
**Unofficial Redline Rule Language
for the Proposed Rule—
Streamlining Contested Adjudications in Licensing
Proceedings**

NRC-2025-1501; RIN 3150-AL58

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Office of Nuclear Material Safety and Safeguards

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Introduction

The U.S. Nuclear Regulatory Commission (NRC) is releasing this unofficial, informal redline to assist stakeholders in reviewing the changes that the proposed rule titled “Streamlining Contested Adjudications in Licensing Proceedings” would make to the rule language in Title 10 of the *Code of Federal Regulations* (CFR) Parts 2, 51, 52, and 54.

The underlying (unmarked) text in this document reflects the existing CFR rule text as of the date of this document. The changes that the proposed rule would make to the CFR rule text are marked in red.

This redline is not a substitute for reviewing the proposed rule. If any conflicts exist between this redline and the text of the proposed rule, the proposed rule published in the *Federal Register* is the controlling document. This unofficial redline document includes asterisks to indicate omitted text that the proposed rule would not change.

PART 2 – AGENCY RULES OF PRACTICE AND PROCEDURE

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note).

§ 2.4 Definitions.

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Contested proceeding means—

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(3) A proceeding in which a hearing request, petition for leave to intervene, or contention in opposition to an application for a license or permit (a) has been granted or is pending before the Commission, or (b) is not pending before the Commission but is the subject of a motion for leave to file the hearing request, petition for leave to intervene, or contention after the prescribed filing deadline established in § 2.309(b) of this part.

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Highly expedited proceeding means a proceeding for (a) a licensee-initiated amendment for a measurement uncertainty recapture update; (b) a licensee-initiated amendment relying on an NRC-approved Technical Specifications Task Force traveler using the Consolidated Line-Item Improvement Process; or (c) any other proceeding that the Commission designates as a highly expedited proceeding.

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Potential party means any person who has requested, or who may intend to request, a hearing or petition to intervene in a hearing under 10 CFR part 2, other than hearings conducted under Subparts ~~J and M~~ of 10 CFR part 2.

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Standard Record Closure Date means the standard date for closure of the record in a proceeding. The Standard Record Closure Date for a proceeding is the date on which an initial decision would be scheduled to issue in accordance with this part in the hypothetical situation where a contention is (a) filed by the deadline in § 2.309(b) of this part; (b) admitted by the presiding officer in accordance with a due date for decision specified in this part (with the contention, answer, and reply being filed by the deadlines specified in this part); and (c) adjudicated at an evidentiary hearing phase that immediately proceeds upon the admission of the contention. The calculated Standard Record Closure Dates for different types of proceedings are in § 2.1207.

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§ 2.101 Filing of application.

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(f)* * *

(5) The Director, Office of Nuclear Material Safety and Safeguards, will cause to be published in the *Federal Register* a notice of docketing which identifies the State and location of the proposed waste disposal facility and will give notice of docketing to the governor of that State and other officials listed in paragraph (f)(3) of this section and will, in a reasonable period thereafter as soon as practicable after docketing the application, publish in the *Federal Register* a notice under § 2.105 offering an opportunity to request a hearing to the applicant and other potentially affected persons.

§ 2.104 Notice of hearing.

(a) In the case of an application on which a hearing is required by the Act or this chapter, or in which the Commission finds that a hearing is required in the public interest, the Secretary will issue a notice of hearing to be published in the *Federal Register*. The notice must be published at least 15 days, and in the case of an application concerning a limited work authorization, construction permit, early site permit, or combined license for a facility of the type described in §§ 50.21(b) or 50.22 of this chapter or a testing facility, at least 30 days, before the date set for hearing in the notice.¹ In addition, in the case of a notice of hearing announcing an opportunity to request a hearing, petition to intervene, and/or file contentions ~~an application for a limited work authorization, construction permit, early site permit, or combined license for a facility of the type described in § 50.22 of this chapter, or a testing facility~~, the notice must be issued-published in the *Federal Register* as soon as practicable after the NRC has docketed the application. If the Commission decides, under § 2.101(a)(2), to determine the acceptability of the application based on its technical adequacy as well as completeness, the notice must be issued as soon as practicable after the application has been tendered.

(b)** *

(4) The date by which requests for hearing, ~~or~~ petitions to intervene, and contentions must be filed; the Standard Record Closure Date for the proceeding specified in § 2.1207; and the additional filing deadline information required by § 2.309(b)(5);

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§ 2.105 Notice of proposed action.

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¹ If the notice of hearing concerning an application for a limited work authorization, construction permit, early site permit, or combined license for a facility of the type described in §§ 50.21(b) or 50.22 of this chapter or a testing facility, does not specify the time and place of initial hearing, a subsequent notice will be published in the *Federal Register* which will provide at least 30 days notice of the time and place of that hearing. After this notice is given, the presiding officer may reschedule the commencement of the initial hearing for a later date or reconvene a recessed hearing without again providing at least 30 days notice.

(b) Except for notices subject to the requirements of § 50.91, if a notice of proposed action is published in the *Federal Register*, that notice must be published in the *Federal Register* as soon as practicable after the NRC has docketed the application. A notice of proposed action published in the *Federal Register* (including one subject to the requirements of § 50.91) will set forth:

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(d) The notice of proposed action will provide that, within the time period provided under § 2.309(b): ~~(1) The~~ applicant may file a request for a hearing; and ~~(2) Any~~ person whose interest may be affected by the proceeding may file a request for a hearing or a petition for leave to intervene if a hearing has already been requested. In addition, the notice must state the Standard Record Closure Date for the proceeding specified in § 2.1207 and state the additional filing deadline information required by § 2.309(b)(5).

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§ 2.306 Computation of time.

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(b) If the presiding officer grants a request for an exemption from the electronic transmission requirements under § 2.302(h) or anticipates that information subject to § 2.302(g)(2) will not be transmitted electronically, the presiding officer must issue an order specifying whether additional time should be added to prescribed periods for taking action to account for physical delivery of a notice or other document and if so, how much time should be added. In considering the need for additional time to account for physical delivery, the presiding officer should ensure that the added time will not cumulatively challenge timely completion of the adjudication. Prior to the presiding officer issuing such an order, whenever a participant has the right or is required to do some act within a prescribed period after service of a notice or other document upon him or her, no additional time is added to the prescribed period except in the following circumstances:

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§ 2.307 Extension and reduction of time limits; delegated authority to order use of procedures for access by potential parties to certain sensitive unclassified information.

