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the holder of limited work authorization in determining the proposed action (*i.e.*, issuance of the construction permit or combined license).

(g) *Implementation of redress plan.* If construction is terminated by the holder, the underlying application is withdrawn by the applicant or denied by the NRC, or the limited work authorization is revoked by the NRC, then the holder must begin implementation of the redress plan in a reasonable time. The holder must also complete the redress of the site no later than 18 months after termination of construction, revocation of the limited work authorization, or upon effectiveness of the Commission's final decision denying the associated construction permit application or the underlying combined license application, as applicable.

[72 FR 57441, Oct. 9, 2007]

§ 50.11 Exceptions and exemptions from licensing requirements.

Nothing in this part shall be deemed to require a license for:

(a) The manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 91 of the Act, or the use of such facility by the Department of Defense or by a person under contract with and for the account of the Department of Defense;

(b) Except to the extent that Administration facilities of the types subject to licensing pursuant to section 202 of the Energy Reorganization Act of 1974 are involved;

(1)(i) The processing, fabrication or refining of special nuclear material or the separation of special nuclear material, or the separation of special nuclear material from other substances by a prime contractor of the Department under a prime contract for:

(A) The performance of work for the Department at a United States government-owned or controlled site;

(B) Research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof; or

(C) The use or operation of a production or utilization facility in a United States owned vehicle or vessel; or

(ii) By a prime contractor or subcontractor of the Commission or the Department under a prime contract or subcontract when the Commission determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety;

(2)(i) The construction or operation of a production or utilization facility for the Department at a United States government-owned or controlled site, including the transportation of the production or utilization facility to or from such site and the performance of contract services during temporary interruptions of such transportation; or the construction or operation of a production or utilization facility for the Department in the performance of research in, or development, manufacture, storage, testing, or transportation of, atomic weapons or components thereof; or the use or operation of a production or utilization facility for the Department in a United States government-owned vehicle or vessel: *Provided,* That such activities are conducted by a prime contractor of the Department under a prime contract with the Department.

(ii) The construction or operation of a production or utilization facility by a prime contractor or subcontractor of the Commission or the Department under his prime contract or subcontract when the Commission determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.

(c) The transportation or possession of any production or utilization facility by a common or contract carrier or warehousemen in the regular course of carriage for another or storage incident thereto.

[40 FR 8788, Mar. 3, 1975, as amended at 65 FR 54950, Sept. 12, 2000]

§ 50.12 Specific exemptions.

(a) The Commission may, upon application by any interested person or

upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are—

(1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

(2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever—

(i) Application of the regulation in the particular circumstances conflicts with other rules or requirements of the Commission; or

(ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or

(iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; or

(iv) The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption; or

(v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation; or

(vi) There is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If such condition is relied on exclusively for satisfying paragraph (a)(2) of this section, the exemption may not be granted until the Executive Director for Operations has consulted with the Commission.

(b) Any person may request an exemption permitting the conduct of activities prior to the issuance of a construction permit prohibited by § 50.10. The Commission may grant such an exemption upon considering and balancing the following factors:

(1) Whether conduct of the proposed activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(2) Whether redress of any adverse environment impact from conduct of the proposed activities can reasonably be effected should such redress be necessary;

(3) Whether conduct of the proposed activities would foreclose subsequent adoption of alternatives; and

(4) The effect of delay in conducting such activities on the public interest, including the power needs to be used by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis and delay costs to the applicant and to consumers.

Issuance of such an exemption shall not be deemed to constitute a commitment to issue a construction permit. During the period of any exemption granted pursuant to this paragraph (b), any activities conducted shall be carried out in such a manner as will minimize or reduce their environmental impact.

[37 FR 5748, Mar. 21, 1972, as amended at 40 FR 8789, Mar. 3, 1975; 50 FR 50777, Dec. 12, 1985]

§ 50.13 Attacks and destructive acts by enemies of the United States; and defense activities.

An applicant for a license to construct and operate a production or utilization facility, or for an amendment to such license, is not required to provide for design features or other measures for the specific purpose of protection against the effects of (a) attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or (b) use or deployment of weapons incident to U.S. defense activities.

[32 FR 13445, Sept. 26, 1967]

CLASSIFICATION AND DESCRIPTION OF LICENSES

§ 50.20 Two classes of licenses.

Licenses will be issued to named persons applying to the Commission therefor, and will be either class 104 or class 103.