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DOCKET NUMBER
PROPOSED RULE **PR-50**
(50 FR 16506)

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Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Service Branch

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Dear Sir:

On April 26, 1985, the Commission published for comment a proposed rule containing criteria for the granting of exemptions from NRC regulations. (50 F.R. 16506-11.) The Atomic Industrial Forum's Lawyers Committee has reviewed the proposal and has the following comments. The Committee has previously filed comments in connection with the Commission's consideration of the exemption process (see letter dated August 23, 1984, from Committee Chairman Barton Z. Cowan to NRC Chairman Nunzio J. Palladino). Those prior comments remain relevant and are hereby incorporated by reference.

We believe the Commission has chosen the correct "general standard" for granting exemptions (section 50.12 (a)(1) of the proposal). This general standard incorporates both the appropriate statutory language and the staff's existing practices. The "special circumstances" language proposed by Commissioner Asselstine (section 50.12 (a)(2)) of the alternative appearing in his separate views) appears to be unnecessary. The fact that the concept of "special circumstances" is also discussed in the statement accompanying the proposal (50 F.R. 16508, second and third columns) indicates that it is the intent of the entire Commission that exemptions be granted only in these circumstances.

With respect to the remainder of the proposal, the Committee has two principal comments. First, it is apparent from a reading of the accompanying statement that the Commission intends to limit the use of schedular or temporary exemptions. That is, temporary exemptions will be filed and processed formally under new 10 CFR 50.12(a). (50 F.R. 16508, first column.) The Committee's August 23, 1984, comments to the Commission as well as the comments of others* have emphasized the need to continue the staff's practice of granting such

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*See, for example, the August 31, 1984, comments of Northeast Utilities and the September 10, 1984, comments of Bishop, Liberman, Cook, Purcell & Reynolds on behalf of Duke Power Company.

Acknowledged by card..... JUN 3 1985

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add: J. Y. Cameron, 9604 MNB B

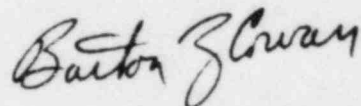
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requests on a more informal, expedited basis. The authority to do so can be found in 10 CFR 50.57(b) which provides that "[e]ach operating license will include appropriate provisions with respect to any uncompleted items of construction and such limitations or conditions as are required to assure that operation during the period of the completion of such items will not endanger public health and safety." Nothing in the Commission's April 26th proposal modifies this regulatory provision, and we interpret the proposed rule as permitting the staff to proceed under 10 CFR 50.57(b) without the need to obtain a 50.12(a) exemption.

Secondly and as noted in our previous comments, it is necessary to consider the effect of this rule revision on other areas of licensing such as the Sholly amendment process and integrated scheduling plans (also known as the "living schedule" concept.) Some of these secondary effects were discussed during the Commission's public meetings of July 25 and October 3, 1984, but complete notice to the public and the regulated industry requires that the full implications of the exemptions rule change be discussed in the Federal Register materials accompanying the proposal.

Sincerely,



Chairman, AIF
Lawyers Committee