(a) Except as otherwise provided by law, the time fixed or the period of time prescribed for an act that is required or allowed to be done at or within a specified time, may be extended or shortened either by the Commission or the presiding officer for good cause, or by stipulation approved by the Commission or the presiding officer. For purposes of this section, to demonstrate good cause a person must show extraordinary circumstances beyond their control; however, if the proposed extension of time has the demonstrated potential to cause the proceeding to extend beyond the staff's scheduled date for completing its review of the particular application as documented in a written communication to the applicant, then a person must show unavoidable and extreme circumstances to demonstrate good cause.

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§ 2.309 Hearing requests, petitions to intervene, requirements for standing, and contentions.

(a) **General requirements.** Any person whose interest may be affected by a proceeding and who desires to participate as a party must file a written request for hearing and a specification of the contentions which the person seeks to have litigated in the hearing. ~~In a proceeding under 10 CFR 52.103, the Commission, acting as the presiding officer, will grant the request if it determines that the requestor has standing under the provisions of paragraph (d) of this section and has proposed at least one admissible contention that meets the requirements of paragraph (f) of this section.~~

(1) For proceedings for the grant, renewal, licensee-initiated amendment, termination, or transfer of licenses or permits (other than a proceeding under subpart J of this part; a proceeding for granting a license to construct and operate a uranium enrichment facility; or a proceeding on a denial of an application), the Commission, presiding officer, or the Atomic Safety and Licensing Board designated to rule on the request for hearing and/or petition for leave to intervene, will grant the request/petition if it determines that the requestor/petitioner has standing under the provisions of paragraph (d) of this section. If the request/petition is granted, the Commission, presiding officer, or the Atomic Safety and Licensing Board designated to rule on the request/petition will then determine whether the requestor/petitioner has proposed at least one admissible contention that meets the requirements of paragraph (f) of this section.

(2) For all other proceedings, except as provided in paragraph (e) of this section, the Commission, presiding officer, or the Atomic Safety and Licensing Board designated to rule on the request for hearing and/or petition for leave to intervene, will grant the request/petition if it determines that the requestor/petitioner has standing under the provisions of paragraph (d) of this section and has proposed at least one admissible contention that meets the requirements of paragraph (f) of this section.

(3) In ruling on the request for hearing/petition to intervene submitted by petitioners seeking to intervene in the proceeding on the HLW repository, the Commission, the presiding officer, or the Atomic Safety and Licensing Board shall also consider any failure of the petitioner to participate as a potential party in the pre-license application phase under subpart J of this part in addition to the factors in paragraph (d) of this section.

(4) If a request for hearing or petition to intervene is filed in response to any notice of hearing or opportunity for hearing, the applicant/licensee shall be deemed to be a party.

(b) **Timing.** Unless specified elsewhere in this chapter or otherwise provided by the Commission, the request or petition and the list of contentions must be filed as follows:

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(3) In proceedings for which a *Federal Register* notice of agency action is published (other than a proceeding covered by paragraphs (b)(1) or (b)(2) of this section), ~~not later than:~~

~~(i) The time specified in any notice of hearing or notice of proposed action or as provided by the presiding officer or the Atomic Safety and Licensing Board designated to rule on the request and/or petition, which may not be less than sixty (60) days from the date of publication of the notice in the *Federal Register*; or~~

~~(ii) If no period is specified, sixty (60) days from the date of publication of the notice.~~

(i) The request or petition and the contentions must be filed within sixty (60) days from the date of publication of the notice in the *Federal Register* in a proceeding for the grant of a license to construct and operate a uranium enrichment facility or a proceeding under § 52.103 of this chapter;

(ii) The request or petition must be filed within thirty (30) days, and the contentions must be filed within sixty (60) days, from the date of publication of the notice in the *Federal Register* in a proceeding for:

(A) The grant of a construction permit, an initial operating license, or an initial combined license under 10 CFR parts 50 or 52 for a production or utilization facility of the type described in §§ 50.21(b) or 50.22, where the application does not reference a design certification or manufacturing license;

(B) The grant of a license to construct and/or operate a uranium recovery or fuel cycle facility under part 40 or part 70 (other than a license to construct and operate a uranium enrichment facility);

(iii) The request or petition and the contentions must be filed within thirty (30) days from the date of publication of notice in the *Federal Register* in a highly expedited proceeding or a proceeding on a denial of an application;

(iv) The request or petition must be filed within thirty (30) days, and the contentions must be filed within forty-five (45) days, from the date of publication of the notice in the *Federal Register*, in a proceeding not identified in paragraphs (b)(3)(i), (b)(3)(ii), or (b)(3)(iii) of this section.

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(5) The *Federal Register* notices referenced in paragraphs (b)(1) through (b)(3) of this section must state the Standard Record Closure Date for the proceeding specified in § 2.1207, along with the applicable filing deadlines for hearing requests, intervention petitions, and contentions (including those filed after the § 2.309(b)(1) through (b)(3) deadlines), and the applicable deadlines for the associated answers and replies.

(c) Filings after the deadline; submission of *motion for leave to file* hearing request, intervention petition, or ~~*motion for leave to file*~~ new or amended contentions—

(1) *Submission of motion for leave to file and Determination by presiding officer.* To submit a hearing request, intervention petition, or new or amended contention after the deadline in paragraph (b) of this section, a participant must submit a motion for leave to file the request, petition, or contention after the deadline, and the request, petition, or contention must accompany the motion for leave to file. Hearing requests, intervention petitions, and ~~*motions for leave to file*~~ new or amended contentions filed after the deadline in paragraph (b) of this section will not be entertained ~~absent and will not be considered pending before the Commission unless the associated motion for leave to file is granted upon~~ a determination by the presiding officer that a participant has demonstrated good cause by showing that:

(i) The information upon which the ~~filing~~ hearing request, intervention petition, or contention is based was not previously available;

(ii) The information upon which the ~~filing~~ hearing request, intervention petition, or contention is based is materially different from information previously available; and

(iii) The ~~filing~~ motion for leave to file and associated hearing request, intervention petition, or contention has ~~ve~~ been submitted ~~in a timely fashion based on~~ within thirty (30) days of the availability of the subsequent information, except that the filing period is twenty (20) days from the availability of the subsequent information for license transfer or highly expedited proceedings.

