

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Emily I. Krause, Chair
Dr. Gary S. Arnold
Dr. Arielle J. Miller

In the Matter of

HOLTEC DECOMMISSIONING
INTERNATIONAL, LLC, AND HOLTEC
PALISADES, LLC

(Palisades Nuclear Plant)

Docket No. 50-255-LA-3

ASLBP No. 24-986-01-LA-BD01

March 31, 2025

MEMORANDUM AND ORDER
(Ruling on Intervention Petitions)

Holtec Decommissioning International, LLC (HDI), and Holtec Palisades, LLC (collectively, Applicants) are pursuing a possible restart of the Palisades Nuclear Plant in Covert Township, Michigan. As part of this effort, Applicants have filed four requests to amend the Palisades renewed facility operating license.¹ In addition, Applicants have requested an exemption from 10 C.F.R. § 50.82(a)(2), which precludes operation of a reactor or emplacement

¹ Holtec Decommissioning International, LLC, and Holtec Palisades, LLC; Palisades Nuclear Plant; Applications for Amendments to Renewed Facility Operating License Involving Proposed No Significant Hazards Considerations and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information, 89 Fed. Reg. 64,486, 64,487 (Aug. 7, 2024) (License Amendment Hearing Opportunity Notice).

or retention of fuel in the reactor vessel after the NRC has docketed a licensee's certifications of permanent cessation of operations and permanent removal of fuel.²

Pending before this Licensing Board are two hearing requests and petitions to intervene: one filed by Alan Blind, on behalf of himself and Bruce Davis, Karen Davis, Jody Flynn, Thomas Flynn, Christian Moevs, Dianne Ebert, Mary Huffman, and Chuck Huffman (collectively, Joint Petitioners); and the other filed by Beyond Nuclear, Don't Waste Michigan, Michigan Safe Energy Future, Three Mile Island Alert, and Nuclear Energy Information Service (collectively, Petitioning Organizations).³ In addition to challenging the license amendment requests, Joint Petitioners and Petitioning Organizations seek to challenge the exemption request. For the reasons set forth below, we conclude that Joint Petitioners and Petitioning Organizations have demonstrated standing to intervene, but their proposed contentions are not admissible.⁴

² Id.; 10 C.F.R. § 50.82(a)(2).

³ See Establishment of Atomic Safety and Licensing Board (Sept. 17, 2024); 89 Fed. Reg. 77,546 (Sept. 23, 2024); Memorandum from Carrie M. Safford, Secretary, Office of the Secretary, to E. Roy Hawken, Chief Administrative Judge, Atomic Safety and Licensing Board Panel (Oct. 16, 2024) (October 16 Referral Memorandum); Memorandum from Tomas E. Herrera, Acting Secretary, Office of the Secretary, to E. Roy Hawken, Chief Administrative Judge, Atomic Safety and Licensing Board Panel (Sept. 16, 2024). In her referral memorandum, the Secretary noted that Petitioning Organizations objected to the designation of an Atomic Safety and Licensing Board to rule on their hearing petition and requested that there "be assigned a U.S. Constitution, Article III judge for purposes of all pretrial and trial activity." October 16 Referral Memorandum at 1. Finding that Petitioning Organizations had "presented no authority suggesting that the Commission may assign incoming hearing petitions to federal judges in Article III courts," the Secretary referred the petition for disposition by a licensing board in accordance with her authority under 10 C.F.R. § 2.346(i). Id.

⁴ Petitioning Organizations filed a motion to admit new and amended contentions on March 3, 2025. Petitioning Organizations' Motion to File Amended and New Contentions (Mar. 3, 2025); Petitioning Organizations' Amended and New Contentions Based on Draft Environmental Assessment/Finding of No Significant Impact for Palisades Nuclear Power Plant (Mar. 3, 2025) (Petitioning Organizations New and Amended Contentions). Because these contentions are currently pending before us, we do not terminate the proceeding.

I. BACKGROUND

The NRC issued an operating license for the Palisades Nuclear Plant on March 24, 1971, and in 2007, the NRC granted a renewed operating license for a term ending on March 24, 2031.⁵ Ten years later, Entergy Nuclear Operations, Inc. (Entergy), the licensee and operator of Palisades at that time, notified the NRC of its intent to shut down the plant before the expiration of the renewed license term.⁶ Thereafter, Entergy, and later, HDI, pursued and received a series of regulatory exemptions and license amendments to reflect the reactor's shutdown and defueled status, including changes to the operating license and technical specifications, administrative controls, and site emergency plan.⁷

On June 13, 2022, Entergy certified to the NRC that it had ceased operations on May 20, 2022, and that it had removed fuel from the reactor vessel on June 10, 2022.⁸ With the NRC's docketing of these certifications, and by application of 10 C.F.R. § 50.82(a)(2), the Palisades renewed operating license no longer authorized operation of the reactor or emplacement or retention of fuel in the reactor vessel.⁹ Entergy transferred the license to

⁵ License Amendment Hearing Opportunity Notice, 89 Fed. Reg. at 64,487; Letter from Juan Ayala, NRC, to Paul A. Harden, Nuclear Management Company, LLC (Jan. 17, 2007) (ADAMS Accession No. ML070100476).

⁶ Letter from Charles F. Arnone, Entergy, to NRC Document Control Desk (Jan. 4, 2017) (ML17004A062).

⁷ See, e.g., Letter from Scott P. Wall, NRC, to Vice President, Operations, Entergy (May 13, 2022) (ML22039A198) (approving amendments to operating license and technical specifications); Letter from Scott P. Wall, NRC, to Vice President, Operations, Entergy (June 4, 2018) (ML18114A410) (approving amendments to administrative controls); Letter from Tanya E. Hood, NRC, to Jean A. Fleming, Holtec International (Dec. 27, 2023) (ML23236A004) (approving amendments to site emergency plan).

⁸ See Letter from Darrell W. Corbin, Entergy, to NRC Document Control Desk (June 13, 2022) (ML22164A067).

⁹ See 10 C.F.R. § 50.82(a)(2).

Holtec Palisades, as the licensed owner, and HDI, as the licensed operator, on June 28, 2022, to begin the process of decommissioning the plant.¹⁰

HDI now is pursuing a potential restart of the Palisades Nuclear Plant on behalf of Holtec Palisades. To that end, Applicants have proposed a regulatory roadmap, with reference to a 2021 denial of a petition for rulemaking¹¹ in which the Commission concluded that “the existing regulatory framework may be used” to address restart requests.¹² Thus, using the existing regulatory framework, Applicants seek to unwind the modifications that had been approved in furtherance of shutdown.¹³

In particular, Applicants seek an exemption from 10 C.F.R. § 50.82(a)(2) to allow operation of the reactor and emplacement and retention of fuel.¹⁴ Three of Applicants’ license amendment requests would, if approved, undo and revise prior amendments to the Palisades

¹⁰ See Letter from Jean A. Fleming, Holtec International, to Bo Pham, NRC (Mar. 13, 2023) at 1–2 (ML23072A404) (Applicants Proposed Regulatory Path); Letter from Scott P. Wall, NRC, to Pierre Paul Oneid, Holtec International, and Kelly D. Trice, HDI (June 28, 2022) at 1–2 (ML22173A173). In March 2023, a presiding officer compiled and certified to the Commission an evidentiary record regarding issues raised in the Michigan Attorney General’s challenge to the transfer from Entergy to Holtec Palisades and HDI. See Entergy Nuclear Operations, Inc. (Palisades Nuclear Plant and Big Rock Point Site), LBP-23-5, 97 NRC 116 (2023). The certified record remains pending before the Commission.

¹¹ See Applicants Proposed Regulatory Path at 1–2, 4.

¹² Petition for Rulemaking, Denial, Criteria to Return Retired Nuclear Power Reactors to Operations, 86 Fed. Reg. 24,362, 24,362 (May 6, 2021) (Denial of Petition for Rulemaking); Staff Requirements—SECY-20-0110—Denial of Petition for Rulemaking on Criteria to Return Retired Nuclear Power Reactors to Operations (PRM-50-117; NRC-2019-0063) (Apr. 1, 2021) (ML21091A228 (package)).

¹³ See Applicants Proposed Regulatory Path at 2 (“While NRC regulations do not prescribe a specific regulatory path for reinstating operational authority following docketing of the 50.82(a)(1) certifications, the NRC has recognized that its existing regulatory framework—namely the process of reviewing and approving exemption and license amendment requests prescribed by 10 CFR 50.12 and 50.90—provides adequate flexibility to accommodate reauthorization of operations.”).

¹⁴ Applicants Proposed Regulatory Path, Encl. 1, at 2; Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (Sept. 28, 2023) (ML23271A140) (Exemption Request).

operating license and technical specifications, administrative controls, and site emergency plan.¹⁵ The fourth license amendment request would allow the use of a particular methodology for analyzing a main steam line break.¹⁶ Applicants also requested to transfer the Palisades operating license to a new entity that would operate the plant if restart is authorized.¹⁷

The NRC, for its part, established the Palisades Restart Panel to coordinate and oversee the restart project.¹⁸ Its “primary objective is to proactively identify and promptly resolve any licensing, inspection, or regulatory challenges that concern the Palisades restart.”¹⁹ Among its tasks, the Restart Panel serves to identify “the regulatory reviews and approvals . . . necessary to return the plant to operation and plac[e] them in the appropriate sequence to facilitate implementation and oversight.”²⁰ Applicants acknowledge that additional regulatory reviews and approvals will be necessary to return Palisades to operation, some of which are already in progress.²¹

On August 7, 2024, the NRC published in the Federal Register a notice of opportunity to request a hearing and petition to intervene on Applicants’ four license amendment requests with

¹⁵ Applicants Proposed Regulatory Path, Encl. 1, at 2–3; Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (Dec. 14, 2023) (ML23348A148) (Operating License and Technical Specifications Amendment Request); Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (Feb. 9, 2024) (ML24040A089); Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (May 1, 2024) (ML24122C666).

¹⁶ Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (May 24, 2024) (ML24145A145).

¹⁷ Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (Dec. 6, 2023) (ML23340A161) (Restart Transfer Request).

¹⁸ Memorandum from Andrea D. Veil and John B. Giessner, NRC, to Distribution List (Nov. 27, 2023) Encl. at 1–5 (ML23297A053) (Palisades Restart Panel Charter).

¹⁹ Id. at 1.

²⁰ Id. at 2.

²¹ See Applicants Proposed Regulatory Path, Encl. 1, at 3–7.

an October 7, 2024 deadline for intervention petitions.²² In that notice, the NRC also explained that it was providing a hearing opportunity on the license transfer request, but under a separate Federal Register notice issued the same day, with an intervention-petition deadline of August 27, 2024.²³ The NRC further stated that it was not publishing a notice of opportunity for hearing on the exemption request, but the Secretary of the Commission later clarified by order that the presiding officer of the license amendment proceeding would determine whether any challenges to the exemption request were within the license amendment proceeding's scope.²⁴

On September 9, 2024, Alan Blind filed an intervention petition on behalf of Joint Petitioners, followed by eleven supplements filed before the October 7, 2024 intervention-petition deadline, with five proposed contentions, one of which Joint Petitioners subsequently withdrew.²⁵ Although Mr. Blind did not name himself as a petitioner initially, he identified his

²² License Amendment Hearing Opportunity Notice, 89 Fed. Reg. at 64,486–93.

²³ Id. at 64,487; see Holtec Decommissioning International, LLC, Holtec Palisades, LLC, and Palisades Energy, LLC; Palisades Nuclear Plant and the Palisades Independent Spent Fuel Storage Installation; Consideration of Approval of Transfer of Licenses and Conforming Amendment, 89 Fed. Reg. 64,493 (Aug. 7, 2024) (License Transfer Hearing Opportunity Notice).

²⁴ License Amendment Hearing Opportunity Notice, 89 Fed. Reg. at 64,487; Order of the Secretary; Holtec Decommissioning International, LLC (Sept. 26, 2024) at 3 (unpublished) (ML24270A263) (clarifying that the Federal Register notice “does not categorically exclude or predetermine the admissibility of contentions that a petitioner may submit, including contentions relating to an exemption request” and that the “admissibility of such contentions will be determined by the presiding officer to the proceeding, in accordance with 10 C.F.R. § 2.309 and established Commission practice”).

²⁵ Joint Petitioners Hearing Petition (Sept. 9, 2024); Supplemental Filing to Strengthen Standing of Petitioners in NRC Docket No. 50-255-LA-3 (dated Sept. 19, 2024; filed Sept. 20, 2024) (Supplement 1); Supplemental Submission to the Petition Regarding the Safety Impact of Steam Generator Tube Plugging at Palisades Nuclear Plant (dated Sept. 19, 2024; filed Sept. 20, 2024) (Supplement 2); Supplemental Filing to Strengthen that Holtec’s Proposed Use of § 50.59 Is Within the Scope of the FRN [(Federal Register Notice)] for Requesting a Public Hearing (dated and filed Sept. 22, 2024) (Supplement 3); Part Two, Supplemental Submission to the Petition Regarding the Safety Impact of Steam Generator Tube Plugging at Palisades Nuclear Plant (dated and filed Sept. 22, 2024) (Supplement 4); Part Three, Supplemental Submission to the Petition Regarding the Safety Impact of Steam Generator Tube Plugging at Palisades Nuclear Plant: the Need for NRC to Review the Palisades Design Basis of SSCs

interest in the proceeding and stated that Joint Petitioners had selected him to serve as their representative and point of contact.²⁶ Because Mr. Blind is not an attorney and because he had not identified himself as a petitioner, we provided Joint Petitioners an opportunity to address an apparent issue with their representation under 10 C.F.R. § 2.314, along with an opportunity for the other participants to respond.²⁷ Mr. Blind thereafter requested to be named as one of Joint Petitioners, and Joint Petitioners confirmed their wish to consolidate their petitions and have Mr.

[(Systems, Structures, and Components)] to Next Approve Accident Safety Analysis and Evaluate Steam Generator Tube Plugging Limits (dated and filed Sept. 22, 2024) (Supplement 5); Supplemental Filing to Emphasize the Importance of Transparency in NRC and Holtec's Processes: the Need for a Public Hearing (dated Sept. 23, 2024; filed Sept. 24, 2024) (Supplement 6); Supplemental, Part Two, Filing to Strengthen Standing of Petitioners in NRC Docket No. 50-255-LA-3 (dated and filed Sept. 25, 2024) (Supplement 7); Part Two: Supplemental Filing to Further Strengthen the Argument that Holtec's Proposed Use of § 50.59 Is Flawed and Requires NRC Oversight, Based on NEI [(Nuclear Energy Institute)] 96-07 Guidelines for 10 CFR 50.59 Implementation (dated and filed Sept. 27, 2024) (Supplement 8); Third Supplemental Filing to Highlight the Critical Need to Use a FSAR [(Final Safety Analysis Report)] Based on Current General Design Criteria, Unlike Holtec's Proposed Use of 50.59 to Build a FSAR: Before Analysis of the Significant Stress Corrosion Cracking (SCC) in Steam Generator Tubing Findings (dated and filed Oct. 3, 2024) (Supplement 9); Contention Five: Holtec's Exemption Request Fails to Meet Requirements for Acceptance Review, as per 10 CFR 50.12, "Specific Exemptions" (dated and filed Oct. 4, 2024) (Supplement 10); Supplemental Filing: Further Basis for Contention Five, Holtec's Proposed Sequence, Without NRC Approval, Predicate for Specific Exception Request NRC Staff Review (dated and filed Oct. 5, 2024) (Supplement 11); Petitioners' Notice of Withdrawal of Contention 4 (Jan. 31, 2025) (Withdrawal of Joint Petitioners' Contention 4).

²⁶ See Joint Petitioners Hearing Petition at 13, 15–16, 19, 72–74.

²⁷ Licensing Board Order (Concerning Oral Argument Scheduling and Joint Petitioners' Representation) (Nov. 14, 2024) at 2–3 (unpublished); see 10 C.F.R. § 2.314(b) ("A person may appear in an adjudication on his or her own behalf or by an attorney-at-law.").

Blind serve as their designated point of contact.²⁸ We granted Mr. Blind's and Joint Petitioners' requests.²⁹

On October 7, 2024, Petitioning Organizations filed an intervention petition with seven proposed contentions, attaching declarations in support of their standing and the admissibility of their contentions.³⁰ The petition and its attachments, however, were filed on the docket for the

²⁸ Joint Petitioners' Brief on Representation, Consolidation of Petitions, and Standing of Our Appointed Consolidated Point of Contact, Alan Blind (Nov. 21, 2024) at 2 (Joint Petitioners Brief on Representation Issue). Joint Petitioners supplemented their brief on December 2, 2024, within our established December 5, 2024 briefing deadline. Supplemental Filing, Harm Linkage Explanation (Dec. 2, 2024). Applicants and the Staff filed timely response briefs on December 12, 2024. Applicants' Response to Joint Petitioners' Supplemental Filings (Dec. 12, 2024) (Applicants Brief on Representation Issue); NRC Staff Answer to Joint Petitioners' Brief on Representation, Consolidation of Petitions, and Standing of Consolidated Point of Contact, Alan Blind (Dec. 12, 2024) (Staff Brief on Representation Issue).

²⁹ See Licensing Board Order (Addressing Joint Petitioners' Representation and Requesting Information on Availability for Oral Argument) (Dec. 17, 2024) at 4–5 (unpublished) (Board Order Addressing Representation Issue). We consider any procedural defects with Joint Petitioners' representation and compliance with the signature requirements in 10 C.F.R. §§ 2.304(d) and 2.314(b) to be cured.

