAL REGISTER notice of, and will inform the State and local officials specified in § 2.104(e) of the issuance of:

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

(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.

(b) The notice of issuance will set forth:

(1) The nature of the license or amendment;

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

(3) A finding that the application for the license or amendment 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(e) of any action with respect to, an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter, or for the amendment to