(2) *Applicability of §§ 2.307 and 2.323.*

- (i) Section 2.307 applies to requests to change a filing deadline (requested before or after that deadline has passed) based on reasons not related to the substance of the filing.
- (ii) Section 2.323 does not apply to motions for leave to file hearing requests, intervention petitions, or ~~motions for leave to file~~ new or amended contentions filed after the deadline in paragraph (b) of this section.

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(5)

(i) The applicant/licensee, the NRC staff, and other parties to a proceeding may file an answer to a motion for leave to file and associated hearing request, intervention petition, or contention within 20 days of service of the motion and associated request, petition, or contention, except that the filing period is 15 days for license transfer or highly expedited proceedings. Answers should address, at a minimum, the factors set forth in paragraphs (a) through (h) of this section insofar as these sections apply to the filing that is the subject of the answer.

(ii) Except in a proceeding under § 52.103 of this chapter, the participant who filed the motion for leave to file and associated request, petition, or contention may file a reply to any answer. The reply must be filed within 7 days after service of that answer.

(6) The presiding officer's decision on a motion for leave to file and associated request, petition, or contention must be issued within 25 days after service of the reply (or within 25 days after the deadline for a reply, if no reply is filed). This deadline may be extended only in accordance with the requirements of paragraph (j)(3) of this section.

(7) The pendency of a motion for leave to file submitted under this paragraph does not affect the NRC's authority to take licensing or regulatory actions.

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(e) ~~[Reserved] Discretionary Intervention.~~ The presiding officer may consider a request for discretionary intervention when at least one requestor/petitioner has established standing and at least one admissible contention has been admitted so that a hearing will be held. A requestor/petitioner may request that his or her petition be granted as a matter of discretion in the event that the petitioner is determined to lack standing to intervene as a matter of right under paragraph (d)(1) of this section. Accordingly, in addition to addressing the factors in paragraph (d)(1) of this section, a petitioner who wishes to seek intervention as a matter of discretion in the event it is determined that standing as a matter of right is not demonstrated shall address the following factors in his/her initial petition, which the Commission, the presiding officer or the Atomic Safety and Licensing Board will consider and balance:

(1) Factors weighing in favor of allowing intervention—

- (i) The extent to which the requestor's/petitioner's participation may reasonably be expected to assist in developing a sound record;
- (ii) The nature and extent of the requestor's/petitioner's property, financial or other interests in the proceeding; and
- (iii) The possible effect of any decision or order that may be issued in the proceeding on the requestor's/petitioner's interest;

(2) Factors weighing against allowing intervention—

- ~~(i) The availability of other means whereby the requestor's/petitioner's interest will be protected;~~
- ~~(ii) The extent to which the requestor's/petitioner's interest will be represented by existing parties; and~~
- ~~(iii) The extent to which the requestor's/petitioner's participation will inappropriately broaden the issues or delay the proceeding.~~

(f) Contentions.

(1) ~~A request for hearing or petition for leave to intervene~~ Contentions must be set forth with particularity ~~the contentions sought to be raised. For Each contention, the request or petition~~ must:

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(iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding, including specifying the legal requirement on which the contention is based;

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(vi) In a proceeding other than one under 40 CFR § 52.103 of this chapter, provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. This information also must clearly indicate whether the petitioner is disputing the adequacy of the information in the application, is asserting that the application fails to contain information on a relevant matter as required by law, or both; and

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(2) Contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to a petitioner. On issues arising under the National Environmental Policy Act, participants shall file contentions based on the applicant's environmental report. Participants may file new or amended environmental contentions after the deadline in paragraph (b) of this section (e.g., based on a draft or final NRC environmental impact statement, environmental assessment, or any supplements to these documents) if the contention-associated motion for leave to file complies with the requirements in paragraph (c) of this section.

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(g) **Selection of hearing procedures.** A request for hearing, ~~and/or~~ petition for leave to intervene, and/or proposed contentions may, except in a proceeding under 40 CFR § 52.103 of this chapter, also address the selection of hearing procedures, taking into account the provisions of § 2.310. ~~If a request/petition relies upon § 2.310(d), the request/petition must demonstrate, by reference to the contention and the bases provided and the specific procedures in subpart G of this part, that resolution of the contention necessitates resolution~~

~~of material issues of fact which may be best determined through the use of the identified procedures.~~

(h) **Requirements applicable to States, local governmental bodies, and Federally-recognized Indian Tribes seeking party status.**

(1) If a State, local governmental body (county, municipality or other subdivision), or Federally-recognized Indian Tribe seeks to participate as a party in a proceeding, it must submit a request for hearing or a petition to intervene ~~containing and~~ at least one admissible contention, and must designate a single representative for the hearing. If a request for hearing or petition to intervene is granted, the Commission, the presiding officer or the Atomic Safety and Licensing Board ruling on the request will admit as a party to the proceeding a single designated representative of the State, a single designated representative for each local governmental body (county, municipality or other subdivision), and a single designated representative for each Federally-recognized Indian Tribe. Where a State's constitution provides that both the Governor and another State official or State governmental body may represent the interests of the State in a proceeding, the Governor and the other State official/government body will be considered separate participants.

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(i) **Answers to hearing requests, intervention petitions, and contentions filed by the deadline in paragraph (b) of this section; replies to answers, and motions for leave to file new or amended contentions filed after the deadline.** ~~Unless otherwise specified by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the request, petition, or motion—~~ For a hearing request, intervention petition, or proposed contention filed by the deadline in paragraph (b) of this section—

(1) The applicant/licensee, the NRC staff, and other parties to a proceeding may file an answer to ~~the request, petition, or proposed contention—a hearing request, intervention petition, or motion for leave to file amended or new contentions filed after the deadline in § 2.309(b) within 25 days after service of the request, petition, or motion.~~ Answers should address, at a minimum, the factors set forth in paragraphs (a) through (h) of this section insofar as these sections apply to the filing that is the subject of the answer. Answers must be filed within the following timeframes:

(i) In a proceeding on a license to construct and operate a uranium enrichment facility, a proceeding under subpart J of this part, a proceeding under § 52.103 of this chapter, or a proceeding on a denial of an application, the answer must be filed within 25 days after service of the request or petition.