³⁰ Petition to Intervene and Request for Adjudicatory Hearing by Beyond Nuclear, Don't Waste Michigan, Michigan Safe Energy Future, Three Mile Island Alert and Nuclear Energy Information Service (dated Oct. 7, 2024; filed Oct. 10, 2024) at 30–73 (Petitioning Organizations Hearing Petition). Attached to the petition are several supporting documents labeled "exhibits." See Declaration of Arnold Gundersen in Support of Petition to Intervene and Request for Adjudicatory Hearing by Michigan Safe Energy Future, Don't Waste Michigan, Nuclear Energy Information Service, Three Mile Island Alert, and Beyond Nuclear (dated Oct. 7, 2024; filed Oct. 10, 2024) (Gundersen Declaration); Arnold Gundersen, Curriculum Vitae, Chief Engineer, Fairewinds Associates, Inc. (dated Oct. 2024; filed Oct. 10, 2024); Declaration of Kevin Kamps (dated Nov. 26, 2023; filed Oct. 10, 2024) (Kamps Declaration); Declaration of Mark Z. Jacobson and Curriculum Vitae (declaration dated Sept. 10, 2024; curriculum vitae last updated Oct. 11, 2023; both filed Oct. 10, 2024) (Jacobson Declaration); Declaration of Authorized Officer of Beyond Nuclear in Support of Petition for Leave to Intervene in Palisades Nuclear Plant License Transfer, Exemption and License Amendment Request Proceedings (dated Aug. 27, 2024; filed Oct. 10, 2024); Declaration of William D. Reed in Support of Petition for Leave to Intervene in Palisades Nuclear Power Plant Exemption Proceeding (dated Aug. 27, 2024; filed Oct. 10, 2024) (Reed Declaration); Declaration of Carolyn Ferry in Support of Petition for Leave to Intervene in Palisades Nuclear Plant Exemption Proceeding (dated Aug. 25 and 27, 2024; filed Oct. 10, 2024) (Ferry Declaration); Declaration of Authorized Officer of Three Mile Island Alert in Support of Petition for Leave to Intervene in Palisades Nuclear Plant Exemption and License Amendment Request Proceeding (dated Oct. 4 and 7, 2024; filed Oct. 10, 2024); Declaration of David Staiger in Support of Petition for Leave to Intervene in Palisades Nuclear Plant License Transfer Proceeding (dated Oct. 5 and 7, 2024; filed Oct. 10, 2024) (Staiger

license transfer proceeding. After the Office of the Secretary notified Petitioning Organizations of their filing error, they refiled the petition on the correct docket on October 10, 2024, three days after the deadline for intervention petitions.³¹ Additionally, almost four months after the intervention deadline, Petitioning Organizations filed two attachments that they assert were inadvertently omitted from their petition.³²

We established a consolidated briefing schedule for answers and replies.³³ Applicants and the Staff filed answers to the intervention petitions on November 4, 2024.³⁴ Joint

Declaration); Declaration of Authorized Officer of Don't Waste Michigan in Support of Petition for Leave to Intervene in Palisades Nuclear Plant License Transfer, Exemption and License Amendment Request Proceedings (dated Aug. 27, 2024; filed Oct. 10, 2024); Declaration of Alice Hirt in Support of Petition for Leave to Intervene in Palisades Nuclear Power Plant Exemption Proceeding (dated Aug. 25 and 27, 2024; filed Oct. 10, 2024) (Hirt Declaration); Declaration of Joseph C. Kirk in Support of Petition for Leave to Intervene in Palisades Nuclear Power Plant Exemption Proceeding (dated Oct. 3, 2024; filed Oct. 10, 2024) (Kirk Declaration); Declaration of Authorized Officer of Michigan Safe Energy Future in Support of Petition for Leave to Intervene in Palisades Nuclear Plant License Transfer, Exemption and License Amendment Proceedings (dated Aug. 27, 2024; filed Oct. 10, 2024); Declaration of James Scott in Support of Petition for Leave to Intervene in Palisades Nuclear Plant Exemption Proceeding (dated Aug. 24 and 27, 2024; filed Oct. 10, 2024) (J. Scott Declaration); Declaration of Ann Scott in Support of Petition for Leave to Intervene in Palisades Nuclear Plant License Transfer Proceeding (dated Aug. 24 and Aug 27, 2024; filed Oct. 10, 2024) (A. Scott Declaration); Declaration of Authorized Officer of Nuclear Energy Information Service in Support of Petition for Leave to Intervene in Palisades Nuclear Plant Exemption and License Amendment Request Proceeding (dated Oct. 4 and 7, 2024; filed Oct. 10, 2024); Declaration of John Brenneman in Support of Petition for Leave to Intervene in Palisades Nuclear Plant License Transfer Proceeding (dated Oct. 4 and 7, 2024; filed Oct. 10, 2024) (Brenneman Declaration).

³¹ See E-mail from Hearing Docket, NRC, to Wallace Taylor, Counsel for Petitioning Organizations (Oct. 8, 2024, 8:12:58 AM) (ML24289A193); E-mail from Hearing Docket, NRC, to License Transfer Proceeding Service List (Oct. 8, 2024, 2:53:52 PM) (ML24289A194); E-mail from Hearing Docket, NRC, to Wallace Taylor, Counsel for Petitioning Organizations (Oct. 9, 2024, 2:51:59 PM) (ML24289A195); E-mail from Wallace Taylor, Counsel for Petitioning Organizations, to Hearing Docket, NRC (Oct. 10, 2024, 5:11:12 PM) (ML24289A196).

³² Notice of Filing of Inadvertently Omitted Supporting Attachments to Declaration of Mark Z. Jacobson (Feb. 1, 2025) at 1 (Notice of Filing Attachments to Jacobson Declaration).

³³ Licensing Board Order (Amending Initial Prehearing Order) (Oct. 17, 2024) at 2 (unpublished) (Amended Initial Prehearing Order).

³⁴ Applicants' Answer Opposing Joint Petitioners' Petition for Hearing (Nov. 4, 2024) (Applicants Answer to Joint Petitioners); Applicants' Answer Opposing Beyond Nuclear et al.'s Petition for

Petitioners and Petitioning Organizations replied on November 8, 2024, and November 12, 2024, respectively.³⁵

Petitioning Organizations included a supplemental declaration from one of their experts, Arnold Gundersen, with their reply.³⁶ Additionally, Petitioning Organizations filed a second supplemental declaration from Arnold Gundersen on November 18, 2024, correcting statements in his prior two declarations.³⁷ Applicants filed a motion to strike portions of Petitioning Organizations' reply on November 22, 2024.³⁸ Petitioning Organizations oppose the motion to strike.³⁹

Hearing (Nov. 4, 2024) (Applicants Answer to Petitioning Organizations); NRC Staff Answer to Hearing Request from Individual Petitioners in Palisades Restart Amendment Proceeding (Nov. 4, 2024) (Staff Answer to Joint Petitioners); NRC Staff Answer to Intervention Petition from Beyond Nuclear, Don't Waste Michigan, Michigan Safe Energy Future, Three Mile Island Alert, and Nuclear Energy Information Service in Palisades Restart Amendments Proceeding (Nov. 4, 2024) (Staff Answer to Petitioning Organizations).

³⁵ Petitioner's Rebuttal: NRC Staff Answer to Hearing Request from Individual Petitioners in Palisades Restart Amendment Proceeding (dated Nov. 7, 2024; filed Nov. 8, 2024) (Joint Petitioners Reply to Staff); Petitioner's Rebuttal: Applicants' Answer Opposing Joint Petitioners' Petition for Hearing (dated Nov. 7, 2024; filed Nov. 8, 2024) (Joint Petitioners Reply to Applicants); Petitioning Organizations' Combined Reply to Answers Filed by NRC Staff and Holtec to the Petition to Intervene (Nov. 12, 2024) (Petitioning Organizations Reply).

³⁶ Supplemental Declaration of Arnold Gundersen in Support of Petition to Intervene and Request for Adjudicatory Hearing by Michigan Safe Energy Future, Don't Waste Michigan, Nuclear Energy Information Service, Three Mile Island Alert, and Beyond Nuclear (Nov. 12, 2024) (Supplemental Gundersen Declaration).

³⁷ Petitioning Organizations' Notice of Filing of Second Supplemental Declaration of Arnold Gundersen (Nov. 18, 2024); Second Supplemental Declaration of Arnold Gundersen in Support of Petition to Intervene and Request for Adjudicatory Hearing by Michigan Safe Energy Future, Don't Waste Michigan, Nuclear Energy Information Service, Three Mile Island Alert, and Beyond Nuclear (dated Nov. 17, 2024; filed Nov. 18, 2024) (Second Supplemental Gundersen Declaration).

³⁸ Applicants' Motion to Strike Portions of Beyond Nuclear et al.'s Combined Reply to Answers Filed by Applicants and NRC Staff (Nov. 22, 2024) (Motion to Strike).

³⁹ Petitioning Organizations' Response in Opposition to Applicants' Motion to Strike Portions of Beyond Nuclear Et Al.'s Combined Reply to Answers Filed by Applicants and NRC Staff (Dec. 2, 2024) (Petitioning Organizations Response to Motion to Strike).

Also pending before us are several filings from Joint Petitioners that appear to be intended either as requests to supplement their hearing petition and their reply or requests to add documents to the adjudicatory record.⁴⁰ These filings were submitted after the intervention-petition deadline, and all but one were filed after the deadline for replies. Applicants and the Staff have filed responses opposing the supplemental filings.⁴¹

On January 31, 2025, the Staff provided notice of its issuance of the Draft Environmental Assessment (Draft EA) and Draft Finding of No Significant Impact (Draft FONSI) for the

⁴⁰ Request to Add Correspondence to Docket No. 50-255-LA-3 (dated Oct. 19, 2024; filed Oct. 20, 2024) (Joint Petitioners October 20 Supplement); Supplement to Petitioner's Rebuttal to NRC Staff's: Applicants' Answer Opposing Joint Petitioners' Petition for Hearing (Dec. 8, 2024) (Joint Petitioners December 8 Supplement); Rebuttal to NRC Staff's Reply with New Comments (Dec. 13, 2024) (Joint Petitioners December 13 Supplement A); Supplement Two Based on New Information, to Supplement Petitioner's Rebuttal to NRC Staff's: Applicants' Answer Opposing Joint Petitioners' Petition for Hearing (Dec. 13, 2024) (Joint Petitioners December 13 Supplement B); Ensuring a Common Understanding of NRC Terms: Design Basis, Final Safety Analysis Report (FSAR), and Technical Specifications (Dec. 16, 2024) (Joint Petitioners December 16 Supplement); Motion to Include NRC Staff LAR Reviewer Request for Additional Information Concerning Updated Operations FSAR and Holtec's Use of 10 C.F.R. § 50.59 into the Adjudication Docket (Dec. 31, 2024) (Joint Petitioners December 31 Supplement). Joint Petitioners initially requested an extension of time to file their December 31 supplement, which the Staff opposed, but Joint Petitioners withdrew the extension request. See Joint Petitioners' Motion for Extension of Time (Dec. 30, 2024); NRC Staff Answer to Joint Petitioners' Motion for Extension of Time (Dec. 31, 2024) at 1; Joint Petitioners December 31 Supplement at 3.

⁴¹ See Applicants Answer to Joint Petitioners at 67–69; Staff Answer to Joint Petitioners at 83–84; Applicants Brief on Representation Issue at 7–9; NRC Staff Answer to Joint Petitioners' Requests to Supplement their Replies to the Answers to Joint Petitioners' Hearing Request (Dec. 18, 2024) at 1–2 (Staff December 18 Response); Applicants' Answer to Joint Petitioners' Late-Filed Pleadings (Dec. 19, 2024) at 1–2 n.1; NRC Staff Answer to Joint Petitioners' Motion to Include NRC Staff Request for Additional Information and Applicant Response into the Adjudication Docket (Jan. 8, 2025) at 1; Applicants' Opposition to Joint Petitioners' Motion to Add RAI Documents to the Adjudicatory Docket (Jan. 9, 2025) at 1–2. But see Staff December 18 Response at 1 n.1 (stating that the Staff was not responding to Joint Petitioners December 13 Supplement A).

Palisades restart project.⁴² We sought and received briefs from the participants on the impact of these documents on the proposed contentions.⁴³

We held oral argument on February 12, 2025, to allow Joint Petitioners, Petitioning Organizations, Applicants, and the Staff to address issues raised in the intervention petitions and related filings.⁴⁴ Because we have been tasked with ruling on these petitions, we direct our focus to the requirements for intervention—timeliness, standing, and contention admissibility.⁴⁵

⁴² Notification of Availability of Draft Environmental Assessment and Draft Finding of No Significant Impact (Jan. 31, 2025) (Staff Notification); see “Draft Environmental Assessment and Draft Finding of No Significant Impact for the Palisades Nuclear Plant Reauthorization of Power Operations Project” (Draft for Comment) (Jan. 2025) (ML24353A157) (Draft EA and Draft FONSI); Holtec Decommissioning International, LLC and Holtec Palisades, LLC; Palisades Nuclear Plant; Draft Environmental Assessment and Draft Finding of No Significant Impact, 90 Fed. Reg. 8721 (Jan. 31, 2025).

⁴³ Licensing Board Order (Scheduling Briefing Concerning the Draft Environmental Assessment and Draft Finding of No Significant Impact) (Feb. 3, 2025) (unpublished) (Order Scheduling Briefing on Draft EA/FONSI); Petitioning Organizations’ Brief on Effects of Environmental Assessment/Finding of No Significant Impact for Palisades Nuclear Power Plant (Feb. 19, 2025) (Petitioning Organizations Initial Brief on Draft EA/FONSI); NRC Staff Position on the Effect of the Staff’s Draft Environmental Assessment and Draft Finding of No Significant Impact on the Admissibility of Petitioning Organizations’ Proposed Environmental Contentions (Feb. 19, 2025) (Staff Initial Brief on Draft EA/FONSI); Applicants’ Brief in Response to Board’s Order Requesting Briefing on Impact of Draft Environmental Assessment and Draft Finding of No Significant Impact (Feb. 19, 2025) (Applicants Initial Brief on Draft EA/FONSI); Petitioning Organizations’ Response Brief on Effects of Environmental Assessment/Finding of No Significant Impact for Palisades Nuclear Plant (Feb. 26, 2025) (Petitioning Organizations Response Brief on Draft EA/FONSI); NRC Staff Response to Petitioning Organizations’ Brief on the Effect of the Staff’s Draft Environmental Assessment and Draft Finding of No Significant Impact on the Admissibility of the Proposed Environmental Contentions (Feb. 26, 2025) (Staff Response Brief on Draft EA/FONSI); Applicants’ Response Brief Regarding Impact of Draft EA/FONSI (Feb. 26, 2025) (Applicants Response Brief on Draft EA/FONSI).

⁴⁴ Tr. at 1–94; Licensing Board Order (Correcting Prehearing Conference Transcript) (Mar. 13, 2025) (unpublished). In advance of the argument, Joint Petitioners filed written opening and closing statements.

⁴⁵ See 10 C.F.R. § 2.309(a), (b).

II. ANALYSIS

A. Timeliness of Petitioning Organizations' Hearing Petition

We first address the threshold issue of the timeliness of Petitioning Organizations' hearing petition, since it was filed three days after the intervention petition deadline.⁴⁶ As discussed above, the Office of the Secretary created separate dockets for this proceeding and the Palisades license transfer proceeding. Petitioning Organizations initially filed their petition on the license transfer docket. Over the course of three days, the Office of the Secretary attempted to contact counsel for Petitioning Organizations to alert them to the filing error.⁴⁷

Counsel responded on October 10, 2024, and filed the petition on the correct docket later that day.⁴⁸ Petitioning Organizations did not amend the date of their petition, which still reads October 7, 2024, nor did they provide an explanation at that time for the three-day delay. Rather, they waited until they filed their reply on November 12, 2024, after Applicants had objected to the petition on timeliness grounds.⁴⁹

In their reply, Petitioning Organizations state that their counsel was out of the office until October 10 and responded as soon as he returned.⁵⁰ They claim that the Federal Register notice for this proceeding "does not contain any reference whatever to the new number created for this docket."⁵¹ They further assert that the emails from the Office of the Secretary make

⁴⁶ See id. § 2.309(b)(3), (c).

⁴⁷ See supra note 31.

⁴⁸ Id.

⁴⁹ See Applicants Answer to Petitioning Organizations at 2; Petitioning Organizations Reply at 8–9. The Staff does not challenge the timeliness of Petitioning Organizations' hearing petition. See Staff Answer to Petitioning Organizations at 1 n.1 (noting, without objecting to, the timing of Petitioning Organizations' filing).

⁵⁰ Petitioning Organizations Reply at 9.

⁵¹ Id. at 8.

clear that their petition “was being treated as timely filed.”⁵² In addition, pointing to our order setting the deadline for answers at twenty-five days from the date the petition was filed on the correct docket, Petitioning Organizations claim that Applicants cannot show any prejudice from the late-filed petition.⁵³ Finally, Petitioning Organizations assert that Applicants have not referenced any NRC regulation or case law in support of the argument that the petition should be dismissed for late filing.⁵⁴

Petitioning Organizations are represented by counsel who have appeared in multiple NRC adjudications. Given that experience, we find it difficult to credit their claim of surprise that there would be two different dockets when the separate Federal Register notices made clear that the agency treated the proceedings as distinct, with different deadlines, each with instructions for prospective petitioners to contact the Secretary in advance of filing a petition to ensure that a docket had been created for that proceeding.⁵⁵ We are also not persuaded by Petitioning Organizations’ claim that the email communications from the Office of the Secretary indicated that the Secretary had deemed the petition to be timely filed.⁵⁶ There is nothing in the emails exchanged between the Secretary’s staff and Petitioning Organizations’ counsel to

⁵² Id. at 9.

⁵³ Id.

⁵⁴ Id.

⁵⁵ See Licensing Amendment Hearing Opportunity Notice, 89 Fed. Reg. at 64,488–89; License Transfer Hearing Opportunity Notice, 89 Fed. Reg. at 64,495. Because Joint Petitioners had already filed their petition by the time Petitioning Organizations filed theirs, the license amendment docket had already been established. Additionally, three of the Petitioning Organizations, represented by the same counsel appearing in this case, had, by that time, already filed a petition to intervene in the separate license transfer proceeding. See Petition to Intervene and Request for Adjudicatory Hearing by Beyond Nuclear, Don’t Waste Michigan and Michigan Safe Energy Future (Aug. 27, 2024) at 27 (Docket No. 50-255-LT-3) (ML24240A210).