(ii) In all other proceedings:

(A) The answer to a hearing request or an intervention petition must be filed within 10 days after service of the request or petition; and

(B) The answer to a proposed contention must be filed within 25 days after service of the contention, except that the filing period is 20 days for license transfer or highly expedited proceedings.

(2) ~~Except in a proceeding under § 52.103 of this chapter, t~~he participant who filed the hearing request, intervention petition, or proposed contention—motion for leave to file new or amended contentions after the deadline may file a reply to any answer, except that there is no opportunity to file a reply in a proceeding under § 52.103 of this chapter or to

file a reply to an answer to a hearing request or intervention petition in a highly expedited proceeding. The reply must be filed within 7 days after service of that answer.

(3) No other written answers or replies will be entertained.

(j) **Decision on request/petition/contention filed by the deadline in paragraph (b) of this section.**

(1) ~~In all proceedings other than~~ Except in a proceeding under § 52.103 of this chapter or a proceeding under subpart J of this part, the presiding officer shall issue a decision on a hearing request, intervention petition, or proposed contention filed by the deadline in paragraph (b) of this section, within the following timeframes: ~~each request for hearing or petition to intervene within 45 days of the conclusion of the initial pre-hearing conference or, if no pre-hearing conference is conducted, within 45 days after the filing of answers and replies under paragraph (i) of this section. With respect to a request to admit amended or new contentions, the presiding officer shall issue a decision on each such request within 45 days of the conclusion of any pre-hearing conference that may be conducted regarding the proposed amended or new contentions or, if no pre-hearing conference is conducted, within 45 days after the filing of answers and replies, if any. In the event the presiding officer cannot issue a decision within 45 days, the presiding officer shall issue a notice advising the Commission and the parties, and the notice shall include the expected date of when the decision will issue.~~

(i) In a proceeding on a license to construct and operate a uranium enrichment facility or a proceeding on a denial of an application, the decision must be issued within 35 days after service of the reply to the answers to the request or petition (or within 35 days after the deadline for a reply, if no reply is filed).

(ii) In a highly expedited proceeding:

(A) The decision on a hearing request (or an intervention petition) must be issued within 20 days after service of the answers to the request or petition (or within 20 days after the deadline for answers, if no answer is filed); and

(B) The decision on a proposed contention must be issued within 30 days after service of the reply to the answers to the contention (or within 30 days after the deadline for a reply, if no reply is filed).

(iii) In all other proceedings:

(A) The decision on a hearing request or an intervention petition must be issued within 20 days after service of the reply to the answers to the request or petition (or within 20 days after the deadline for a reply, if no reply is filed); and

(B) The decision on a proposed contention must be issued within 35 days after service of the reply to the answers to the contention (or within 35 days after the deadline for a reply, if no reply is filed), except that this period is 30 days for license transfer proceedings.

(2) The Commission, acting as the presiding officer, shall expeditiously grant or deny the request for hearing in a proceeding under § 52.103 of this chapter. The Commission's decision may not be the subject of any appeal under § 2.311.

(3) The decision deadlines in paragraph (j)(1) of this section may be extended only if extraordinary circumstances prevent the presiding officer from issuing a decision by the deadline. At the earliest practicable opportunity, the presiding officer must notify the

Commission and the litigants of the delay and the extraordinary circumstances that necessitate the delay.

(k) Additional requirements for certain proceedings. The following requirements apply to all proceedings other than a proceeding on a license to construct and operate a uranium enrichment facility, a proceeding under subpart J of this part, a proceeding under § 52.103 of this chapter, or a proceeding on a denial of an application:

- (1) The petitioner must with its contentions file all referenced documents and/or affidavits supporting the factual assertions in the contention. Any affidavits must describe the individual's knowledge of the facts alleged or expertise in the discipline(s) appropriate to the issues raised.
- (2) The applicant in its answer to proposed contentions must, and the NRC staff may, address the merits of the proposed contentions in addition to addressing the contention admissibility criteria.¹ Replies to these answers may address factual arguments in the answers with additional evidence, except that replies may not expand or modify the scope of the proposed contention or provide factual support that could have been provided in the original contention but was not. In addressing the merits of proposed contentions, answers and replies must be accompanied by all referenced documents and/or affidavits supporting the factual assertions in the answer or reply that address the merits of the proposed contention. Any affidavits must describe the individual's knowledge of the facts alleged or expertise in the discipline(s) appropriate to the issues raised.
- (3) For documents available in ADAMS, the participant may provide the ADAMS Accession number for the document in lieu of filing the document.
- (4) For a copyright document, the participants must submit only relevant portions of the document that would constitute fair use.

¹ In a highly expedited proceeding, however, the staff is expected to address the merits of proposed contentions in their answer to the extent practical to support the accelerated review and hearing schedule.

§ 2.310 Selection of hearing procedures.

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(a) Except as determined through the application of paragraphs (b) through (fh) of this section, proceedings for the grant, renewal, licensee-initiated amendment, ~~or termination,~~ or transfer of licenses or permits subject to 10 CFR parts 30, 32 through 36, 39, 40, 50, 52, 54, 55, 61, 70 and 72 ~~of this chapter may must~~ be conducted under the procedures of subpart L of this part.

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(c) – (d) [Reserved]

~~(c) Proceedings on the licensing of the construction and operation of a uranium enrichment facility must be conducted under the procedures of subpart G of this part.~~

~~(d) In proceedings for the grant, renewal, licensee-initiated amendment, or termination of licenses or permits for nuclear power reactors, where the presiding officer by order finds that resolution of the contention or contested matter necessitates resolution of issues of material fact relating to the occurrence of a past activity, where the credibility of an eyewitness may~~

~~reasonably be expected to be at issue, and/or issues of motive or intent of the party or eyewitness material to the resolution of the contested matter, the hearing for resolution of that contention or contested matter will be conducted under subpart G of this part.~~

- (e) Proceedings on applications for a license or license amendment to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power plant must be conducted under the procedures of subpart L of this part, unless a party requests that the proceeding be conducted under the procedures of subpart K of this part, ~~or if all parties agree and jointly request that the proceeding be conducted under the procedures of subpart N of this part.~~