⁵⁶ See 10 C.F.R. § 2.346 (setting forth the Secretary’s delegation of authority to act on behalf of the Commission).

indicate that the filings had been accepted as timely, and we decline to assume that the Secretary took any such implied action here.⁵⁷

Finally, the Federal Register notice and the NRC's rules of practice make clear that petitions filed after the deadline will not be considered absent good cause.⁵⁸ Therefore, Petitioning Organizations' counsel should have taken more care to ensure that the petition had been correctly filed. Further, counsel should have provided a justification for the late filing upon learning of their error, or they should have requested an extension of the filing deadline after the fact.⁵⁹ They did neither. Their conduct fell short of what is expected of counsel experienced in NRC adjudicatory proceedings.⁶⁰

That said, we decline to impose the harsh result of dismissing Petitioning Organizations' hearing petition due to their counsel's inattention over three days, especially considering that we allowed Applicants and the Staff the full twenty-five days to respond to the petition from the date

⁵⁷ Moreover, the Secretary's referral of the petition to the Atomic Safety and Licensing Board Panel "for disposition" notes the initial filing error and Petitioning Organizations' correction but provides no specific direction on that score. October 16 Referral Memorandum at 1.

⁵⁸ License Amendment Hearing Opportunity Notice, 89 Fed. Reg. at 64,488; 10 C.F.R. § 2.309(c).

⁵⁹ See 10 C.F.R. §§ 2.309(c)(2), 2.307(a).

⁶⁰ See Public Service Electric and Gas Co. (Salem Nuclear Generating Station, Units 1 and 2), ALAB-136, 6 AEC 487, 489 (1973) (observing that, in contrast with pro se litigants, attorneys are reasonably expected to adhere to standards of clarity and precision). We also note that counsel filed their notices of appearance on November 5, 2024, four days after the deadline in our initial prehearing order, again without an explanation for their tardiness. See Licensing Board Order (Initial Prehearing Order) (Sept. 19, 2024) at 2 (unpublished) (Initial Prehearing Order) (setting forth a November 1, 2024 deadline for notices of appearance). In addition, Petitioning Organizations belatedly filed, after the intervention deadline, attachments to the Jacobson Declaration, without seeking leave of the Board or offering any justification for the nearly four-month delay other than to assert that the attachments were "inadvertently omitted." See Notice of Filing Attachments to Jacobson Declaration at 1. We address the propriety of this filing below.

of its filing on the correct docket.⁶¹ We turn now to Joint Petitioners' and Petitioning Organizations' standing.

B. Joint Petitioners' and Petitioning Organizations' Standing to Intervene

Applicants argue that neither Joint Petitioners nor Petitioning Organizations have established standing to intervene in this proceeding.⁶² The Staff argues that all nine Joint Petitioners have established standing, but only two of the five Petitioning Organizations have established standing—Three Mile Island Alert and Nuclear Energy Information Service.⁶³ We conclude that all petitioners have met the requirements for standing to intervene in this proceeding.

Section 189a of the Atomic Energy Act of 1954, as amended, requires the NRC to “grant a hearing upon the request of any person whose interest may be affected by the proceeding.”⁶⁴ The Commission has established general standing criteria that require a petitioner to provide certain identifying information (name, address, and telephone number) and require a petitioner to state (1) the nature of its right under the statute governing the proceeding to be made a party; (2) the nature and extent of its property, financial, or other interest; and (3) the possible effect of any decision made in the proceeding on that interest.⁶⁵

When determining whether a petitioner has met the agency's standing requirements, the Commission and licensing boards generally look to contemporaneous judicial concepts of

⁶¹ See Amended Initial Prehearing Order at 2.

⁶² Applicants Answer to Joint Petitioners at 57–67; Applicants Brief on Representation Issue at 3–7; Applicants Answer to Petitioning Organizations at 73–78.

⁶³ Staff Answer to Joint Petitioners at 13–17; Staff Brief on Representation Issue at 13; Staff Answer to Petitioning Organizations at 9–18.

⁶⁴ 42 U.S.C. § 2239(a)(1)(A).

⁶⁵ 10 C.F.R. § 2.309(d)(1)(i)–(iv); see also Calvert Cliffs 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-09-20, 70 NRC 911, 915 (2009).

standing—a three-part inquiry into whether the petitioner has demonstrated (1) “an injury in fact that is (2) fairly traceable to the challenged action and (3) is likely to be redressed by a favorable decision.”⁶⁶ As a shorthand for these judicial standing concepts, in certain licensing proceedings the Commission has recognized a presumption of standing based on a petitioner’s proximity to the facility in question.⁶⁷ In construction permit and operating license proceedings, this presumption extends to fifty miles, based on a “finding . . . that persons living within [that radius] ‘face a realistic threat of harm’ if a release from the facility of radioactive material were to occur.”⁶⁸ In other proceedings where there is likewise an “obvious potential for offsite consequences,”⁶⁹ “[w]hether and at what distance a petitioner can be presumed to be affected” is judged case by case, “taking into account the nature of the proposed action and the significance of the radioactive source.”⁷⁰

Organizations that seek to represent the interests of their members also must meet the agency’s representational standing requirements. An organization must demonstrate that at least one of its members has standing and has authorized the organization to request a hearing

⁶⁶ Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), CLI-15-25, 82 NRC 389, 394 (2015). The NRC’s standing analysis also includes a “zone-of-interests” test whereby the injury must arguably be within the zone of interests protected by the governing statute. Calvert Cliffs, CLI-09-20, 70 NRC at 915 (citing Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993)).

⁶⁷ See Calvert Cliffs, CLI-09-20, 70 NRC at 917; Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Units 1 and 2), CLI-89-21, 30 NRC 325, 329–30 (1989).

⁶⁸ Calvert Cliffs, CLI-09-20, 70 NRC at 917 (quoting Calvert Cliffs 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC (Calvert Cliffs Nuclear Power Plant, Unit 3), LBP-09-4, 69 NRC 170, 182–83 (2009)).

⁶⁹ St. Lucie, CLI-89-21, 30 NRC at 329–30.

⁷⁰ Georgia Institute of Technology (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 116–17 (1995).

on the member's behalf.⁷¹ In addition, the interests that the organization seeks to protect must be germane to its purpose, and neither the asserted claim nor the requested relief must require the member's participation.⁷² For our standing inquiry, we construe the petitions in favor of the petitioners.⁷³

1. Joint Petitioners' Standing

Each of the Joint Petitioners declared they reside within fifty miles of the Palisades reactor, in addition to providing their addresses in the petition.⁷⁴ They assert that their proximity to the plant exposes them to potential risks, "including radiological releases, contamination, and evacuation."⁷⁵ Further, they express concerns about the license amendment requests and assert that, given their proximity to the plant, they "have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained."⁷⁶

This proceeding, which involves the potential to restart a shutdown and defueled reactor, is the first of its kind. Thus, Commission case law does not expressly address whether the fifty-mile proximity presumption applies to a proceeding of this type. Nevertheless, taking into account the nature of the proposed action—license amendment requests and an exemption

⁷¹ Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 323 (1999).

⁷² Id.; see also Southern Nuclear Operating Co., Inc. (Vogtle Electric Generating Plant, Unit 3), CLI-20-6, 91 NRC 225, 237–38 (2020) (citing Turkey Point, CLI-15-25, 82 NRC at 394).

⁷³ See Vogtle, CLI-20-6, 91 NRC at 238; see also Georgia Tech, CLI-95-12, 42 NRC at 115.

⁷⁴ See Joint Petitioners Hearing Petition at 72–81; Joint Petitioners Brief on Representation Issue at 16–25. As provided in our order granting Joint Petitioners' request to cure their representation, we consider Joint Petitioners' brief, their December 2 supplement, and the Staff's and Applicants' response briefs as permissible addenda to the hearing requests and answers. Board Order Addressing Representation Issue at 5.

⁷⁵ Joint Petitioners Hearing Petition at 75–81; see also Supplement 1, at 1–7; Supplement 7, at 1–13; Joint Petitioners Brief on Representation Issue at 18–25.

⁷⁶ Joint Petitioners Hearing Petition at 75–81.

request in aid of restarting Palisades—and the significance of the radioactive source—the Palisades reactor at full-power operation—we conclude that the Commission’s fifty-mile proximity presumption logically extends to this proceeding.⁷⁷ As the Staff puts it, enabling Applicants to “resume operation at full power . . . on its face[] entails an obvious potential for offsite consequences.”⁷⁸ Further, the “common thread” underpinning the application of the fifty-mile presumption, which recognizes “the potential effects at significant distances from the facility of the accidental release of fissionable materials,” applies equally here.⁷⁹ Because Joint Petitioners all reside within fifty miles of Palisades and have expressed their concerns about restart, we conclude that they have demonstrated standing to intervene.⁸⁰

⁷⁷ See Georgia Tech, CLI-95-12, 42 NRC at 116–17.

⁷⁸ Staff Answer to Joint Petitioners at 17. Other licensing boards have found an obvious potential for offsite consequences in license amendment proceedings with sources of similar significance to the licensing actions at issue here. See PPL Susquehanna LLC (Susquehanna Steam Electric Station, Units 1 and 2), LBP-07-10, 66 NRC 1, 18–20 (2007) (applying the fifty-mile proximity presumption in a power uprate proceeding); Tennessee Valley Authority (Sequoyah Nuclear Plant, Units 1 and 2; Watts Bar Nuclear Plant, Unit 1), LBP-02-14, 56 NRC 15, 25 (2002) (applying the fifty-mile proximity presumption for a technical specification change that would add tens of millions of curies of radioactive gas to the core inventory).

⁷⁹ Calvert Cliffs, CLI-09-20, 70 NRC at 917 (quoting Calvert Cliffs, LBP-09-4, 69 NRC at 183) (internal quotation marks omitted).

⁸⁰ We are not persuaded by Applicants’ claim that their four license amendment requests “are not in and of themselves sufficient to allow Applicants to load fuel and operate the reactor” and that there is zero risk of the harms that Joint Petitioners raise as potential consequences from restart. Applicants Answer to Joint Petitioners at 64–65; see also Applicants Brief on Representation Issue at 5 (“The ultimate restart of power operations at Palisades requires many approvals and processes, and NRC approval of the [license amendment requests] is necessary, but not sufficient, to restart power operations.”). By acknowledging the necessity of the license amendment requests but maintaining that they do not demonstrate a plausible chain of causation or are so speculative as to result in zero harm, Applicants would have it both ways. For our standing analysis, we decline to ignore the practical effect of Applicants’ license amendment requests with respect to their pursuit of restarting Palisades. See Northern Indiana Public Service Co. (Bailey Generating Station, Nuclear 1), LBP-80-22, 12 NRC 191, 196 (observing, in a construction permit extension proceeding, that “it is the end result of the hearing . . . that must be considered to determine whether petitioners’ interests will be affected”), aff’d, ALAB-619, 12 NRC 558, 564 (1980) (reasoning that “the outcome of the [construction permit extension] proceeding will have a significant, and perhaps crucial, bearing on whether the plant will . . . be placed in operation” and is thus “within the sphere of the cognizable interest of those

2. Petitioning Organizations' Standing

Petitioning Organizations assert that they have standing to intervene in this proceeding based on the representation of their members.⁸¹ Each organization has provided a description of its purpose as either opposing nuclear power in general or opposing the restart of the Palisades Nuclear Plant in particular.⁸² Additionally, each organization has provided declarations from members who state that they reside within fifty miles of the Palisades reactor and are concerned about risks to their health and safety from a restart of the plant.⁸³ These members also state that they support the petition and that they have authorized the organizations to request a hearing on their behalf.⁸⁴

persons who, because they reside near the facility site, had the requisite standing to intervene in the construction permit proceeding (and will have similar standing with regard to any eventual operating license proceeding)"). Nor do we agree with Applicants to the extent they argue that, for the purposes of standing, Joint Petitioners' contentions must be linked to their claimed harm. See Applicants Answer to Joint Petitioners at 65–66 & n.247. Commission case law is clear that the claimed harm in the standing analysis need not be tied to the issues raised in the contentions. See Calvert Cliffs, CLI-09-20, 70 NRC at 918 n.28.

⁸¹ See Petitioning Organizations Hearing Petition at 4–25.

⁸² Beyond Nuclear describes itself as a not-for-profit organization that “advocates the immediate expansion of renewable energy sources to replace commercial nuclear power generation.” Id. at 4. Michigan Safe Energy Future describes itself as a “grassroots association of people in western and southwestern Michigan which since 2013 has advocated for the permanent shutdown of Palisades Nuclear Plant and replacement of nuclear and natural gas power generation with safe and renewable nonnuclear energy technologies.” Id. at 8. Don't Waste Michigan describes itself as a grassroots association that, among other objectives, works to “shut down aging, dangerous nuclear power plants in the Great Lakes Basin.” Id. at 12. Three Mile Island Alert describes itself as a “grassroots advocacy organization opposed to commercial nuclear power for safety and economic reasons.” Id. at 16. Nuclear Energy Information Service describes itself as a “nonprofit organization committed to ending nuclear power and advocating for sustainable ecologically sound and socially just energy solutions.” Id. at 19.

⁸³ See Reed Declaration at 1–3; Ferry Declaration at 1–3; Staiger Declaration at 1–2; Hirt Declaration at 1–3; Kirk Declaration at 1–3; J. Scott Declaration at 1–3; A. Scott Declaration at 1–3; Brenneman Declaration at 1–2.

⁸⁴ See Reed Declaration at 3; Ferry Declaration at 3; Staiger Declaration at 2–3; Hirt Declaration at 2–3; Kirk Declaration at 2–3; J. Scott Declaration at 2–3; A. Scott Declaration at 2–3; Brenneman Declaration at 2–3.

The Staff maintains that three Petitioning Organizations—Beyond Nuclear, Don't Waste Michigan, and Michigan Safe Energy Future—have not demonstrated representational standing because their members' declarations do not specifically state that the members oppose the license amendment requests.⁸⁵ And the Staff argues that the members' express opposition to the exemption request in their declarations is insufficient to establish standing.⁸⁶ The Staff, however, views the exemption request as within the scope of this proceeding and therefore the permissible subject of proposed contentions.⁸⁷ Construing the petition and declarations in the most favorable light,⁸⁸ we conclude that the members of these organizations demonstrate their awareness of the license amendment requests, and they plainly express their opposition to any licensing action that would lead to the restart of operations at Palisades,⁸⁹ which the Staff concedes, includes the license amendment requests.⁹⁰

Moreover, even if we agreed with the Staff's interpretation of the petition and declarations, we would find these members' stated opposition to the exemption request sufficient to establish standing. The Staff's agreement that the exemption request is within the

⁸⁵ Staff Answer to Petitioning Organizations at 12–15.

⁸⁶ Id. at 14–15.

⁸⁷ See id. at 31.

⁸⁸ See Georgia Tech, CLI-95-12, 42 NRC at 115.

⁸⁹ See Reed Declaration at 1–3; Ferry Declaration at 1–3; Hirt Declaration at 1–3; Kirk Declaration at 1–3; J. Scott Declaration at 1–3; A. Scott Declaration at 1–3.

⁹⁰ See Staff Answer to Petitioning Organizations at 7 (asserting that all four license amendment requests would need to be granted for restart to be authorized). Referencing the Commission's decision in Vogtle, the Staff asserts that we may disregard the standing declarations for the members of these three organizations. See id. at 13–14 & n.62 (citing Vogtle, CLI-20-6, 91 NRC at 228 n.15, 238). But the Staff's reference to Vogtle is inapposite. In Vogtle, the Commission found that the petitioners had not demonstrated standing because they made no reference to standing in their petition and only referred to it in an attached declaration. See Vogtle, CLI-20-6, 91 NRC at 237–38. Here, in contrast, the petition discusses standing in depth. See Petitioning Organizations Hearing Petition at 4–25.

scope of the proceeding leads to the logical conclusion that a decision in Petitioning Organizations' favor on their challenges to the exemption request would meet the judicial standing concepts incorporated into NRC adjudications—injury, causation, and redressability.⁹¹ In other words, because the exemption request is one of the actions at issue here,⁹² this proceeding's scope necessarily comprehends both the injuries that might accrue from that action and the challenges that might be addressed in an evidentiary hearing on any admitted contentions.⁹³ We therefore find unavailing the Staff's attempt to exclude the exemption request from the standing analysis.⁹⁴

All five Petitioning Organizations seek to represent members who have standing in their own right based on their proximity to Palisades and their concerns from potential restart. In addition, Petitioning Organizations have demonstrated that the interests they seek to protect in

⁹¹ See 10 C.F.R. § 2.309(d)(1)(iii)–(iv).

⁹² See *infra* section II.C.1.d (concluding that the exemption request is within the scope of the proceeding).

⁹³ The Staff argues that contentions address “whether the proposed action should be granted” but that standing “is focused on the asserted injury that would accrue if the proposed action is granted.” Staff Answer to Petitioning Organizations at 16 (emphasis omitted). But the Staff has conceded that the granting of another proposed action—the exemption request—is sufficiently intertwined with the granting of the license amendment requests such that it is within the scope of the proceeding. *Id.* at 15–16; see Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), CLI-16-12, 83 NRC 542, 551–52 (2016) (concluding that because a license amendment and exemption request were “essentially two necessary parts of the action,” the exemption request was within the scope of the license amendment adjudication); see also Bailly, ALAB-619, 12 NRC at 564 (focusing on the outcome of a proceeding to extend a construction permit as a necessary step toward plant operation). Thus, in the circumstances presented here, the Staff raises a distinction without a difference.

⁹⁴ Applicants argue that the exemption request cannot serve as a basis for standing because it is not within the scope of the proceeding. See Applicants Response to Petitioning Organizations at 75–77. They also repeat their argument that the license amendment requests are “insufficient in and of themselves” to restart Palisades and assert that the concerns of Petitioning Organizations' members stemming from operation of the plant are not redressable in this proceeding. *Id.* at 77. We reject these arguments for the reasons provided above. See *supra* notes 80, 91–93 and accompanying text.

challenging the potential restart of Palisades are germane to their purposes.⁹⁵ Further, the issues presented in this proceeding, which involve challenges to Applicants' license amendment requests and exemption request, do not require the direct participation of Petitioning Organizations' members. Thus, we conclude that Petitioning Organizations have met the requirements for representational standing.

C. Joint Petitioners' and Petitioning Organizations' Proposed Contentions

The Commission has established a multi-part test for determining the admissibility of contentions to ensure that only focused, well-defined issues are admitted for hearing.⁹⁶ All of the requirements in 10 C.F.R. § 2.309(f)(1) must be met for a contention to be admitted.⁹⁷ We must hold petitioners to their burden of meeting these requirements and may not sift through lengthy sources and supporting documents to find support for a petitioner's contentions.⁹⁸

A petitioner must provide a specific statement of the issue of law or fact it seeks to raise and a brief explanation of the basis for each contention.⁹⁹ The petitioner must support its claims with "a concise statement of . . . alleged facts or expert opinions."¹⁰⁰ Further, the petitioner must reference specific sources and documents sufficient to show "that a genuine dispute exists with the applicant . . . on a material issue of law or fact"¹⁰¹ and must reference specific portions of the application in dispute or identify omitted information that should have been included as a matter

⁹⁵ See supra note 82 and accompanying text.

⁹⁶ See Final Rule, Changes to Adjudicatory Process, 69 Fed. Reg. 2182, 2201–02 (Jan. 14, 2004).

⁹⁷ See 10 C.F.R. § 2.309(f)(1)(i)–(vi).

⁹⁸ See Fansteel, Inc. (Muskogee, Oklahoma Site), CLI-03-13, 58 NRC 195, 204 (2003); Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), CLI-89-3, 29 NRC 234, 240–41 (1989).

⁹⁹ 10 C.F.R. § 2.309(f)(1)(i)-(ii).

¹⁰⁰ Id. § 2.309(f)(1)(v).

¹⁰¹ Id. § 2.309(f)(1)(v)-(vi).

of law.¹⁰² Conclusory statements and speculation are insufficient to trigger a contested hearing.¹⁰³

Additionally, the petitioner must demonstrate that the issues it seeks to raise are within the scope of the proceeding and “material to the findings the NRC must make to support the action that is involved in the proceeding.”¹⁰⁴ The scope of the proceeding is defined by the notice of opportunity for hearing and the referral from the Commission.¹⁰⁵ An NRC adjudicatory proceeding is not a forum for challenges to the Staff’s review¹⁰⁶ or for “generalized grievances about NRC policies.”¹⁰⁷ Nor may licensing boards hear challenges to NRC regulations absent a Commission-granted waiver.¹⁰⁸ And it is well settled that licensing boards may not direct the Staff in the performance of its administrative functions.¹⁰⁹

In this decision we consider eleven proposed contentions—four from Joint Petitioners,

¹⁰² Id. § 2.309(f)(1)(vi).

¹⁰³ GPU Nuclear, Inc. (Oyster Creek Nuclear Generating Station), CLI-00-6, 51 NRC 193, 208 (2000).

¹⁰⁴ 10 C.F.R. § 2.309(f)(1)(iii)–(iv).

¹⁰⁵ See Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2), ALAB-739, 18 NRC 335, 339 (1983); Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 NRC 167, 170–71 (1976).

¹⁰⁶ Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Unit 3), CLI-08-17, 68 NRC 231, 237, 242 (2008).

¹⁰⁷ Duke Energy Corp. (Oconee Nuclear Station, Units 1, 2, and 3), CLI-99-11, 49 NRC 328, 334 (1999); see also Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20–21 & n.33 (1974).

¹⁰⁸ See 10 C.F.R. § 2.335(a).

¹⁰⁹ See Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2), CLI-04-6, 59 NRC 62, 74 (2004); Carolina Power and Light Co. (Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4), CLI-80-12, 11 NRC 514, 516 (1980); Rockwell International Corp. (Rocketdyne Division), ALAB-925, 30 NRC 709, 721–22 (1989).

and seven from Petitioning Organizations.¹¹⁰ Applicants argue that none of the proposed contentions are admissible.¹¹¹ In its answer, the Staff had argued that a portion of Petitioning Organizations' Contention 7 was admissible, but that all other contentions filed by Joint Petitioners and Petitioning Organizations were inadmissible.¹¹² The Staff now argues, however, that the portion of Contention 7 it had supported for admission became moot with the issuance of the Draft EA and Draft FONSI.¹¹³ We conclude that none of Joint Petitioners' or Petitioning Organizations' proposed contentions meets the Commission's strict admissibility standards.

Before we turn to each of the proposed contentions, we first address Joint Petitioners' and Petitioning Organizations' supplemental filings. Joint Petitioners submitted several filings after the October 7, 2024 intervention-petition deadline.¹¹⁴ In our decision addressing Joint Petitioners' representation, we emphasized the importance of adhering to the NRC's procedural rules and any deadlines set forth in licensing board and Commission orders, which Joint Petitioners acknowledged.¹¹⁵ Despite this caution, Joint Petitioners submitted an additional filing on December 31, 2024.¹¹⁶ It is not clear whether Joint Petitioners ask us to treat these filings as general motions under 10 C.F.R. § 2.323 or motions to amend their contentions under

¹¹⁰ We will address Petitioning Organizations' new and amended contentions in a separate decision.

¹¹¹ Applicants Answer to Joint Petitioners at 27–28; Applicants Answer to Petitioning Organizations at 25.

¹¹² Staff Answer to Joint Petitioners at 11; Staff Answer to Petitioning Organizations at 8.

¹¹³ See Staff Initial Brief on Draft EA/FONSI at 1, 10–13.

¹¹⁴ See supra note 40.

¹¹⁵ See Board Order Addressing Representation Issue at 5–6; Joint Petitioners' Response to Memorandum and Order (Addressing Joint Petitioners' Representation and Requesting Information on Availability for Oral Argument) (Dec. 17, 2024) at 1–2.

¹¹⁶ See Joint Petitioners December 31 Supplement.

10 C.F.R. § 2.309(c).¹¹⁷ But under either interpretation, the filings are procedurally improper.¹¹⁸ Nevertheless, because Joint Petitioners are not represented by counsel, we have reviewed the supplemental filings and determined that Joint Petitioners' arguments do not change our conclusion that their contentions are inadmissible.¹¹⁹

Petitioning Organizations submitted a supplemental declaration with their reply. They also filed two attachments to their intervention petition on February 1, 2025. Applicants moved to strike the supplemental declaration and portions of the reply, arguing that Petitioning Organizations had raised new arguments "exceeding the allowable scope of a reply brief."¹²⁰

¹¹⁷ See, e.g., id. at 1–3, 9 (referencing sections 2.309(c) and 2.323).

¹¹⁸ See 10 C.F.R. § 2.309(b), (i)(2), (i)(3) (setting forth the deadlines for hearing petitions and replies and that "[n]o other written answers or replies will be entertained"); id. § 2.309(c)(1) (requiring a demonstration of "good cause" as a prerequisite for a presiding officer to entertain a motion to admit new or amended contentions, including a material difference from information previously available); Initial Prehearing Order at 3–4; Amended Initial Prehearing Order at 2. Two of Joint Petitioners' filings request that we add documents to the docket. See Joint Petitioners October 20 Supplement; Joint Petitioners December 31 Supplement. Unlike the agency in rulemaking proceedings, however, licensing boards do not, as a matter of routine, collect comments and documents from participants, but rather boards operate through motions, pleadings, and—at the evidentiary hearing stage—testimony and evidence. While licensing boards might be required to place an ex parte or off-the-record communication on the docket in accordance with 10 C.F.R. §§ 2.347(c) and 2.348(c), those provisions are not applicable here. Nor does it appear that Joint Petitioners are seeking to provide a limited appearance statement in accordance with 10 C.F.R. § 2.315(a), which applies, in any event, to persons not participating in a proceeding.

¹¹⁹ See USEC Inc. (American Centrifuge Plant), CLI-06-9, 63 NRC 433 439 & n.31 (2006) (noting that the licensing board had granted a petitioner considerable leeway in reviewing out-of-process filings given the petitioner's pro se status).

¹²⁰ Motion to Strike at 9; see Supplemental Gundersen Declaration. Applicants do not appear to object to the Second Supplemental Gundersen Declaration. Because the Second Supplemental Gundersen Declaration appears to correct Mr. Gundersen's prior statements rather than introduce new arguments, we have considered it in our review of Petitioning Organizations' contentions. See Second Supplemental Gundersen Declaration.

It is well established that a reply “must focus narrowly on the legal or factual arguments” in the petition and the answers.¹²¹ The question for us, then, is whether Petitioning Organizations’ reply is thus narrowly tailored. To allow new claims in a reply would “unfairly deprive other participants of an opportunity to rebut the new claims.”¹²²

Petitioning Organizations’ supplemental declaration focuses on climate-change impacts, which Petitioning Organizations also discuss in their petition, and which Applicants and the Staff both touch on in their answers.¹²³ But we need not parse whether the arguments in the supplemental declaration go beyond the arguments in the petition and answers. In either case, whether or not the reply is properly scoped, our consideration of the supplemental declaration would not change our determination that Petitioning Organizations have not met the NRC’s contention admissibility requirements. We therefore deny Applicants’ motion to strike as moot.

With regard to the two documents that Petitioning Organizations assert were inadvertently omitted from their petition, these were filed almost four months after the intervention deadline, without sufficient explanation for the lengthy delay.¹²⁴ We would be well within our authority not to consider these documents.¹²⁵ Nevertheless, we conclude that they do not support the admissibility of Petitioning Organizations’ contentions.

¹²¹ See Nuclear Management Co., LLC (Palisades Nuclear Plant), CLI-06-17, 63 NRC 727, 732 (2006).

¹²² See id., CLI-06-17, 63 NRC at 732.

¹²³ See Supplemental Gundersen Declaration at 5; Petitioning Organizations Hearing Petition at 57–61; Applicants Answer to Petitioning Organizations at 59–60; Staff Answer to Petitioning Organizations at 67–69.

¹²⁴ See Notice of Filing Attachments to Jacobson Declaration at 1. Petitioning Organizations neither reference, nor address, the good cause requirements for a filing submitted after the intervention-petition deadline in 10 C.F.R. § 2.309(c).

¹²⁵ See 10 C.F.R. §§ 2.309(c), 2.319(g), (q), (s), 2.320. We also remind Petitioning Organizations that requests of the Board must come in the form of a motion rather than a “notice.” See id. §§ 2.309(c), 2.323; DTE Electric Co. (Fermi Nuclear Power Plant, Unit 3), CLI-15-13, 81 NRC 555, 569 n.86 (2015).

1. Joint Petitioners' Contentions

- a. Contention 1: NRC [S]taff are proceeding with the review of license amendments, and other licensee restart actions, based on a denial of a rulemaking petition without approval from NRC General Counsel of [S]taff's interpretation of SECY-20-0110 for [Applicants'] proposed license amendments, specifically regarding which NRC rules constitute the "existing regulatory framework."¹²⁶

In Contention 1, Joint Petitioners challenge the Staff's review of the license amendment requests and assert that the Commission's decision in an earlier denial of a petition for rulemaking to use the "existing regulatory framework" provides "no public visibility" of the rules to be used for restarting a plant that has submitted its shutdown certifications.¹²⁷ They maintain that the Staff must propose, and the General Counsel must approve, the specific rules to be used for reviewing restart requests.¹²⁸

Additionally, Joint Petitioners argue that Applicants have proposed the use of regulations that are "outside" the existing regulatory framework—particularly, (1) the change process in 10 C.F.R. § 50.59 to reinstate the Updated Final Safety Analysis Report (UFSAR) rather than the requirements in 10 C.F.R. § 50.34 for construction permit applications; and (2) Applicants' proposal to update its decommissioning quality assurance program to cover restart activities without prior NRC approval, rather than adhering to the quality assurance requirements in 10 C.F.R. Part 50, Appendix B, for construction permit and operating license applications.¹²⁹ Joint Petitioners stress that the NRC must ensure its regulations are "objective, measurable, and uniformly applied to prevent regulatory subjectivity or inconsistency, both of which could

¹²⁶ Joint Petitioners Hearing Petition at 24–25.

¹²⁷ Id. at 39.

¹²⁸ Id. at 39–40; see also Supplement 6, at 8–10 (expressing concerns about a lack of transparency and asserting that it is the Staff and General Counsel, not Applicants, who must select and approve the applicable regulations).

¹²⁹ Joint Petitioners Hearing Petition at 43–46. Joint Petitioners challenge each of these proposals in Contentions 2 and 3, respectively. See id. at 25, 43–46.

compromise safety.”¹³⁰ They also emphasize the importance of the NRC’s maintaining its independence and rigorous oversight to protect against conflicts of interest and ensure that “regulations are applied solely to maintain safety, not for the convenience of licensees.”¹³¹ And they stress the need for full transparency, without which “the public cannot make informed judgments about the risks, safeguards, or adequacy of the regulatory processes being followed.”¹³²

Because Joint Petitioners are not represented by counsel, we accord them some leeway in our review of their petition and read their arguments in the most favorable light.¹³³ But for the purposes of contention admissibility, that leeway may only go so far. We are expected to adhere to the NRC’s contention admissibility standards and must dismiss contentions that fail to meet them.¹³⁴

Joint Petitioners’ overarching concern appears to be with the Staff’s process for reviewing the license amendment requests rather than the license amendment requests

¹³⁰ Id. at 49.

¹³¹ Id.

¹³² Supplement 6, at 2 (acknowledging that Applicants “may have a legally sound restart plan, and the NRC may have valid interpretations of regulatory guidelines,” and arguing that full transparency is required to ensure that is the case); see also Joint Petitioners Reply to Staff at 8, 15, 18, 38–39. As an example of the lack of transparency, Joint Petitioners reference redacted portions of Applicants’ submittals, but Joint Petitioners also state that they are not challenging the legality of the redactions in their petition. Supplement 6, at 3–6. Although it does not appear that Joint Petitioners are seeking access to this redacted material, we observe that the time to request access was in advance of the intervention-petition deadline, as specified in the notice of opportunity to request a hearing. See License Amendment Hearing Opportunity Notice, 89 Fed. Reg. at 64,490–92.

¹³³ See USEC, CLI-06-9, 63 NRC at 439; Salem, ALAB-136, 6 AEC at 489.

¹³⁴ See 10 C.F.R. § 2.309(a); South Carolina Electric & Gas Co. and South Carolina Public Service Authority (Virgil C. Summer Nuclear Station, Units 2 and 3), CLI-10-1, 71 NRC 1, 6 (2010) (“We generally extend some latitude to pro se litigants, but they are still expected to comply with our procedural rules, including contention pleading requirements.”).

themselves.¹³⁵ Their arguments regarding which regulations the Staff should use for its review and their claim that the regulations also require General Counsel approval go to this point. In the same vein, Joint Petitioners appear to imply that there is a risk that the NRC will not objectively apply its oversight and regulatory functions in reviewing the license amendment requests in the absence of a regulatory scheme approved by the General Counsel.¹³⁶ In essence, Joint Petitioners ask us to perform a supervisory role to ensure that the Staff conducts its review in accordance with the Atomic Energy Act and the NRC's regulations.¹³⁷ But Commission case law is clear that an adjudicatory proceeding is not a forum for challenges to the Staff's review, and we may not direct the Staff in the performance of its administrative functions.¹³⁸

We recognize, given the views expressed in the written filings and at oral argument, that Joint Petitioners have concerns about the Staff's review of this first-of-its-kind proposal to restart a shutdown nuclear plant. Although they have raised issues that are not redressable in an adjudicatory proceeding, there are other avenues available for public participation, including

¹³⁵ Of the four license amendment requests, Joint Petitioners expressly reference only one—the Operating License and Technical Specifications Amendment Request—but they do not specifically challenge it. See Joint Petitioners Hearing Petition at 20.

¹³⁶ See id. at 49; Supplement 6, at 2; Joint Petitioners Reply to Staff at 16, 22–24; see also Joint Petitioners Reply to Staff at 43 (requesting that we perform “[a]n independent assessment . . . to determine whether . . . OGC’s involvement as both reviewer and advocate may influence the fairness of the proceedings and impact the impartial application of regulatory standards”).

¹³⁷ See Joint Petitioners Hearing Petition at 48–49; Supplement 6, at 2, 8; Joint Petitioners Reply to Staff at 9, 16, 22–24, 41–43.

¹³⁸ See Catawba, CLI-04-6, 59 NRC at 74 (“The licensing boards’ sole, but very important, job is to consider safety, environmental, or legal issues raised by license applications. Licensing boards simply have no jurisdiction over non[-]adjudicatory activities of the Staff that the Commission has clearly assigned to other offices unless the Commission itself grants that jurisdiction to the Board.”). To the extent Joint Petitioners question the Staff’s decision to docket and begin review of the license amendment requests or the Staff’s application of the Commission policy that restart requests be evaluated using the existing regulatory framework, the contention likewise raises issues outside of this proceeding’s scope. See, e.g., Oconee, CLI-99-11, 49 NRC at 334.

public meetings, petitions for action under 10 C.F.R. § 2.206, and petitions for rulemaking under 10 C.F.R. § 2.802. Indeed, outside of this proceeding, one of the Joint Petitioners, Mr. Blind, filed a petition for rulemaking to develop a process for returning decommissioning plants to operating status, which was docketed on July 23, 2024, and he has filed two petitions for agency action.¹³⁹ But Joint Petitioners have not raised any concerns specific to the adequacy of the four license amendment requests at issue here. Therefore, we must dismiss Contention 1.¹⁴⁰

- b. Contention 2: [Applicants’] proposal to update the [UFSAR], now titled the Defueled Safety Analysis Report (DSAR), via the 10 [C.F.R.] 50.59 process (changes, tests, and experiments) is flawed and not consistent with a more applicable regulation within the “existing regulatory framework” as referenced in SECY-20-0110.¹⁴¹

In Contention 2, Joint Petitioners build on their concern regarding what they characterize as the “highly subjective” nature of applying the existing regulatory framework to restart a shutdown plant, and again assert that the General Counsel must approve the regulations that apply to Applicants’ proposed restart of Palisades.¹⁴² In particular, Joint Petitioners assert that Applicants may not use the change process in 10 C.F.R. § 50.59 to update the UFSAR because, Joint Petitioners claim, the UFSAR and the previous licensing basis ceased to exist upon the submittal of the certifications of permanent cessation of operations and permanent removal of fuel.¹⁴³ Joint Petitioners claim that Applicants must revise the FSAR in accordance

¹³⁹ See Joint Petitioners Hearing Petition at 82–85; Petition for Rulemaking, Returning a Decommissioning Plant to Operating Status, 89 Fed. Reg. 76,750, 76,750 (Sept. 19, 2024).

¹⁴⁰ See 10 C.F.R. § 2.309(f)(1)(iii).

¹⁴¹ Joint Petitioners Hearing Petition at 25.

¹⁴² See id. at 51.