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(g) – (h) [Reserved]

~~(g) Proceedings on an application for the direct or indirect transfer of control of an NRC license which transfer requires prior approval of the NRC under the Commission's regulations, governing statutes or pursuant to a license condition shall be conducted under the procedures of subpart M of this part, unless the Commission determines otherwise in a case-specific order.~~

~~(h) Except as determined through the application of paragraphs (b) through (g) of this section, proceedings for the grant, renewal, licensee initiated amendment, or termination of licenses or permits subject to parts 30, 32 through 36, 39, 40, 50, 52, 54, 55, 61, 70 and 72 of this chapter, and proceedings on an application for the direct or indirect transfer of control of an NRC license may be conducted under the procedures of subpart N of this part if—~~

~~(1) The hearing itself is expected to take no more than two (2) days to complete; or~~

~~(2) All parties to the proceeding agree that it should be conducted under the procedures of subpart N of this part.~~

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§ 2.311 Interlocutory review of rulings on requests for hearings/petitions to intervene, selection of hearing procedures, and requests by potential parties for access to sensitive unclassified non-safeguards information and safeguards information.

(a) Types of appeals covered under this section. An order of the presiding officer, or if a presiding officer has not been designated, of the Chief Administrative Judge, or if he or she is unavailable, of another administrative judge, or of an administrative law judge with jurisdiction under § 2.318(a), may be appealed to the Commission with respect to:

(1) A request for hearing;

(2) A petition to intervene; ~~or~~

(3) A request for admission of contentions submitted by the applicable deadline in § 2.309(b) in a proceeding subject to § 2.309(j)(1)(ii)-(iii), for which a petitioner has been granted a hearing request or intervention petition;

~~(4)~~ A request for access to sensitive unclassified non-safeguards information (SUNSI), including, but not limited to, proprietary, confidential commercial, and security-related information, and Safeguards Information (SGI). An appeal to the Commission may also be taken from an order of an officer designated to rule on information access issues; or

(5) An order selecting a hearing procedure.

(b) Timing of appeals and associated filings under this section.

~~(1) These appeals under paragraphs (a)(1)-(4) of this section~~ must be made as specified by the provisions of this section, within ~~2514~~ days after the service of the order. The appeal must be initiated by the filing of a notice of appeal and accompanying supporting brief. Any party who opposes the appeal may file a brief in opposition to the appeal within ~~2514~~ days after service of the appeal. The supporting brief and any answer must conform to the requirements of § 2.341(c)(3). ~~No reply briefs will be permitted.~~ No other appeals from rulings on requests for hearing are allowed.

~~(2) Appeals under paragraph (a)(5) of this section must be filed with the Commission no later than seven (7) days after issuance of the order selecting a hearing procedure. Any party who opposes the appeal may file a brief in opposition to the appeal within seven (7) days after service of the appeal. No reply briefs will be permitted.~~

~~(c) Scope of appeals under this section.~~

~~(1) An order denying a petition to intervene and/or request for hearing or a request for access to the information described in paragraphs (a)(1)-(4) of this section, is appealable:~~

~~(i) By the requestor/petitioner on the question as to whether the request or petition should have been granted or (in a proceeding subject to § 2.309(j)(1)(ii)-(iii)) a contention should have been admitted.~~

~~(ii) By a party other than the requestor/petitioner on the question as to whether the request for hearing or petition to intervene should have been wholly denied, or (in a proceeding subject to § 2.309(j)(1)(ii)-(iii)), whether the admitted contentions should have been wholly denied; or~~

~~(iii) By a party other than the requestor/petitioner on the question as to whether the request for access to the information described in paragraph (a)(4) of this section should have been denied in whole or in part. However, such a question with respect to SGI may only be appealed by the NRC staff, and such a question with respect to SUNSI may be appealed only by the NRC staff or by a party whose interest independent of the proceeding would be harmed by the release of the information.~~

~~(2) An order described in paragraph (a)(5) of this section may be appealed by any party on the question as to whether the selection of the particular hearing procedures was in clear contravention of the criteria set forth in § 2.310.~~

~~(d) Commission decision timeline under this section. The Commission will endeavor to issue a final decision on an appeal under this section within 45 days of service of the answer to the appeal unless, in the judgment of the Commission, the complexity of the case necessitates additional time for a decision.~~

~~(d) An order granting a petition to intervene, and/or request for hearing or granting a request for access to the information described in paragraph (a) of this section, is appealable by a party other than the requestor/petitioner on the question as to:~~

~~(1) Whether the request for hearing or petition to intervene should have been wholly denied; or~~

~~(2) Whether the request for access to the information described in paragraph (a)(3) of this section should have been denied in whole or in part. However, such a question with respect to SGI may only be appealed by the NRC staff, and such a question with respect to SUNSI may be appealed only by the NRC staff or by a party whose interest independent of the proceeding would be harmed by the release of the information.~~

~~(e) An order selecting a hearing procedure may be appealed by any party on the question as to whether the selection of the particular hearing procedures was in clear contravention of the criteria set forth in § 2.310. The appeal must be filed with the Commission no later than ten (10) days after issuance of the order selecting a hearing procedure.~~

§ 2.312 Notice of hearing.

* * * * *

(b) The time and place of hearing will be fixed ~~with~~in accordance with the scheduling requirements of this part and any proceeding-specific Commission orders. Within these limits, the presiding officer will give due regard for the convenience of the parties or their representatives, the nature of the proceeding, and the public interest.

* * * * *

§ 2.313 Designation of presiding officer, disqualification, unavailability, and substitution.

(a) *Designation of presiding officer.* The Commission may provide in the notice of hearing that one or more members of the Commission, an administrative law judge, an administrative judge, an Atomic Safety and Licensing Board, or a named officer who has been delegated final authority in the matter, shall be the presiding officer. The Commission alone shall designate the presiding officer in a hearing conducted under subpart O of this part. If the Commission does not designate the presiding officer for a hearing under subparts G, J, K, L, ~~M,~~ or N of this part, then the Chief Administrative Judge shall issue an order designating: ~~(1) An Atomic Safety and Licensing Board appointed under Section 191 of the Atomic Energy Act of 1954, as amended, or an administrative law judge appointed by the Commission pursuant to 5 U.S.C. 3105, for a hearing conducted under subparts G, J, K, L, or N of this part;~~ (2) An Atomic Safety and Licensing Board, an administrative law judge, or an administrative judge for a hearing conducted under subpart M of this part.