¹⁴³ Id. at 52 (asserting that Applicants’ proposed use of section 50.59 “is not possible because there is no current FSAR . . . to perform the required evaluation of whether the changes can be made [under that section]”).

with the requirements for construction permits in 10 C.F.R. § 50.34 and 10 C.F.R. Part 50, Appendix A.¹⁴⁴ They request that the NRC suspend its review of Applicants' restart plans until such an FSAR is submitted.¹⁴⁵

In support of Contention 2, Joint Petitioners point to an NRC inspection report concerning steam generator tube degradation at Palisades and related discussions pertaining to Applicants' proposed repair strategy.¹⁴⁶ They assert that an NRC-approved FSAR is a prerequisite for accurately assessing the safety risks associated with steam generator tube failures¹⁴⁷ and, more generally, a prerequisite for performing a full safety evaluation of the plant's current condition.¹⁴⁸ According to Joint Petitioners, a new FSAR is necessary because the Palisades plant was originally licensed before the NRC developed the General Design Criteria (GDC) in Part 50 and the guidance in its Standard Review Plans.¹⁴⁹ "As a result," Joint Petitioners claim, "the plant operates with less defense-in-depth than newer, GDC-compliant

¹⁴⁴ Id.; Supplement 2, at 3–4; Supplement 4, at 7–8; Supplement 5, at 6. Joint Petitioners also reference the FSAR requirements in 10 C.F.R. § 52.157, but as this proceeding does not concern a manufacturing license, this reference appears to have been in error. See Supplement 8, at 2.

¹⁴⁵ Supplement 9, at 8.

¹⁴⁶ Supplement 2, at 2; Supplement 9, at 3.

¹⁴⁷ See Supplement 9, at 5.

¹⁴⁸ See Supplement 2, at 4 ("By allowing [Applicants] to proceed without submitting a [preliminary safety analysis report], and the NRC approval of the FSAR, the NRC is failing to meet its regulatory responsibilities. . . . The absence of an NRC approved FSAR further exacerbates [the safety risks that plugging limits have been exceeded], as it prevents a full safety evaluation of the plant's current condition."); Supplement 4, at 4 (asserting that the "FSAR serves as the foundation for all safety-related analyses at a nuclear power plant," including various accident scenarios that are implicated by steam generator tube plugging); see also Supplement 5, at 3–7; Supplement 9, at 4–8.

¹⁴⁹ Supplement 5, at 1–2; see also Supplement 9, at 5 (referring to the need for a modern FSAR).

plants,” even after the introduction of the Systematic Evaluation Program in 1985 “to address the safety gaps caused by the plant’s pre-GDC design.”¹⁵⁰

Joint Petitioners also assert a lack of transparency in whether Applicants will use the Nuclear Energy Institute (NEI) 96-07 guidelines for implementing the section 50.59 change process.¹⁵¹ According to Joint Petitioners, these guidelines “are essential to maintain consistency[] and the integrity of the safety framework established by the NRC, ensuring that unapproved changes do not compromise public safety.”¹⁵² They fault the NRC for not imposing the guidelines as a mandatory requirement.¹⁵³ Relatedly, Joint Petitioners argue, as they do for Contention 1, that the lack of transparency concerning the change process in section 50.59 hinders the public’s ability to assess whether the “changes required for restart are being handled in compliance with [NRC regulations].”¹⁵⁴ They request our “intervention and oversight to ensure regulatory transparency and public accountability.”¹⁵⁵

Joint Petitioners assert that Contention 2 is within the scope of the proceeding because the section 50.59 process is referenced in Applicants’ Operating License and Technical Specifications Amendment Request and is central to restoring plant operations.¹⁵⁶ But as we explained above in our ruling on Contention 1, the scope of this proceeding, as defined by the Federal Register notice, is limited to the adequacy of Applicants’ four license amendment

¹⁵⁰ Supplement 5, at 2; see also Supplement 8, at 9; Supplement 9, at 2, 4.

¹⁵¹ Supplement 8, at 2–3.

¹⁵² Id. at 2.

¹⁵³ See id. at 3 (“This represents another instance of the NRC shirking its regulatory mission by failing to establish clear rules, effectively allowing licensees like [Applicants] to select which rules to follow.”).

¹⁵⁴ Supplement 6, at 5–6.

¹⁵⁵ Supplement 8, at 4.

¹⁵⁶ Supplement 3, at 3–4.

requests and does not include every other action that might be required for restart.¹⁵⁷ Joint Petitioners do not explain, beyond conclusory assertions, how Applicants' description of its proposed use of the section 50.59 process in one of the amendment requests draws that process into the scope of this license amendment proceeding.¹⁵⁸

Moreover, section 50.59 serves a gatekeeping function for determining the types of changes that may be accomplished without NRC approval and the types of changes that require an NRC-approved license amendment, the request of which would give rise to its own hearing opportunity.¹⁵⁹ As Applicants recognize, using the change process in section 50.59 might require them "to file requests for additional NRC approvals that they did not anticipate at the outset."¹⁶⁰ In other words, the section 50.59 change process itself is not challengeable here, but the outcome after application of that process could give rise to an action that later might be challenged. Indeed, Applicants have now filed a license amendment request to address the steam generator tubes;¹⁶¹ therefore, the NRC will provide an opportunity to raise concerns specific to that amendment request.¹⁶² To the extent Joint Petitioners imply that using the section 50.59 change process in the restart context necessarily leads to safety risks, this

¹⁵⁷ Consistent with the Secretary's order, see supra note 24, in our ruling on Contention 5 we address whether Applicants' exemption request is also within this proceeding's scope.

¹⁵⁸ See Operating License and Technical Specifications Amendment Request, Encl. at 4.

¹⁵⁹ 10 C.F.R. § 50.59(c); see Atomic Energy Act § 189a, 42 U.S.C. § 2239(a).

¹⁶⁰ Applicants Answer to Joint Petitioners at 21; see also Tr. at 53.

¹⁶¹ See Tr. at 53; Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (Feb. 11, 2025) (ML25043A348) (Steam Generator Tube Amendment Request).

¹⁶² See Atomic Energy Act § 189a, 42 U.S.C. 2239(a). Changes that licensees may make without requesting a license amendment, while not subject to a hearing opportunity, could be the subject of a petition under 10 C.F.R. § 2.206. See 10 C.F.R. § 2.206; Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-94-3, 39 NRC 95, 101 n.7 (1994).

amounts to both an impermissible challenge to a regulation in an adjudicatory proceeding¹⁶³ and an impermissible challenge to the Commission's policy that the existing regulatory framework be used for restart requests.¹⁶⁴

Regarding Joint Petitioners' claims that Applicants must file a new FSAR and that the plant operates with "less defense-in-depth" than newer plants, Joint Petitioners provide conclusory assertions without sufficient support.¹⁶⁵ Similarly, they do not explain why they view the UFSAR for Palisades as non-existent, when the reference to the UFSAR in the Operating License and Technical Specification Amendment Request indicates that it was revised in view of decommissioning, rather than terminated.¹⁶⁶ Joint Petitioners also do not explain how their claims pertain to the four license amendment requests, let alone provide specific references to the portions of the amendment requests they dispute, as required by the agency's contention admissibility rules.¹⁶⁷

The remaining claims in Contention 2 challenge the Staff's review of the license amendment requests, and for that reason they are outside the scope of the proceeding, similar to Contention 1.¹⁶⁸ Joint Petitioners question the Staff's application of the existing regulatory framework and request that the General Counsel establish a framework specific to restart

¹⁶³ See 10 C.F.R. § 2.335(a) (providing that agency rules are not subject to challenge in adjudicatory proceedings absent a waiver).

¹⁶⁴ See Oconee, CLI-99-11, 49 NRC at 334.

¹⁶⁵ See 10 C.F.R. § 2.309(f)(1)(v); Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Unit 2), CLI-03-14, 58 NRC 207, 216 (2003) (explaining that "a petitioner must do more than submit 'bald or conclusory allegations' of a dispute with the applicant" (quoting Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Unit 2), CLI-01-24, 54 NRC 249, 358 (2001))).

¹⁶⁶ See Operating License and Technical Specification Amendment Request, Encl. at 4.

¹⁶⁷ See 10 C.F.R. § 2.309(f)(1)(vi).

¹⁶⁸ See id. § 2.309(f)(1)(iii); Catawba, CLI-04-6, 59 NRC at 74.

requests. However, they seek relief that may not be granted in an NRC adjudicatory proceeding.¹⁶⁹ Likewise, their request that we exercise a general supervisory role to ensure the Staff is handling its review in compliance with NRC regulations and their claim that the Staff should make the guidance in NEI 96-07 a mandatory requirement may not be entertained in an NRC adjudication.¹⁷⁰ We therefore must dismiss Contention 2.¹⁷¹

- c. Contention 3: [Applicants'] proposal to update the HDI decommissioning Quality Assurance Program Description (QAPD) currently in effect, with appropriate quality assurance controls to cover the activities being performed at the plant during the restoration period, without prior NRC approval, is flawed and not consistent with a more applicable regulation within the "existing regulatory framework" as referenced in SECY-20-0110.¹⁷²

In Contention 3, Joint Petitioners challenge Applicants' plans for updating the quality assurance program description for Palisades. Joint Petitioners assert that the quality assurance program description was specific to plant operation and ceased to exist upon the submittal of the certifications of permanent cessation of operations and permanent removal of fuel.¹⁷³ Therefore, Joint Petitioners argue, because the quality assurance program description "no longer exists," Applicants may not "simply update the HDI decommissioning [quality assurance program description] currently in effect."¹⁷⁴ Further, Joint Petitioners reference the quality assurance program requirements in 10 C.F.R. Part 50, Appendix B, and the NRC's Standard

¹⁶⁹ See Catawba, CLI-04-6, 59 NRC at 74.

¹⁷⁰ See id.; International Uranium (USA) Corp., CLI-00-1, 51 NRC 9, 19 (2000) (clarifying that NRC guidance documents do not "carry the binding effect of regulations"); Peach Bottom, ALAB-216, 8 AEC at 21 n.33 (explaining that adjudications are not the proper forum for advancing "views of what applicable policies ought to be").

¹⁷¹ See 10 C.F.R. § 2.309(f)(1)(iii), (v), (vi).

¹⁷² Joint Petitioners Hearing Petition at 25.

¹⁷³ Id. at 56–57.

¹⁷⁴ Id. (internal quotation marks omitted).

Review Plan for construction and operation of nuclear plants and suggest that this framework should be applied here.¹⁷⁵

Additionally, Joint Petitioners restate their concern about the “highly subjective” nature of using the existing regulatory framework for the restart of a shutdown nuclear power plant.¹⁷⁶

Joint Petitioners assert that Applicants have improperly relied on a mistaken interpretation of the NRC’s “implicit approval” of their restart plans, which cannot be used as a regulatory basis for restart.¹⁷⁷ Joint Petitioners reiterate that the General Counsel must expressly approve the regulations used for restart because, they claim, “[i]mplicit approval and selective regulation may lead to inadequate safety measures” and “increased risks to plant operations and public safety.”¹⁷⁸

We conclude that Contention 3 is inadmissible on grounds similar to those provided in our ruling on Contentions 1 and 2. The scope of this proceeding concerns Applicants’ four license amendment requests; it does not include every restart-related action. As the Staff explains in its answer, the “Staff typically reviews an applicant’s [quality assurance] program description . . . as part of a[n] . . . application for a construction permit, operating license, or license transfer.”¹⁷⁹ Once the NRC grants the associated licensing action, changes to the quality assurance program may be made in accordance with the process set forth in 10 C.F.R. § 50.54(a). Changes that do not reduce the commitments in the program description may be

¹⁷⁵ See id. at 60–61.

¹⁷⁶ Id. at 55.

¹⁷⁷ Id. at 57, 61–62; see also Supplement 6, at 6 (arguing that Applicants’ “approach to revising [the] Quality Assurance Program Description . . . without formal NRC review . . . exacerbates transparency concerns”).

¹⁷⁸ Joint Petitioners Hearing Petition at 55, 62–65; see also Supplement 6, at 8–10.

¹⁷⁹ Staff Answer to Joint Petitioners at 47.

made without prior NRC approval; changes that reduce commitments require prior NRC approval.¹⁸⁰

Applicants provided a proposed quality assurance program for power operations as part of their license transfer application.¹⁸¹ Additionally, in accordance with section 50.54(a), Applicants submitted, and have since implemented, revisions to their current quality assurance program to cover the period from decommissioning to operation.¹⁸² Joint Petitioners do not appear to challenge the quality assurance program submitted with the license transfer application.¹⁸³ Their contention, rather, focuses on the revisions that Applicants have made to accommodate their planned transition to power operations.¹⁸⁴ But Joint Petitioners do not explain how their claims relate to the license amendment requests at issue here, such that they should be considered within the scope of the proceeding.

Moreover, even were we to consider these claims to be in scope, Joint Petitioners do not explain why Applicants must submit a new quality assurance program description rather than revise the existing one, except with an unsupported assertion that the program description does not exist.¹⁸⁵ Nor do they explain why Applicants' changes require prior NRC approval, when Applicants purport to increase, rather than decrease, their quality assurance program

¹⁸⁰ 10 C.F.R. § 50.54(a)(3), (4).

¹⁸¹ See Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (May 23, 2024) (ML24144A106).

¹⁸² See Letter from Jean A. Fleming, Holtec International, to NRC Document Control Desk (Aug. 2, 2024) (ML24215A356) (Revised Quality Assurance Program Description).

¹⁸³ Even if they had raised such a claim, the proper forum to do so would have been in the context of the license transfer proceeding, since the quality assurance program description was provided as part of the license transfer application.

¹⁸⁴ See Joint Petitioners Hearing Petition at 57–58.

¹⁸⁵ See id. at 56.

commitments.¹⁸⁶ To the extent Joint Petitioners argue that section 50.54(a) should not apply, or that the rule should be broadened to require NRC approval when commitments are increased, they raise both an impermissible challenge to an NRC regulation and an impermissible challenge to the Commission's policy that the existing regulatory framework apply to restart requests.¹⁸⁷

The remaining claims in Contention 3, like Contentions 1 and 2, amount to challenges to the Staff's review, and we have no authority to address them.¹⁸⁸ As discussed above, there are other avenues that Joint Petitioners may pursue for relief, including the rulemaking process and petitions for action under section 2.206. One of the Joint Petitioners, Mr. Blind, is pursuing action under both avenues.¹⁸⁹ But we must dismiss Contention 3 because it does not meet the standards for admission in an NRC adjudication.¹⁹⁰

- d. Contention 5: [The exemption request] should be denied as it fails to meet the regulatory requirements in 10 C.F.R. § 50.12. The request does not demonstrate that the exemption will not pose an undue risk to public health and safety and relies on circular logic and misapplication of proposed regulatory guidance. [Applicants] defer[] safety assurances to future NRC licensing actions and inspections without providing an independent and detailed plan for the safe restart of the Palisades Nuclear Plant. Additionally, [Applicants] misuse[] the proposed rule NRC-2015-0070 to justify [their] exemption request, further undermining its validity[,] and fail[] to show special circumstances.¹⁹¹

¹⁸⁶ See Revised Quality Assurance Program Description at 2 (stating that the transitioning quality assurance plan is "needed to address the increase in . . . commitments particular to Palisades as [the] site transitions back to an operating status").

¹⁸⁷ See 10 C.F.R. § 2.335(a); Oconee, CLI-99-11, 49 NRC at 334.

¹⁸⁸ See Catawba, CLI-04-6, 59 NRC at 74.

¹⁸⁹ See supra note 139 and accompanying text.

¹⁹⁰ See 10 C.F.R. § 2.309(f)(1)(iii), (v).

¹⁹¹ Supplement 10, at 2–3. Joint Petitioners withdrew Contention 4. See Withdrawal of Joint Petitioners' Contention 4, at 4.

In Contention 5, Joint Petitioners argue that the exemption request is within the scope of the proceeding because an exemption must be granted to reverse the certifications of cessation of operations and removal of fuel and “allow Palisades to exit decommissioning and reauthorize power operations.”¹⁹² According to Joint Petitioners, Applicants and the NRC Staff concede that the exemption request is necessary for restart, and therefore, Joint Petitioners assert, the exemption request is “inextricably linked to the in-scope [license amendment requests] and broader licensing actions.”¹⁹³ Joint Petitioners also repeat arguments presented in Contentions 1, 2, and 3. They argue for clarity on the use of existing regulations for restart and against Applicants’ purported reliance on “implicit” NRC approval of their restart proposals.¹⁹⁴

Joint Petitioners assert that the exemption request should be denied based on Applicants’ “failure to provide sufficient safety assurances, reliance on circular logic, failure to submit a comprehensive restart plan, and misapplication of [the NRC’s proposed decommissioning rule].”¹⁹⁵ Specifically, Joint Petitioners argue that Applicants improperly rely on the “unexpected governmental support for continued operations” as a special circumstance to justify the exemption request.¹⁹⁶ Joint Petitioners assert that Applicants’ “own timeline . . . shows that governmental support for continued operations was present during the plant’s last power operating cycle under Entergy ownership.”¹⁹⁷ Therefore, they argue, Applicants’ present

¹⁹² Supplement 10, at 1.

¹⁹³ Id.; see also id. at 3–7.

¹⁹⁴ See id. at 1; Supplement 11, at 1–9.

¹⁹⁵ Supplement 10, at 5. See generally Proposed Rule, Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning, 87 Fed. Reg. 12,254, 12,254 (Mar. 3, 2022); Regulatory Basis: Regulatory Improvements for Power Reactors Transitioning to Decommissioning (Nov. 20, 2017) (ML17215A010).

¹⁹⁶ Supplement 10, at 8.

¹⁹⁷ Id.

ownership of a plant undergoing decommissioning is a “self-inflicted” circumstance that may not serve as the basis for an exemption.¹⁹⁸

Additionally, Joint Petitioners assert that Applicants have not met the requirements for an exemption in 10 C.F.R. § 50.12(a)(2) because their “high-level plan” for restart does not provide sufficient assurance that safety will be maintained.¹⁹⁹ Joint Petitioners claim that Applicants must “submit a comprehensive and integrated restart plan for review to demonstrate how it will ensure public health and safety.”²⁰⁰

Finally, Joint Petitioners disagree with Applicants’ claim that 10 C.F.R. § 50.82(a)(2) enables communication about and formal entry into the decommissioning process.²⁰¹ Joint Petitioners specifically focus on Applicants’ reference to the NRC’s regulatory basis for the proposed decommissioning rule and assert that reliance on the proposed rule is flawed because (1) it has not been adopted as final; (2) Applicants ignore that the certifications in section 50.82 serve as a “critical regulatory safeguard” rather than mere communication; and (3) Applicants fail to provide specific language that the certifications may be rescinded when the rule “emphasizes the importance of the certification process as a permanent step, ensuring a safe transition to decommissioning.”²⁰²

Exemption requests, as a general rule, do not give rise to hearing opportunities.²⁰³ The Commission will allow a challenge to an exemption request in an NRC adjudication, however,

¹⁹⁸ Id. at 8–9.