* * * * *

§ 2.314 Appearance and practice before the Commission in adjudicatory proceedings.

* * * * *

(b) *Representation.* ~~An individual person~~ may appear in an adjudication on his or her own behalf or by an attorney-at-law. All other persons may be represented only by an attorney-at-law. A partnership, corporation, or unincorporated association may be represented by a duly authorized member or officer, or by an attorney-at-law. A party may be represented by an attorney-at-law if the attorney is in good standing and has been admitted to practice before any Court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States. Any person appearing in a representative capacity shall file with the Commission a written notice of appearance. The notice must state his or her name, address, telephone number, and facsimile number and email address, if any; the name and address of the person or entity on whose behalf he or she appears; and, ~~in the case of an attorney-at-law, the basis of his or her eligibility as a representative. or, in the case of another representative, the basis of his or her authority to act on behalf of the party.~~

* * * * *

§ 2.323 Motions.

(a) *Scope and general requirements*—

- (1) *Applicability to § 2.309(c).* Section 2.309 motions for leave to file hearing requests, intervention petitions, or new or amended contentions ~~filed~~ after the deadline in § 2.309(b) (including motions to reopen the record that relate to such filings after the deadline) are not subject to the requirements of this section. For the purposes of this section, the term “all motions” includes any motion except § 2.309 motions for leave to file hearing requests, intervention petitions, or new or amended contentions ~~filed~~ after the deadline in § 2.309(b) (and motions to reopen the record that relate to such filings after the deadline).
- (2) *Presentation and disposition.* All motions must be addressed to the Commission or other designated presiding officer. All motions, other than motions submitted in highly expedited proceedings, motions for summary disposition, or motions for reconsideration, must be made no later than ten (10) days after the occurrence or circumstance from which the motion arises. Motions submitted in highly expedited proceedings must be made no later than seven (7) days after the occurrence or circumstance from which the motion arises. All written motions must be filed with the Secretary and served on all parties to the proceeding.

* * * * *

(c) *Answers to motions.*

- (1) For all written motions, other than motions submitted in highly expedited proceedings, motions for summary disposition, or motions for reconsideration, a party may file an answer in support of or in opposition to the motion, ~~accompanied by affidavits or other evidence,~~ within ten (10) days after service of the motion, or other period as determined by the Secretary, the Assistant Secretary, or the presiding officer. Answers to motions in highly expedited proceedings must be submitted within seven (7) days after service of the motion.
- (2) An answer to a motion submitted under paragraph (c) of this section may be accompanied by affidavits or other evidence.
- (3) The moving party has no right to reply, except as permitted by the Secretary, the Assistant Secretary, or the presiding officer. Permission may be granted only in compelling circumstances, such as where the moving party demonstrates that it could not reasonably have anticipated the arguments to which it seeks leave to reply.

* * * * *

- (e) *Motions for reconsideration.* Motions for reconsideration may not be filed except upon leave of the presiding officer or the Commission, upon a showing of compelling circumstances, such as the existence of a clear and material error in a decision, which could not have reasonably been anticipated, that renders the decision invalid. A motion must be filed within seven (7) ~~ten (10)~~ days of the action for which reconsideration is requested, and responses to the motion must be submitted within seven (7) days after service of the motion. The motion and any responses to the motion are limited to ten (10) pages.

- (f) *Referral and certifications to the Commission.* (1) If, in the judgment of the presiding officer, the presiding officer's decision raises significant and novel legal or policy issues, or prompt decision by the Commission is necessary to materially advance the orderly disposition of the

proceeding, then the presiding officer may promptly refer the ruling to the Commission. This standard also applies to questions certified to the Commission. To minimize delays in the proceeding, to the extent practicable a presiding officer should refer a ruling to the Commission rather than certify a question. The presiding officer shall notify the parties of the referral or certification either by announcement on-the-record or by written notice if the hearing is not in session.

* * * * *

(g) Effect of filing a motion, filing a petition, referring of a ruling or certification of a question to the Commission. Unless otherwise ordered, neither the filing of a motion, the filing of a petition for certification, nor the referral of a ruling or certification of a question to the Commission stays the proceeding or extends the time for the performance of any act.

* * * * *

§ 2.326 Motions to reopen.

(a) * * *

(2) The motion must address a significant safety ~~or environmental~~-issue or, in a proceeding where a categorical exclusion does not apply, a significant environmental issue; and

* * * * *

(e) For a proceeding subject to § 2.1207, the record for an adjudicatory proceeding will close on the Standard Record Closure Date for the proceeding. If before the Standard Record Closure Date, the presiding officer enters an order closing the record following an evidentiary hearing, the record for the adjudicatory proceeding will close on the date specified in the order. On the date the record closes for an adjudicatory proceeding, if there are any contentions that either remain pending or are subject to a motion for leave to file under § 2.309(c), the record will remain open only with respect to the issues raised by those contentions.

§ 2.329 Prehearing conference.

(a) Option to conduct a prehearing conference. The Commission or the presiding officer may direct the parties or their counsel to appear at a specified time and place for a conference or conferences before an evidentiary hearing. ~~Necessity for prehearing conference; timing. The Commission or the presiding officer may, and in the case of a proceeding on an application for a construction permit or an operating license for a facility of a type described in §§ 50.21(b) or 50.22 of this chapter or a testing facility, shall direct the parties or their counsel to appear at a specified time and place for a conference or conferences before trial. A prehearing conference in a proceeding involving a construction permit or operating license for a facility of a type described in §§ 50.21(b) or 50.22 of this chapter must be held within sixty (60) days after discovery has been completed or any other time specified by the Commission or the presiding officer.~~

* * * * *

§ 2.332 General case scheduling and management.