¹⁹⁹ Id. at 10.

²⁰⁰ Id.

²⁰¹ Id. at 10–11.

²⁰² Id. at 11–12.

²⁰³ See Atomic Energy Act § 189a, 42 U.S.C. § 2239(a); Entergy Nuclear Operations, Inc. (Palisades Nuclear Plant and Big Rock Point Site), CLI-22-8, 96 NRC 1, 14 (2022).

when the exemption request is “inextricably intertwined” with an action for which a hearing opportunity must be provided, such as a license amendment request.²⁰⁴ Joint Petitioners assert that the exemption request is “inextricably linked” to the license amendment requests because it “is necessary . . . to reverse the certifications under 10 C.F.R. § 50.82(a)(1) and allow Palisades to exit decommissioning and reauthorize power operations.”²⁰⁵

The Staff agrees that the exemption request may be challenged in this proceeding because it is linked to the Operating License and Technical Specifications Amendment Request, which Joint Petitioners expressly reference in their petition.²⁰⁶ The Staff asserts that the prohibition on operation and fuel load in 10 C.F.R. § 50.82(a)(2) must be removed to make the required finding that issuance of the license amendment complies with NRC regulations.²⁰⁷ Thus, the Staff argues, the NRC may not grant the amendment without granting the exemption.²⁰⁸

Applicants disagree with Joint Petitioners and the Staff. Applicants assert that even though the exemption request and license amendment requests are “both aimed at the same ultimate objective,” it “does not mean that the two are co-dependent in a manner that scopes the [exemption request] into the . . . hearing process.”²⁰⁹ According to Applicants, the exemption request “would only allow withdrawal of the 50.82(a)(1) certifications from the docket; it does not bear on whether the . . . [license amendment requests] should also be issued or whether those

²⁰⁴ Vermont Yankee, CLI-16-12, 83 NRC at 553; see also Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), CLI-01-12, 53 NRC 459, 467 (2001).

²⁰⁵ Supplement 10, at 1; see also id. at 4–6 (discussing the interconnected nature of the exemption request and license amendment requests).

²⁰⁶ Staff Answer to Joint Petitioners at 66 (citing Supplement 10, at 4).

²⁰⁷ Id. at 66–67 & n.252 (citing 10 C.F.R. §§ 50.57, 50.92).

²⁰⁸ Id. at 66–67.

²⁰⁹ Applicants Answer to Joint Petitioners at 53.

amendments satisfy the applicable regulatory criteria.”²¹⁰ Applicants assert that the “NRC could accept . . . all of Joint Petitioners’ arguments on the [exemption request], but doing so would not change anything” about the Staff’s review of the license amendment requests.²¹¹

A majority of the Board agrees with Joint Petitioners and the Staff that the exemption request is within the scope of the proceeding.²¹² Because section 50.82(a)(2) expressly prohibits that which Applicants seek to accomplish with the Operating License and Technical Specifications Amendment Request—power operation—an exemption from the regulation is necessary for the NRC to find that the amendment complies with NRC regulations.²¹³ In the circumstances presented here, the exemption is necessary to grant the license amendment and thus may be challenged as part of this proceeding.²¹⁴

Although Joint Petitioners have demonstrated that the exemption request is within the scope of the proceeding, we conclude that the arguments they incorporate from Contentions 1, 2, and 3 regarding the need for clarity in the regulations and the need for the NRC’s express approval of the regulatory framework are outside the scope of the proceeding as impermissible challenges to the Staff’s review, the NRC’s regulations, and Commission policy.²¹⁵ With regard to the remaining arguments in Contention 5, we conclude that Joint Petitioners have not

²¹⁰ Id. at 52; see also id. at 52–53 (arguing that, with the NRC’s issuance of Inspection Manual Chapter 2562, the exemption request need no longer serve as the final approval vehicle for restart and “[w]hat is left is approval to rescind the certifications of shutdown and defueling”).

²¹¹ Id. at 53.

²¹² Judge Arnold’s concurring opinion is attached to this memorandum and order.

²¹³ See 10 C.F.R. §§ 50.57(a), 50.82(a)(2), 50.92(a).

²¹⁴ See Palisades, CLI-22-8, 96 NRC at 14; Vermont Yankee, CLI-16-12, 83 NRC at 551–52; Private Fuel Storage, CLI-01-12, 53 NRC at 470.

²¹⁵ See 10 C.F.R. § 2.309(f)(1)(iii).

provided sufficient support and have not demonstrated a genuine dispute with Applicants on a material issue of law or fact.²¹⁶

The Commission may grant an exemption if it (1) is authorized by law, (2) will not present an undue risk to public health and safety, and (3) is consistent with common defense and security.²¹⁷ Further, the Commission “will not consider granting an exemption” unless one or more of the special circumstances enumerated in 10 C.F.R. § 50.12(a)(2) is present.²¹⁸ In support of their exemption request, Applicants rely on the special circumstances in subsections (a)(2)(ii) (application of the regulation does not serve its underlying purpose), (a)(2)(iii) (compliance would result in undue hardship or other costs significantly in excess of those contemplated when the regulation was adopted), and (a)(2)(vi) (any other material circumstance not considered when the regulation was adopted and for which it would be in the public interest to grant the exemption).²¹⁹

Joint Petitioners raise concerns regarding the requirement that the exemption will not present an undue risk to public health and safety. They argue that Applicants have failed to provide substantive details on their restart plan, which “undermines safety assurances.”²²⁰ They also assert that the NRC should require Applicants to provide “a comprehensive and integrated restart plan” to provide “sufficient assurance that safety will be maintained.”²²¹ But Joint Petitioners’ claims are generalized and speculative, and therefore they are insufficient to support

²¹⁶ See id. § 2.309(f)(1)(v), (vi).

²¹⁷ Id. § 50.12(a)(1).

²¹⁸ Id. § 50.12(a)(2).

²¹⁹ Exemption Request, Encl. 1, at 10–12.

²²⁰ Supplement 10, at 10.

²²¹ Id.

an admissible contention.²²² To the extent Joint Petitioners' concerns are tied to their challenges to the Staff's review process, their claims are outside the scope of the proceeding. We may not oversee the Staff's review or direct it in the performance of its administrative functions.²²³

In challenging Applicants' reliance on the special circumstances requirements in section 50.12(a)(2)(ii), (iii), and (vi), Joint Petitioners provide an alternate reading of the purpose of section 50.82(a)(1) and (2) and the underlying considerations for the rule when it was adopted. In response to Applicants' claim that the rule's purpose is "for communication and formal entering into the decommissioning process, and not to prohibit [a licensee's] rescission" of the certifications,²²⁴ Joint Petitioners assert that "[t]he rule, in fact, emphasizes the importance of the certification process as a permanent step, ensuring a safe transition to decommissioning."²²⁵ Joint Petitioners also take issue with Applicants' reference to the regulatory basis for the NRC's proposed decommissioning rule as support for Applicants' reading of the rule's purpose.²²⁶

But Joint Petitioners do not provide references to support their assertions, and without more, we cannot conclude that they have raised a genuine dispute with Applicants on a material issue of law or fact.²²⁷ Moreover, Joint Petitioners' position on the rule's purpose—essentially that the certifications, once filed, are irreversible—taken to its logical conclusion would mean that the NRC would be unable to permit rescission of the section 50.82(a)(1) certifications under

²²² See 10 C.F.R. § 2.309(f)(1)(v).

²²³ See Millstone, CLI-08-17, 68 NRC at 237, 242; Catawba, CLI-04-6, 59 NRC at 74; see also Vermont Yankee, CLI-16-12, 83 NRC at 555 (rejecting a challenge to the timing of the Staff's review of an exemption request relative to a license amendment request).

²²⁴ Exemption Request, Encl. 1, at 10.

²²⁵ Supplement 10, at 12.

²²⁶ Id. at 11.

²²⁷ See 10 C.F.R. § 2.309(f)(1)(v), (vi).

any circumstance. We decline to read into the rule such a prohibition on the agency's authority.²²⁸

Regarding Joint Petitioners' argument that Applicants' present circumstances are "self-inflicted" and should have been foreseen, Joint Petitioners do not explain how these claims require denial of the exemption request.²²⁹ Further, the materiality of Joint Petitioners' argument is not immediately clear. The provision under which Applicants claim undue hardship requires a look back at the circumstances the NRC considered at the time the rule was adopted, not, as Joint Petitioners would have it, when an applicant first experienced the claimed hardship.²³⁰ Because Joint Petitioners have not met the admissibility requirements in section 2.309(f)(1), we must dismiss Contention 5.²³¹

2. Petitioning Organizations' Contentions

- a. Contention 1: [Applicants] seek[] an exemption from the requirements of 10 C.F.R. § 50.82, pursuant to 10 C.F.R. § 50.12. The proposed exemption would remove the 10 C.F.R. § 50.82(a)(2) restriction that prohibits reactor power operations and retention of fuel in the reactor vessel when the reactor is in the process of decommissioning. [Applicants'] proposed exemption does not comply with the requirements for an exemption set forth in 10 C.F.R. § 50.12. Therefore, the NRC must not allow [Applicants] to use this exemption.²³²

²²⁸ Cf. Carolina Power & Light Co. and North Carolina Eastern Municipal Power Agency (Shearon Harris Nuclear Power Plant), CLI-86-24, 24 NRC 769, 774 n.5 (1986) (summarily dismissing claim that the Commission has no authority to grant exemptions from its regulations) (citing Final Rule, Specific Exemptions; Clarification of Standards, 50 Fed. Reg. 50,764, 50,766–67 (Dec. 12, 1985); United States v. Allegheny-Ludlum Steel, 406 U.S. 742, 755 (1972); Alabama Power Co. v. Costle, 636 F.2d 323, 357 (D.C. Cir. 1979)).

²²⁹ See Supplement 10, at 8–10.

²³⁰ See 10 C.F.R. §§ 2.309(f)(1)(iv), (vi), 50.12(a)(2)(iii); Shearon Harris, CLI-86-24, 24 NRC at 780 (concluding that because the petitioner failed to "draw a nexus" between the claim and the exemption request at issue, the petitioner had not met the materiality standard).

²³¹ See 10 C.F.R. § 2.309(f)(1)(iii), (iv), (v), (vi).

²³² Petitioning Organizations Hearing Petition at 30.

In Contention 1, Petitioning Organizations assert that Applicants' request for an exemption from the prohibition on fuel load and operation in section 50.82(a)(2) should be denied for failure to meet the requirements for an exemption in section 50.12.²³³ As discussed above, the Commission may grant an exemption under section 50.12 if it (1) is authorized by law, (2) will not present an undue risk to public health and safety, and (3) is consistent with the common defense and security.²³⁴ The Commission also must find that one or more of the special circumstances enumerated in 10 C.F.R. § 50.12(a)(2) is present.²³⁵ Applicants claim the presence of special circumstances under subsections (a)(2)(ii) (application of the regulation does not serve its underlying purpose), (a)(2)(iii) (compliance would result in undue hardship or other costs significantly in excess of those contemplated when the regulation was adopted), and (a)(2)(vi) (any other material circumstance not considered when the regulation was adopted and for which it would be in the public interest to grant the exemption).²³⁶

Petitioning Organizations first argue that Applicants have not met section 50.12(a)(1) because Applicants do not "cite any law that authorizes the exemption."²³⁷ Next, Petitioning Organizations rely on a declaration from their expert, Arnold Gundersen, to challenge Applicants' claim that the exemption will not present an undue risk to public health and safety and common defense and security.²³⁸ Petitioning Organizations claim that "there were significant safety problems with the plant" prior to its shutdown, and therefore returning the plant

²³³ Id.

²³⁴ 10 C.F.R. § 50.12(a)(1).

²³⁵ Id. § 50.12(a)(2).

²³⁶ Exemption Request, Encl. 1, at 10–12.

²³⁷ Petitioning Organizations Hearing Petition at 32.

²³⁸ Id. at 33–34.

to its pre-shutdown status will introduce undue risks to public health and safety.²³⁹ Petitioning Organizations and their expert assert flaws in Palisades' prior maintenance and the adequacy of its safety equipment.²⁴⁰ They also argue that Applicants lack experience in construction and operation of a nuclear power plant and that Applicants have underestimated the time and cost of repairs.²⁴¹

Lastly, Petitioning Organizations argue that Applicants fail to show that special circumstances are present.²⁴² Although Applicants rely on three of the special circumstances criteria, Petitioning Organizations assert that Applicants have failed to satisfy any of the six special circumstances enumerated in section 50.12(a)(2).²⁴³ Petitioning Organizations concede that Applicants do not claim to satisfy subsections (a)(2)(i), (iv), and (v).²⁴⁴ With regard to subsection (a)(2)(ii), Petitioning Organizations assert that Applicants have not shown that application of section 50.82(a)(2) would not meet the purpose for which it was adopted. Petitioning Organizations argue that the purpose of the regulation is to facilitate decommissioning, and they assert that the purpose is served by Applicants' continuing the decommissioning process rather than restarting Palisades.²⁴⁵

With regard to subsection (a)(2)(iii), Petitioning Organizations assert that Applicants have not shown undue hardship because they "merely [find themselves] in a difficult situation of

²³⁹ Id. at 33.

²⁴⁰ Id. (citing Gundersen Declaration at 8, 22).

²⁴¹ Id. at 33–34 (citing Gundersen Declaration at 11, 21).

²⁴² See id. at 34–40.

²⁴³ Id.

²⁴⁴ See id. at 34, 36–37. Therefore, Petitioning Organizations raise no genuine dispute with respect to Applicants' showing of special circumstances under these subsections. See 10 C.F.R. § 2.309(f)(1)(vi).

²⁴⁵ Petitioning Organizations Hearing Petition at 35.

[their] own making” after buying Palisades with knowledge that the plant would be undergoing decommissioning.²⁴⁶ They also claim that the economic considerations of “a host of players” “must be taken into consideration along with those of [Applicants].”²⁴⁷ And with regard to subsection (a)(2)(vi), Petitioning Organizations do not appear to commit to a position on the question whether the NRC considered the possibility of restarting a shutdown plant when it promulgated section 50.82(a)(2).²⁴⁸ They do claim, however, that an exemption would not be in the public interest.²⁴⁹ Relying on declarations from Arnold Gundersen, Kevin Kamps, and Mark Jacobson, Petitioning Organizations assert that the restart process will be difficult and complicated; that political support does not equate with public interest; that nuclear power contributes to global warming and air pollution and “is not the energy source of the future”; that Applicants’ fixed-price power purchase agreement “may be well above comparable market prices”; and that Entergy, the prior licensee and operator, “drove Palisades into the ground before its 2022 closing.”²⁵⁰

We conclude that Contention 1 is inadmissible because it lacks sufficient legal and factual support and fails to demonstrate a genuine dispute on a material issue of law or fact.²⁵¹

²⁴⁶ Id.

²⁴⁷ Id. at 36.

²⁴⁸ Compare id. at 37 (suggesting that the lack of express mention of restart requests “does not mean that NRC did not consider the possibility of restarting a reactor in decommissioning status when it promulgated the decommissioning rules”), with id. (asserting that “[o]n the other hand, if the NRC had considered the possibility of restarting a decommissioning reactor, it would have provided that possibility in the rules”).

²⁴⁹ Id. at 37–40.

²⁵⁰ Id. (citing Gundersen Declaration at 13; Kamps Declaration at 4; Jacobson Declaration at 9) (internal quotation marks omitted).

²⁵¹ See 10 C.F.R. § 2.309(f)(1)(v), (vi). Petitioning Organizations state that they do not view the exemption request as within the scope of this proceeding, but they nevertheless propose Contention 1 out of an abundance of caution. See Petitioning Organizations Hearing Request

Throughout their contention, Petitioning Organizations rely on conclusory statements either in the petition itself or in declarations from their experts. But the Commission has long held that conclusory statements, even if made by an expert, are insufficient to establish the legal and factual basis for an admissible contention.²⁵² For example, Petitioning Organizations simply assert, without reference to legal authority, that section 50.12(a)(1) requires Applicants to demonstrate “affirmative legal authorization” for their exemption request.²⁵³ Additionally, Petitioning Organizations and their experts make bald assertions about the safety of the Palisades Nuclear Plant, Applicants’ experience in the industry, and the potential time and expense of repairs.²⁵⁴

Moreover, in their argument that section 50.82(a)(2) serves its purpose if Applicants continue to decommission Palisades, Petitioning Organizations overlook the application of the rule to the particular circumstances presented here—Applicants’ plan to restart Palisades.²⁵⁵ In essence, they imply that the NRC would not be able to allow an exemption from this rule under any circumstance.²⁵⁶ As discussed above, we decline to read into the rule such a limitation on the agency’s authority.²⁵⁷ Further, Petitioning Organizations make only generalized claims about the economic burdens of others, and they do not explain how the timing of Applicants’

at 30; Petitioning Organizations Reply at 11; Tr. at 15–16. A majority of the Board concludes that the exemption request is within the scope of the proceeding. See supra section II.C.1.d.

²⁵² See Entergy Nuclear Generation Co. and Entergy Nuclear Operations, Inc. (Pilgrim Nuclear Power Station), CLI-12-15, 75 NRC 704, 714 (2012); Millstone, CLI-03-14, 58 NRC at 216; Oyster Creek, CLI-00-6, 51 NRC at 208.

²⁵³ Petitioning Organizations Hearing Petition at 33.

²⁵⁴ See id. at 33–34; Gundersen Declaration at 8, 11, 21–22.

²⁵⁵ See 10 C.F.R. § 50.12(a)(2)(ii) (providing that special circumstances are present when “[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule”).

²⁵⁶ See Petitioning Organizations Hearing Petition at 34–35.