- (a) *Scheduling order.* ~~As soon as practicable (and no later than 10 days) after admitting a contention, the presiding officer shall, after consulting with the parties, enter a scheduling order that establishes time limits for concluding discovery, the schedule for any written or oral components of the evidentiary hearing, and the date when the presiding officer expects to issue an initial decision. For proceedings under subpart L of this part, the scheduling order must comply with the scheduling requirements in subpart L and in paragraph (d) of this section. The presiding officer shall, as soon as practicable after consulting with the parties by a scheduling conference, telephone, mail, or other suitable means, enter a scheduling order that establishes limits for the time to file motions, conclude discovery, commence the oral phase of the hearing (if applicable), and take other actions in the proceeding. The scheduling order may also include:~~
- ~~(1) Modifications of the times for disclosures under §§ 2.336 and 2.704 and of the extent of discovery to be permitted;~~
 - ~~(2) The date or dates for prehearing conferences; and~~
 - ~~(3) Any other matters appropriate in the circumstances of the proceeding.~~
- (b) *Model milestones.* ~~For enforcement proceedings, i~~n developing the scheduling order under paragraph (a) of this section, the presiding officer shall utilize the applicable model milestones in ~~A~~appendix B to this part as a starting point. The presiding officer shall make appropriate modifications based upon all relevant information, including but not limited to, the number of contentions admitted, the complexity of the issues presented, relevant considerations which a party may bring to the attention of the presiding officer, ~~the NRC staff's schedule for completion of its safety and environmental evaluations (paragraph (e) of this section),~~ and the NRC's interest in providing a fair and expeditious resolution of the issues sought to be adjudicated by the parties in the proceeding.

* * * * *

- (d) *When to proceed to evidentiary hearing; e*~~Effect of NRC staff's schedule on scheduling order.~~ ~~For proceedings subject to the requirements of § 2.1207(a)-(e):~~
- ~~(1) Within seven days of the admission of a contention:~~
 - ~~(i) The NRC staff will notify the presiding officer and the other parties whether the staff will participate as a party on the contention and, if so, whether the staff is able to take final positions on the matters in controversy; and~~
 - ~~(ii) The NRC staff and the applicant will notify the presiding officer and the other parties whether the staff or applicant intend to seek dismissal of a contention. The 7-day notification regarding dismissal of a contention must address, as applicable, the NRC staff or applicant's intent to seek dismissal, but the motion to dismiss may be submitted later.~~
 - ~~(2) The presiding officer must immediately proceed with the evidentiary hearing phase of the proceeding on an admitted contention unless either:~~
 - ~~(i) The NRC staff decides to participate as a party but is not yet able to take final positions on the matters in controversy; or~~
 - ~~(ii) The NRC staff or applicant intend to seek dismissal of the admitted contention.~~
 - ~~(3) If the NRC staff decides to participate as a party on an admitted contention but is not yet able to take final positions on the matters in controversy, the NRC staff must prioritize its~~

resources to put itself in a position to provide testimony on the contention at the earliest practicable time and notify the presiding officer and the other parties when the staff is ready to do so. To the greatest extent practicable, the presiding officer should establish a schedule that will not extend past the NRC staff's scheduled date for completing its review of the particular application as documented in a written communication to the applicant.

~~In establishing a schedule, the presiding officer shall take into consideration the NRC staff's projected schedule for completion of its safety and environmental evaluations to ensure that the hearing schedule does not adversely impact the staff's ability to complete its reviews in a timely manner. Hearings on safety issues may be commenced before publication of the NRC staff's safety evaluation upon a finding by the presiding officer that commencing the hearings at that time would expedite the proceeding. Where an environmental impact statement (EIS) is involved, hearings on environmental issues addressed in the EIS may not commence before the issuance of the final EIS. In addition, discovery against the NRC staff on safety or environmental issues, respectively, should be suspended until the staff has issued the SER or EIS, unless the presiding officer finds that the commencement of discovery against the NRC staff (as otherwise permitted by the provisions of this part) before the publication of the pertinent document will not adversely affect completion of the document and will expedite the hearing.~~

§ 2.334 Implementing hearing schedule for proceeding.

- (a) The presiding officer must take all appropriate actions to maintain the hearing schedule established in accordance with § 2.332 and other applicable regulations in this part.
- ~~(a) Unless the Commission directs otherwise in a particular proceeding, the presiding officer assigned to the proceeding shall, based on information and projections provided by the parties and the NRC staff, take appropriate action to maintain the hearing schedule established by the presiding officer in accordance with 10 CFR 2.332(a) of this part for the completion of the evidentiary record and, as appropriate, the issuance of its initial decision.~~
- (b) A hearing schedule deadline may only be extended upon a finding that the criteria for extending a time limit in § 2.307(a) are met. An applicable deadline in subpart L to this part for completing the evidentiary hearing (i.e., the deadline for issuance of an initial decision) may only be extended upon a finding that unavoidable and extreme circumstances necessitate the delay.
- ~~(b) Modification of hearing schedule. A hearing schedule may not be modified except upon a finding of good cause by the presiding officer or the Commission. In making such a good cause determination, the presiding officer or the Commission should take into account the following factors, among other things:~~
- ~~(1) Whether the requesting party has exercised due diligence to adhere to the schedule;~~
 - ~~(2) Whether the requested change is the result of unavoidable circumstances; and~~
 - ~~(3) Whether the other parties have agreed to the change and the overall effect of the change on the schedule of the case.~~
- ~~(c) The presiding officer shall must provide written notification to the Commission any time during the course of the proceeding when it appears that the issuance of the initial decision will be delayed beyond the time specified in the hearing schedule established under § 2.332(a) there will be a delay of more than forty five (45) days in meeting any of the dates for major activities in the hearing schedule established by the presiding officer under 10~~

~~CFR 2.332(a), or that the completion of the record or the issuance of the initial decision will be delayed more than sixty (60) days beyond the time specified in the hearing schedule established under 10 CFR 2.332(a).~~ The notification must include an explanation of the reasons for the projected delay and a description of the actions, if any, that the presiding officer proposes to take to avoid or mitigate the delay.

§ 2.336 General Discovery

- (a) Except for proceedings conducted under subparts G and J of this part or as otherwise ordered by the Commission, the presiding officer or the Atomic Safety and Licensing Board assigned to the proceeding, all parties, other than the NRC staff, to any proceeding subject to this part shall, within ~~thirty (30)~~ twenty (20) days of the issuance of the order admitting a contention (or the order granting a demand for hearing upon a denial of an application) granting a request for hearing or petition to intervene and without further order or request from any party, disclose and provide:

* * * * *

(4) The disclosure obligations in paragraph (a) of this section do not include drafts of documents unless the draft has been circulated among the parties or publicly disclosed.