²⁵⁷ See Shearon Harris, CLI-86-24, 24 NRC at 774 n.5.

decision to pursue restart is material to an assessment of the costs from Applicants' claimed hardship and those contemplated at the time section 50.82(a)(2) was adopted.²⁵⁸ Finally, their claims that restart would not be in the public interest are conclusory and speculative, and Petitioning Organizations do not link their claims to any material circumstance not considered when section 50.82(a)(2) was adopted.²⁵⁹ Therefore, we must dismiss Contention 1.²⁶⁰

- b. Contention 2: An Environmental Impact Statement (EIS), not an Environmental Assessment (EA), must be compiled for the proposed restart of the Palisades reactor. An EIS is required because of the major regulatory decision sought by [Applicants].²⁶¹

Contention 3: Presently, pursuant to 10 C.F.R. § 50.82(a)(2), the current Palisades operating license no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel. What [Applicants] obtained from Entergy when [Applicants] purchased Palisades, and what [Applicants] now [have], is an operating license conditioned by the certification that nuclear fuel has permanently been removed from the core, and consequently no new fuel may be introduced into the Palisades reactor, nor may it be operated to produce electricity. In order to resume power operations at Palisades, Applicants must obtain a new operating license.²⁶²

Because Contentions 2 and 3 are substantially similar and share the same foundational underpinning, we consider them together.²⁶³ In both contentions, Petitioning Organizations

²⁵⁸ See Petitioning Organizations Hearing Petition at 35–36.

²⁵⁹ See id. at 37–40; Gundersen Declaration at 13, Kamps Declaration at 4; Jacobson Declaration at 9. Moreover, we are not expected to search through the declarations to locate support for Petitioning Organizations' arguments. See Fanstee, CLI-03-13, 58 NRC at 204.

²⁶⁰ See 10 C.F.R. § 2.309(f)(1)(iv), (v), (vi).

²⁶¹ Petitioning Organizations Hearing Petition at 40.

²⁶² Id. at 45.

²⁶³ In their new and amended contentions, Petitioning Organizations appear to suggest that Contention 2 has been superseded by its amendment, but in contrast to their position on Contentions 5, 6, and 7, Petitioning Organizations do not claim that Contention 2 has been addressed by the Staff's issuance of the Draft EA and Draft FONSI. See Petitioning Organizations New and Amended Contentions at 1 (referring to "Amended and Substituted Contention 2"). To the contrary, they "deny any effect on Contention 2 as to mootness resulting from publication of [those documents]." Petitioning Organizations Initial Brief on Draft EA/FONSI at 3. Therefore, we address the admissibility of Contention 2 as originally pled, and we will address amended Contention 2 in a separate decision. We take the same approach

assert that Applicants must obtain a new operating license rather than amend their current operating license.²⁶⁴ Specifically, they argue that once the agency has docketed the certifications of permanent cessation of operations and permanent removal of fuel, “there is no lawful way” to amend the license or grant exemptions.²⁶⁵ In support of their argument, Petitioning Organizations point to the lack of a provision in the Atomic Energy Act or in the NRC’s regulations that expressly speaks to restarting operations for a plant in the process of decommissioning.²⁶⁶ In essence, they claim that an operating license that has been amended to reflect a plant’s decommissioning status is not an operating license.²⁶⁷

Additionally, in both contentions, Petitioning Organizations assert that because Applicants must obtain a new operating license, the Staff must prepare an Environmental Impact Statement (EIS), rather than an EA, in accordance with 10 C.F.R. § 51.20(b)(2).²⁶⁸ They claim that given the potential costs of the project, the Palisades restart is a “major federal action” under the National Environmental Policy Act of 1969, as amended (NEPA).²⁶⁹ Further,

with Contention 4 and address the original below and the amended version in a separate decision. Petitioning Organizations’ initial and response briefs on the mootness issue do not discuss Contention 4.

²⁶⁴ See Petitioning Organizations Hearing Petition at 41–43, 45–48.

²⁶⁵ Id. at 43; see also id. at 45 (“When those [section 50.82] certifications were submitted, [Applicants] no longer had an operating license, but instead, held an operating license conditioned by the supervening requirement that no nuclear fuel could be emplaced within the core and the reactor cannot be used to generate electricity.”). Petitioning Organizations also reference their challenge to Applicants’ exemption request in Contention 1. See id. at 47.

²⁶⁶ See id. at 44–45.

²⁶⁷ See id. at 43–44; see also id. at 46 (“Without an unconditioned operating license, [Applicants] cannot simply amend what [they] do[] not have.”); id. at 47 (suggesting that the operating license has been “terminated”).

²⁶⁸ Id. at 41–48; see 10 C.F.R. § 51.20(b)(2) (requiring an EIS for the “[i]ssuance or renewal of a full power or design capacity license to operate a nuclear power reactor . . . under part 50 of this chapter”).

²⁶⁹ Petitioning Organizations Hearing Petition at 44–45.

they suggest that the restart of Palisades might result in significant environmental impacts “because there is considerable evidence that safety systems and components are being altered” while the plant is decommissioning.²⁷⁰ In this vein, Petitioning Organizations also assert that Applicants must submit an environmental report that meets the requirements in 10 C.F.R. § 51.53, which pertains to operating license applications, license renewal applications, and decommissioning activities, and 10 C.F.R. § 51.45, which provides general criteria for applications that require an environmental report.²⁷¹ They argue that the document the Staff is treating as Applicants’ environmental report does not comply with the requirements in sections 51.45 and 51.53 and should not have been accepted by the Staff.²⁷²

We conclude that Contentions 2 and 3 are inadmissible because they raise issues beyond the scope of the proceeding and because they are not supported by sufficient information to raise a genuine dispute on a material issue of law or fact.²⁷³ The Commission has determined that restart requests will be evaluated using the agency’s existing regulatory framework, which provides for license amendment requests and requests for exemptions from regulations.²⁷⁴ Therefore, Petitioning Organizations’ claims that Applicants’ operating license may not be amended or that Applicants may not seek exemptions from regulations amount to an impermissible challenge to agency policy and regulations.²⁷⁵ Further, these claims are based on Petitioning Organizations’ conclusory assertions that the operating license, which was

²⁷⁰ Id. at 47 (comparing the restart of Palisades to a license renewal proceeding).

²⁷¹ Id. at 43; see 10 C.F.R. §§ 51.45, 51.53.

²⁷² See Petitioning Organizations Hearing Petition at 43.

²⁷³ See 10 C.F.R. § 2.309(f)(1)(iii), (v), (vi).

²⁷⁴ See Denial of Petition for Rulemaking, 86 Fed. Reg. at 24,362; 10 C.F.R. §§ 50.12, 50.90, 50.92.

²⁷⁵ See Oconee, CLI-99-11, 49 NRC at 334; 10 C.F.R. § 2.335.

previously amended, is now incapable of amendment. Petitioning Organizations simply state, without support, that “there is nothing to amend,” even though the operating license continues to exist.²⁷⁶ And they assert that the Atomic Energy Act and the NRC’s regulations must specifically address restart, without reference to supporting legal authority.²⁷⁷

Petitioning Organizations’ argument that the Staff must prepare an EIS in accordance with 10 C.F.R. § 51.20 is based on the claim that a new operating license must be obtained, and therefore it fails for the same reasons.²⁷⁸ In addition, to the extent Petitioning Organizations claim that this license amendment proceeding is a “major federal action” requiring an EIS, they have not raised a genuine, material dispute.²⁷⁹ Under NEPA, an EIS is required for “major Federal actions significantly affecting the quality of the human environment.”²⁸⁰ The question whether this proceeding qualifies as a “major federal action” alone is not enough to require the preparation of an EIS. There must also be a significant impact to the environment.²⁸¹ And regarding the significance of potential impacts from restart, Petitioning Organizations merely speculate that significant effects might arise from changes to safety systems and components made during the decommissioning process, which is insufficient to support an admissible contention.²⁸²

²⁷⁶ Petitioning Organizations Hearing Petition at 47.

²⁷⁷ Id. at 44–45.

²⁷⁸ See 10 C.F.R. § 51.20; Oconee, CLI-99-11, 49 NRC at 334.

²⁷⁹ See 10 C.F.R. § 2.309(f)(1)(vi).

²⁸⁰ NEPA § 102(2)(C), 42 U.S.C. § 4332(2)(C).

²⁸¹ Id.

²⁸² See, e.g., Millstone, CLI-03-14, 58 NRC at 216. To the extent Petitioning Organizations’ new and amended contentions raise claims regarding the significance of environmental impacts, we will address them in our ruling on those contentions.

Finally, in Contentions 2 and 3,²⁸³ Petitioning Organizations do not explain how the document the Staff is treating as Applicants' environmental report fails to meet sections 51.45 and 51.53—regulations that do not on their face require the preparation of an environmental report for the types of license amendments at issue here.²⁸⁴ Their argument thus lacks sufficient support to demonstrate a genuine, material dispute.²⁸⁵ And to the extent Petitioning Organizations argue that the Staff improperly accepted this document as an environmental report, their claim amounts to an out-of-scope challenge to the Staff's process.²⁸⁶ For all of these reasons, we must dismiss Contentions 2 and 3.²⁸⁷

- c. Contention 4: [Applicants] and the NRC admit that there is no provision in law or regulation for the NRC to authorize the restart of Palisades as a closed reactor. They are cobbling together a "pathway" to restart, using a "creative" procedure based on existing regulations that they believe allows [Applicants] to bypass the requirement of compiling a new [UFSAR] in favor of returning [to] the UFSAR Revision 35, which was in place when the Palisades reactor was closed. Since there is no dedicated regulatory procedure for restarting a closed reactor, the NRC has no authority to approve the license amendments requested by [Applicants].²⁸⁸

²⁸³ Contentions 5, 6, and 7 challenge the environmental report's content, but as we explain below, these contentions are now moot.

²⁸⁴ See 10 C.F.R. §§ 51.45(a), 51.53(d). Petitioning Organizations' reference to these regulations appears to be an outgrowth of their claim that a new operating license is required, but as we address above, this claim is out of scope and not supported.

²⁸⁵ See 10 C.F.R. § 2.309(f)(1)(v), (vi).

²⁸⁶ See Catawba, CLI-04-6, 59 NRC at 74; 10 C.F.R. § 2.309(f)(1)(iii).

²⁸⁷ In their response brief addressing the impact of the Draft EA and Draft FONSI on their pending contentions, Petitioning Organizations argue that a recent interim final rule from the Council on Environmental Quality (CEQ) might have the effect of making EAs a "legal nullity." Petitioning Organizations Response Brief on Draft EA/FONSI at 2–3. But the NRC has adopted its own NEPA-implementing regulations, including regulations that provide for the preparation of an EA, and Petitioning Organizations do not discuss how, given the NRC's existing NEPA rules, this change to the CEQ regulations would be material to this proceeding. See 10 C.F.R. §§ 2.309(f)(1)(iv), (vi), 51.21, 51.25.

²⁸⁸ Petitioning Organizations Hearing Petition at 48.

In Contention 4, Petitioning Organizations first reiterate their claim from Contentions 2 and 3 that the NRC may not authorize the restart of Palisades without a statutory or regulatory process that expressly addresses the restart of a shutdown reactor.²⁸⁹ They assert that Applicants have taken an unjustified approach to restart by requesting an exemption and license amendments.²⁹⁰ And they assert that the NRC should not allow Applicants to go forward with their “creative” scheme.²⁹¹

Petitioning Organizations reference the Supreme Court’s decision in West Virginia v. EPA²⁹² and claim that the restart of a shutdown plant involves a “major question lacking clear Congressional authority,” and that therefore the Staff may not use the NRC’s existing regulatory framework to assess the restart of Palisades.²⁹³ Petitioning Organizations maintain that restart is “major” because Palisades uses a “grandfathered design” that is “not licensable to 21st century standards” and because restarting a decommissioning plant is unprecedented.²⁹⁴ Therefore, they argue, the NRC may not approve restart absent clear Congressional authorization.²⁹⁵ Additionally, Petitioning Organizations repeat their argument from Contentions

²⁸⁹ See id. at 48–49, 51.

²⁹⁰ Id. at 48–49.

²⁹¹ Id.

²⁹² 597 U.S. 697 (2022).

²⁹³ Petitioning Organizations Hearing Petition at 51–55. They also assert, incorrectly, that the Commission did not approve the use of the existing regulatory framework, apparently unaware of the Commission’s approval in the Staff Requirements Memorandum for SECY-20-0110. Id. at 51–52; see Denial of Petition for Rulemaking, 86 Fed. Reg. at 24,362; supra note 12. Additionally, they assert that the Executive Director for Operations’ “hypothetical scenario” for restart—again overlooking the Commission’s approval—is not entitled to deference. Petitioning Organizations Hearing Petition at 54–55 (citing Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024)).

²⁹⁴ Petitioning Organizations Hearing Petition at 51–52.

²⁹⁵ Id. at 53 (citing West Virginia, 597 U.S. at 723; Texas v. NRC, 78 F.4th 827, 844 (5th Cir. 2023), reh’g en banc denied, 95 F.4th 935 (5th Cir. 2024), cert. granted, 145 S. Ct. 117; 145 S. Ct. 119 (Oct. 4, 2024)).

1, 2, and 3 that, because the certifications of permanent cessation of operation and permanent removal of fuel have been docketed, 10 C.F.R. § 50.82 places an irreversible prohibition on restart.²⁹⁶

Second, Petitioning Organizations assert that Applicants may not use the change process in 10 C.F.R. § 50.59 to reinstate UFSAR Revision 35 and must instead submit a new FSAR.²⁹⁷ In support of this claim, Petitioning Organizations argue that the changes required for restart exceed those that may be sought through license amendment.²⁹⁸ In particular, they argue that “as a result of climate change,” some of the changes to the technical specifications and operating components will “pronouncedly exceed the minimum change thresholds” for a license amendment under section 50.59(c)(2).²⁹⁹ Further, they argue that section 50.59(c)(2) references changes that have been “previously evaluated” in an FSAR, and they assert that Applicants may not request license amendments for the restart process because restart “has not been previously evaluated.”³⁰⁰ Petitioning Organizations’ expert, Arnold Gundersen, points to the replacement of the Palisades component cooling water heat exchangers, the need for steam generator tube repairs, and changes to air and water temperature in the area surrounding the Palisades site to suggest that restart will require major changes that exceed those allowable by license amendment.³⁰¹

²⁹⁶ See id. at 54.

²⁹⁷ See id. at 50 (asserting that Applicants must provide a new FSAR due to “significant safety issues”).

²⁹⁸ See id. at 55–61 (citing Gundersen Declaration at 56–58).

²⁹⁹ Id. at 57.

³⁰⁰ Id. at 58.

³⁰¹ See id. at 58–63 (citing Gundersen Declaration at 39–46, 56–58); see also id. at 61–62 (“plugging and unplugging steam generator tubes is a major engineered change” and the “proposal to unplug 600 steam generator tubes may cause additional unforeseen troubles”); Petitioning Organizations Reply at 27–28 (citing Supplemental Gundersen Declaration at 6).

Third, Petitioning Organizations and Mr. Gundersen claim that Entergy engaged in a mass destruction of quality assurance records.³⁰² They argue that the absence of “continuity of quality assurance history . . . will pose risks that are difficult to quantify.”³⁰³ Consequently, they suggest, “restoration of operations [will be] very difficult or impossible.”³⁰⁴

We conclude that Contention 4 is inadmissible because it challenges NRC regulations and policy, relies on conclusory and speculative claims, and does not otherwise raise a specific challenge to the four license amendment requests that are the subject of this proceeding.³⁰⁵ First, Petitioning Organizations’ argument that restart-specific statutory and regulatory provisions are necessary to allow Applicants to restart Palisades is not cognizable in this adjudicatory proceeding.³⁰⁶ The Commission has determined that the agency’s existing regulatory framework applies to restart requests, and a challenge to the use of this framework is a challenge to both the NRC’s regulations and Commission policy.³⁰⁷ Therefore, we need not decide whether restart constitutes a “major question” that requires clear Congressional approval.

In applying the contention admissibility requirements, however, we observe that the Staff’s response to Petitioning Organizations’ application of the major questions doctrine is not without merit.³⁰⁸ As the Staff explains, “if the challenged restart requests involve an issue of such ‘economic and political significance’ that the ‘major questions’ doctrine applies, then the

³⁰² Petitioning Organizations Hearing Petition at 63.

³⁰³ Id. (citing Gundersen Declaration at 47–48).

³⁰⁴ Id.

³⁰⁵ See 10 C.F.R. § 2.309(f)(1)(iii), (v), (vi).

³⁰⁶ See id. § 2.335(a); Oconee, CLI-99-11, 49 NRC at 334.

³⁰⁷ See Denial of Petition for Rulemaking, 86 Fed. Reg. at 24,362; 10 C.F.R. §§ 50.12, 50.90, 50.92.

³⁰⁸ See Staff Answer to Petitioning Organizations at 61.

doctrine would appear to apply to all new reactor licensing, a result that would undermine the Court's characterization of the doctrine as one reserved for 'extraordinary cases.'"³⁰⁹ Other than conclusory assertions, Petitioning Organizations do not explain how the restart of Palisades would be of substantially more economic significance than the agency's other power reactor licensing activities, past and present.³¹⁰ Further, as the Staff points out, the "major questions" inquiry is not based on considerations of economic and political significance alone.³¹¹ It includes a "consideration of the 'history and the breadth of the authority that [the agency] has asserted.'"³¹² And beyond pointing out that this particular type of restart action has not been requested before, Petitioning Organizations do not address this consideration. In the face of the Commission's policy to use its "long-standing licensing and regulatory processes,"³¹³ we do not see how Petitioning Organizations have met their burden to provide sufficient support for their claim that application of the major questions doctrine forecloses the agency's review of the license amendment requests without express statutory authorization.³¹⁴

Second, with regard to Petitioning Organizations' claim that 10 C.F.R. § 50.59 may not be used to update the UFSAR, their argument is based on a misinterpretation of that section

³⁰⁹ Id. (quoting West Virginia, 597 U.S. at 721).

³¹⁰ See id. (comparing Applicants' request to reauthorize "operation of an already-built reactor at an existing site under an existing license" with "licensing construction and operation of a new power reactor, which may also involve a new site and a new licensing basis" (emphasis omitted)); see also id. (discussing the agency's reinstatement of the terminated construction permit for the Bellefonte nuclear plant). Cf. Bellefonte, CLI-10-6, 71 NRC at 120 (concluding that the agency has broad authority under the Atomic Energy Act to reinstate voluntarily surrendered construction permits).

³¹¹ Staff Answer to Petitioning Organizations at 60.

³¹² Id. (quoting West Virginia, 597 U.S. at 721 (alteration in original)).

³¹³ Id. at 61; see Denial of Petition for Rulemaking, 86 Fed. Reg. at 24,362.

³¹⁴ See 10 C.F.R. § 2.309(f)(1)(v), (vi).

and otherwise amounts to an impermissible challenge to a regulation.³¹⁵ This claim is substantially similar to that raised in Joint Petitioners' Contention 2, and our rationale for dismissing that claim applies equally here.³¹⁶ As we explained in response to that contention, section 50.59 provides a process for determining which types of changes applicants may make without a license amendment and which types of changes require a license amendment.³¹⁷ A challenge to the use of the process amounts to an improper challenge to an agency regulation.³¹⁸ It is the outcome of the process that would be subject to challenge, and Applicants acknowledge that they might need to submit additional license amendment requests related to the restart of Palisades beyond those at issue here.³¹⁹

In that vein, Applicants have submitted a license amendment request concerning the steam generator tubes, and therefore Petitioning Organizations will have an opportunity to raise specific concerns regarding the steam generator tubes in the context of that proceeding.³²⁰ But to the extent Petitioning Organizations seek to leverage Applicants' need for steam generator tube repairs (along with their claims regarding increases in air temperature and water temperature from climate change), as an entrée to challenge Applicants' use of the section 50.59 process, their claims are outside the scope of this proceeding. At bottom, Petitioning

³¹⁵ Nor do Petitioning Organizations explain how Applicants' mention of their planned use of the section 50.59 process in the Operating License and Technical Specifications Amendment Request draws that process into the scope of this proceeding. See Petitioning Organizations Hearing Petition at 49.

³¹⁶ See supra section II.C.1.b.

³¹⁷ See id. § 50.59(c)(1), (c)(2).

³¹⁸ See id. § 2.335.

³¹⁹ See Applicants Answer to Petitioning Organizations at 20–21. For changes that are made without a license amendment, challenges would be raised in accordance with 10 C.F.R. § 2.206(a), which allows any person to petition for the modification, suspension, or revocation of a license or any other action that may be proper. See supra note 162.

³²⁰ See Steam Generator Tube Amendment Request at 1.

Organizations appear to suggest that a license amendment would not suffice for certain updates to Palisades.³²¹ In essence, they seek to impose requirements on Applicants that are greater than those provided in section 50.59, without requesting a waiver of the rule.³²²

Lastly, Petitioning Organizations' arguments regarding the purported destruction of quality assurance records for Palisades are based entirely on a conclusory assertion that such destruction occurred.³²³ Moreover, Petitioning Organizations do not explain how the claimed destruction of records is material to this license amendment proceeding, other than speculating about "difficult to quantify" risks.³²⁴ Their arguments fall far short of the support necessary to raise a genuine, material dispute.³²⁵ And to the extent Petitioning Organizations intended to challenge Applicants' quality assurance plan description for operations, that challenge should have been raised in the context of the Palisades license transfer proceeding.³²⁶ For all of these reasons, we must dismiss Contention 4.³²⁷

- d. Contention 5: There is no purpose and need statement appearing in the document the NRC considers to suffice for [Applicants'] Environmental Report. Pursuant to 10 C.F.R. § 51.45, an Environmental Report must contain a statement of the purpose for the project.³²⁸

Contention 6: There is no presentation of alternatives, nor discussion of the no-action alternative, found in the document the NRC and Applicants claim to

³²¹ See Petitioning Organizations Hearing Petition at 55–63; Petitioning Organizations Reply at 27–28.

³²² See 10 C.F.R. §§ 2.309(f)(1)(iii), 2.335.

³²³ See Petitioning Organizations Hearing Petition at 63.

³²⁴ Id.

³²⁵ See 10 C.F.R. § 2.309(f)(1)(v), (vi); Oyster Creek, CLI-00-6, 51 NRC at 208.

³²⁶ See Restart Transfer Request, Encl. 1, at 12, 19.

³²⁷ See 10 C.F.R. § 2.309(f)(1)(iii), (v), (vi).

³²⁸ Petitioning Organizations Hearing Petition at 63–64.

suffice as an Environmental Report.³²⁹

Contention 7: The proposed license amendments and supporting documents, including the document that the NRC and Applicants claim to suffice as an Environmental Report, contain no meaningful identification nor discussion of the effects of [A]nthropocene climate change on the functioning and componentry of the plant, nor is there any identification or analysis of the effects that restored plant operations would have on [A]nthropocene climate change, the physical environment and public health.³³⁰

In Contentions 5, 6, and 7, Petitioning Organizations assert that Applicants omit a discussion of purpose and need, alternatives, and climate-change impacts, respectively, in contravention of the requirements for an Environmental Report in 10 C.F.R. § 51.45.³³¹ In their answers, Applicants and the Staff opposed the admission of Contentions 5 and 6.³³² Applicants also opposed the admission of Contention 7,³³³ but the Staff would have supported the admission of a portion of that contention concerning the climate-change impacts of plant operation.³³⁴ The Staff asserted that the remainder of Contention 7 was inadmissible.³³⁵

After Petitioning Organizations' hearing petition was fully briefed, however, the Staff provided notice of the issuance of the Draft EA and Draft FONSI for the restart of Palisades.³³⁶

³²⁹ Id. at 66.

³³⁰ Id. at 68.

³³¹ Id. at 63–69.

³³² See Applicants Answer to Petitioning Organizations at 64–72; Staff Answer to Petitioning Organizations at 74–76.

³³³ See Applicants Answer to Petitioning Organizations at 64–72.

³³⁴ Staff Answer to Petitioning Organizations at 77 (asserting that Applicants' environmental analysis requires a discussion of the "greenhouse gas emissions of the proposed action[,] . . . a description of how the baseline environment in the environmental review might change as a result of climate change[,] and a discussion of how proposed action impacts would either increase, decrease, or remain the same in this new baseline environment").

³³⁵ Id. at 84–88. In particular, the Staff took issue with the claimed omission of a "discussion of the effects of . . . climate change on the functioning and componentry of the plant." Id. at 84.

³³⁶ See Staff Notification at 1–2.

Thereafter, we invited the participants to address the impact of these documents on the pending contentions.³³⁷ The Staff and Applicants assert that Contentions 5, 6, and 7 are moot and must be dismissed.³³⁸ Petitioning Organizations state that the publication of the Draft EA “assuages the omissions they alleged in their Contentions 5 and 6, and the omission of [a] discussion of climate change effects claimed in Contention 7.”³³⁹ Petitioning Organizations nevertheless claim that we may not dismiss these contentions, despite their mootness, because we issued a schedule for new and amended contentions based on the Draft EA and Draft FONSI.³⁴⁰ Although it is not clear, Petitioning Organizations appear to request that we wait until new and amended contentions are filed before dismissing Contentions 5, 6, and 7.

Because Petitioning Organizations agree that the claimed omissions in Contentions 5, 6, and 7 have been addressed, we must dismiss these contentions as moot.³⁴¹ Moreover, Petitioning Organizations have now filed new and amended contentions in accordance with our scheduling order;³⁴² therefore, their objection to the timing of our dismissal of Contentions 5, 6, and 7, is also moot.³⁴³

³³⁷ Order Scheduling Briefing on Draft EA/FONSI at 1.

³³⁸ Staff Response Brief on Draft EA/FONSI at 1–2; Applicants Initial Brief on Draft EA/FONSI at 5–7; Applicants Response Brief on Draft EA/FONSI at 2.

³³⁹ Petitioning Organizations Initial Brief on Draft EA/FONSI at 3.

³⁴⁰ See id. at 2–8; Petitioning Organizations Response Brief on Draft EA/FONSI at 2–4.

³⁴¹ See Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-16-11, 83 NRC 524, 539 (2016); USEC, CLI-06-9, 63 NRC at 444–45; Duke Energy Corp. (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-02-28, 56 NRC 373, 383 (2002).

³⁴² See supra note 4.

³⁴³ To the extent Petitioning Organizations’ objection to our dismissal of their contentions has not been addressed, we find that their objection lacks merit. The Commission has long recognized that once purportedly missing information in a contention of omission has been supplied, the contention is moot and requires dismissal. See Diablo Canyon, CLI-16-11, 83 NRC at 539–40 & n.106 (citing McGuire/Catawba, CLI-02-28, 56 NRC at 383). To allow otherwise would be contrary to the principles of sound case management. See id.

III. CONCLUSION

For the reasons set forth above, we (1) deny Joint Petitioners' Hearing Petition; (2) deny Applicants' Motion to Strike Portions of Petitioning Organizations' Reply; and (3) deny Petitioning Organizations' Hearing Petition. Because Petitioning Organizations' motion to admit new and amended contentions is currently pending before us, we do not terminate the proceeding.

Any appeals from this memorandum and order must be taken in accordance with 10 C.F.R. § 2.311.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Emily I. Krause, Chair
ADMINISTRATIVE JUDGE

/RA/

Dr. Gary S. Arnold
ADMINISTRATIVE JUDGE

/RA/

Dr. Arielle J. Miller
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 31, 2025

Concurring Opinion of Judge Arnold

I concur with all the major decisions documented in this order. This includes both standing and contention admissibility. However, this order reaches a conclusion that I believe to be neither necessary nor correct. That is, the Board majority concludes that the exemption request is within the scope of this proceeding based upon its being inextricably intertwined with the four license amendment requests. I do not agree. Further, a recognition that the applications are not inextricably intertwined leads to a much simpler reason for rejecting Petitioning Organizations' Contention 1 as being simply out of scope.

The scope of this proceeding is narrowly focused upon four license amendments required by Palisades as part of Applicants' restart efforts.¹ Boards cannot lightly alter the scope of a proceeding:

It is well settled that NRC licensing boards and administrative law judges do not have plenary subject matter jurisdiction in adjudicatory proceedings. Agency fact finders are delegates of the Commission who may exercise jurisdiction only over those matters the Commission specifically commits to them in the various hearing notices that initiate the proceedings. Thus, the scope of the proceeding spelled out in the notice of hearing identifies the subject matter of the hearing and the hearing judge can neither enlarge nor contract the jurisdiction conferred by the Commission.²

The Commission, however, has provided that an exemption request can come within the scope of a hearing "when an exemption request is inextricably intertwined with a licensing action triggering the opportunity to request a hearing."³ This is a proceeding where the "inextricabl[e]

¹ License Amendment Hearing Opportunity Notice, 89 Fed. Reg. at 64,487.

² Tennessee Valley Authority (Watts Bar Nuclear Plant, Unit 1; Sequoyah Nuclear Plant, Units 1 and 2; Browns Ferry Nuclear Plant, Units 1, 2, and 3), CLI-04-24, 60 NRC 160, 204 (2004) (quoting General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Unit 1), ALAB-881, 26 NRC 465, 476 (1987)) (internal quotation marks omitted).

³ Order of the Secretary; Holtec Decommissioning International, LLC (Dec. 18, 2023) at 2 (ML23352A325) (unpublished) (citing Vermont Yankee, CLI-16-12, 83 NRC at 553; Honeywell International, Inc. (Metropolis Works Uranium Conversion Facility), CLI-13-1, 77 NRC 1, 10 (2013) ("An exemption standing alone does not give rise to an opportunity for hearing under our rules. But when a licensee requests an exemption in a related license amendment application,

intertwining” of pending amendment applications with an exemption request must be carefully evaluated to correctly determine the scope of the proceeding.

Definition of Inextricably Intertwined

The word “intertwined” means more than just linked. A simple chain is linked, but the linkage is simple and orderly, with one link identical to another and with no indication of chaos or complexity. Ivy vines growing on the side of a building, however, are intertwined. Individual vines may cross others either above or below with no order, rhyme or reason. The Commission’s use of “intertwined” instead of “interlinked” indicates that there must exist some degree of complexity in the relationship between intertwined components.

The word “inextricably” means in a way that is unable to be separated, released, or escaped from. When the words “inextricably” and “intertwined” are used together, the phrase signifies a very strong and inseparable connection between two or more things. It means that these two or more things are so closely connected that they are impossible to separate or disentangle.

Petitioning Organizations’ and Applicants’ Positions on Inextricably Intertwined

At oral argument, Petitioning Organizations, consistent with their reply, stated their belief that the amendments are not inextricably intertwined with the exemption request.⁴ Similarly, Applicants stated that the amendments are not inextricably intertwined with the exemption request.⁵ The positions of these participants require no further examination.

we consider the hearing rights on the amendment application to encompass the exemption request as well.”); Private Fuel Storage, CLI-01-12, 53 NRC at 470 (“Where the exemption ... is a direct part of an initial licensing or licensing amendment action, there is a potential that an interested party could raise an admissible contention on the exemption, triggering a right to a hearing under the AEA.”)).

⁴ Tr. at 12–13; Petitioning Organizations Reply at 10–11.

⁵ Tr. at 43.

Joint Petitioners' Argument on Inextricably Intertwined

Joint Petitioners address the subject of intertwining of the exemption request with the amendment requests in Contention 5. First they assert:

[Applicants'] Specific Exemption Request, submitted on September 28, 2023, . . . is inextricably linked to the in-scope [license amendment requests] and broader licensing actions discussed in the original petition. The exemption request is necessary for [Applicants] to reverse the certifications under 10 C.F.R. § 50.82(a)(1) and allow Palisades to exit decommissioning and reauthorize power operations.⁶

They claim that the exemption request is intertwined with the license amendment requests, but the basis of that claim is that the exemption is required to allow "Palisades to exit decommissioning and reauthorize power operations."⁷ This argument suggests that all actions being taken toward the restart of Palisades are inextricably intertwined with the license amendments and are thus within the scope of this proceeding. But simply being a member of a group of actions required to meet a specific goal is not sufficient to meet the definition of intertwined.

And later Joint Petitioners state:

[Applicants'] and NRC [S]taff's own admission that the exemption is essential to the success of its licensing efforts ties the exemption to the broader licensing actions, making it subject to public hearing rights under the Atomic Energy Act and relevant NRC precedent. Petitioners, therefore, have standing to challenge the exemption as part of the [license amendment request] process and other licensing actions mentioned in the full petition.⁸

Neither of these citations explain how the exemption and amendments are intertwined or what dependencies exist between these various licensing actions. Thus, regarding Joint Petitioners' pleadings, I cannot conclude they have demonstrated that the exemption request is inextricably intertwined with the four license amendment requests.

⁶ Supplement 10, at 1.

⁷ See id. at 1.

⁸ Id. at 3.

Staff's Argument on Inextricably Intertwined

The Staff's stand on the question was first expressed in a footnote in their Answer to Petitioning Organizations:

NRC approval of the restart-related amendment requests would, among other things, amend the license to authorize power operations at Palisades. See, e.g., [Operating License and Technical Specifications Amendment Request] at 1. To grant the restart-related amendments, the NRC must find that the request complies with NRC regulations. See, e.g., 10 C.F.R. §§ 50.92[,], 50.57. However, to make these findings, the prohibition on operation found in 10 C.F.R. § 50.82(a)(2) must be removed for Palisades through the exemption process.⁹

But this explanation fails to disclose the actual conflict that may occur due to incorrect sequencing of the grant of amendments. At oral argument the Staff provided the logic:

10 CFR 50.92 governs issuance of license amendments. And in 50.92, the Commission stated that the NRC will be guided by the considerations for initial licenses which is in 10 CFR 50.57. And 50.57 states that the NRC will make a finding that the facility will operate in conformance with, among other things, the rules and regulations of the Commission.

So right now, there is a rule, . . . under 50.82(a)(2)[,], that prohibits power operations at Palisades. So in order to issue those amendments and to make those findings under 50.92 and 50.57, the prohibition that exists by rule today must be removed through the exemption requests. And that's the [S]taff's position on why the exemption requests and the license amendments are inextricably intertwined.¹⁰

The Operating License and Technical Specifications Amendment Request includes several license condition changes. These would authorize Palisades to load fuel, attain criticality and operate at up to 100 percent power as a utilization facility.¹¹ What the Staff's logic boils down to is that if the prohibition on operation under 10 C.F.R. § 50.82(a)(2) still exists, they cannot approve operation of Palisades as a utilization facility at power up to 100 percent. I agree. To avoid conflicting authorizations, the exemption request to eliminate the prohibition

⁹ Staff Answer to Petitioning Organizations at 31 n.128.

¹⁰ Tr. at 60.

¹¹ See Operating License and Technical Specifications Amendment Request, Encl. at 9-11.

from operation must be granted before permission to operate is granted. But I do not agree that this amounts to inextricably intertwined.

At oral argument, the Staff agreed that the NRC has the authority to approve the Operating License and Technical Specifications Amendment Request in part, reserving approval of the license conditions that would authorize critical operation until some other time (i.e., following approval by the Palisades Restart Panel).¹² This action would completely decouple the license amendments from the exemption request. The license amendments and exemption request could be approved in any order and at any time—completely unlinked, as Applicants currently believe them to be.

Concerning this approach, the Staff had two comments, (1) “[t]he NRC does have authority to grant an amendment application in part,”¹³ (2) “[b]ut the staff isn't planning to do that here.”¹⁴ That is, the Staff has the authority to decouple the applications but has chosen a review/approval methodology that keeps them linked.

But the definition of “inextricably intertwined” includes the concept that the separation of applications is impossible. Where such separation is possible, but the Staff “chooses” not to separate them, in my view the term “inextricably intertwined” just does not apply.

The scope of this proceeding is, and should remain, limited to the four license amendment requests. The exemption request is not within the scope of the proceeding.

¹² Tr. at 61.

¹³ Id.

¹⁴ Id. at 62.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
HOLTEC DECOMMISSIONING) Docket No. 50-255-LA-3
INTERNATIONAL, LLC, AND HOLTEC)
PALISADES, LLC)
)
(Palisades Nuclear Plant))
)
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Ruling on Intervention Petitions) (LBP-25-04)** have been served upon the following persons by Electronic Information Exchange.

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Palisades Nuclear Plant, Docket No. 50-255-LA-3

MEMORANDUM AND ORDER (Ruling on Intervention Petitions) (LBP-25-04)

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 31st day of March 2025.