(5) In complying with the requirements of paragraph (a) of this section in a proceeding on a denial of an application, references to "contentions" and "admitted contentions" must be taken to mean the contested issues outlined in the order granting the demand for hearing.

- ~~(b) Except for proceedings conducted under subparts G and J of this part or as otherwise ordered by the Commission, the presiding officer, or the Atomic Safety and Licensing Board assigned to the proceeding, the NRC staff must, within 30 days of the issuance of the order granting a request for hearing or petition to intervene and without further order or request from any party, disclose or provide to the extent available (but excluding those documents for which there is a claim of privilege or protected status):~~

~~(1) In a proceeding on a denial of an application, the NRC staff must, within 20 days of the issuance of the order granting a demand for hearing and without further order or request from any party, disclose or provide to the extent available (but excluding those documents for which there is a claim of privilege or protected status): The application (if applicable) and applicant or licensee requests that are relevant to the admitted contentions and are associated with the application or proposed action that is the subject of the proceeding;~~

~~(2) NRC correspondence with the applicant or licensee that is relevant to the admitted contentions and associated with the application or proposed action that is the subject of the proceeding;~~

~~(i)3) All documents (including documents that provide support for, or opposition to, the application or proposed action) that both support the NRC staff's review of the application or proposed action that is the subject of the proceeding and are relevant to the admitted contentions~~ contested issues outlined in the order granting the demand for hearing;

~~(ii)4) Any NRC staff documents that both represent the NRC staff's determination on the application or proposal that is the subject of the proceeding and are relevant to the admitted contentions~~ contested issues outlined in the order granting the demand for hearing; and

(iii) A list of all otherwise-discoverable documents for which a claim of privilege or protected status is being made, together with sufficient information for assessing the claim of privilege or protected status of the documents.

(2) The disclosure obligations in this paragraph do not include drafts of documents unless the draft has been circulated among the parties or publicly disclosed.

* * * * *

(d) The duty of disclosure under this section is continuing. Parties must update their disclosures every month after initial disclosures on a due date selected by the presiding officer in the order admitting contentions, unless the parties agree upon a different due date or frequency. The disclosure update shall be limited to documents subject to disclosure under this section and does not need to include documents that are developed, obtained, or discovered during the two weeks before the due date. Disclosure updates shall include any documents subject to disclosure that were not included in any previous disclosure update. The duty to update disclosures relevant to an admitted contention ends when the presiding officer issues a decision resolving the contention or thirty days prior to the start of an evidentiary hearing, whichever occurs first; however, termination of the duty to update disclosure does not relieve parties of their continuing obligation to keep the presiding officer and litigants informed of relevant new developments in a proceeding, or at such other time as may be specified by the presiding officer or the Commission.

* * * * *

§ 2.340 Initial decision in certain contested proceedings; immediate effectiveness of initial decisions; issuance of authorizations, permits, and licenses.

* * * * *

(i) * * *

(2) Notwithstanding the pendency of a motion for leave to file under § 2.309(c), a petition for reconsideration under § 2.345, a petition for review under § 2.341, or a motion for stay under § 2.342, or the filing of a petition under § 2.206.

(j) * * *

(4) Notwithstanding the pendency of a motion for leave to file under § 2.309(c), a petition for reconsideration under ~~10 CFR §~~ 2.345, a petition for review under ~~10 CFR §~~ 2.341, or a motion for stay under ~~10 CFR §~~ 2.342, or the filing of a petition under ~~10 CFR §~~ 2.206.

(k) * * *

(2) Notwithstanding the pendency of a motion for leave to file under § 2.309(c), a petition for reconsideration under § 2.345, a petition for review under § 2.341, or a motion for stay under § 2.342, or the filing of a petition under § 2.206.

§ 2.341 Review of decisions and actions of a presiding officer.

* * * * *

(b)

(1) Within 2025 days after service of a full or partial initial decision by a presiding officer, and within 2025 days after service of any other decision or action by a presiding officer with

respect to which a petition for review is authorized by this part, a party may file a petition for review with the Commission on the grounds specified in paragraph (b)(4) of this section. Unless otherwise authorized by law, a party to an NRC proceeding must file a petition for Commission review before seeking judicial review of an agency action.

* * * * *

(3) Any other party to the proceeding may, within 2025 days after service of a petition for review, file an answer supporting or opposing Commission review. This answer may not be longer than 25 pages and should concisely address the matters in paragraph (b)(2) of this section to the extent appropriate. The petitioning party may file a reply brief within seven (7) ~~ten (10)~~ days of service of any answer. This reply brief may not be longer than 5 pages.

* * * * *

(c)

(1) The Commission will endeavor to issue a final decision on a petition for review submitted under paragraph (b) of this section within 60 days of service of the reply to the answer to the petition unless, in the judgment of the Commission, the complexity of the case necessitates additional time for a decision. If within 120 days after the filing of a petition for review the Commission does not grant the petition, in whole or in part, the petition is deemed to be denied, unless the Commission, in its discretion, extends the time for its consideration of the petition and any answers to the petition.

* * * * *

(d) Petitions for reconsideration of Commission decisions granting or denying review in whole or in part will not be entertained. A petition for reconsideration of a Commission decision after review may be filed within seven (7) ~~ten (10)~~ days, but is not necessary for exhaustion of administrative remedies. However, if a petition for reconsideration is filed, the Commission decision is not final until the petition is decided. Any petition for reconsideration will be evaluated against the standard in § 2.323(e). Answers to a petition for reconsideration may be filed by an interested party within seven (7) days of service of the petition, and no reply to an answer is permitted.

* * * * *

(f)*

(2) The Commission may, in its discretion, grant interlocutory review at the request of a party despite the absence of a referral or certification by the presiding officer. A party may file a petition for interlocutory review within fourteen (14) days of the presiding officer decision or action for which review is requested, and any other party to the proceeding may, within fourteen (14) days after service of the petition for interlocutory review, file an answer supporting or opposing Commission review. No reply to an answer is permitted. ~~A~~The petition and answer must ~~to it be filed within the times and~~ in the form prescribed in paragraph (b) of this section and must be treated in accordance with the general provisions of this section. The petition for interlocutory review will be granted only if the party demonstrates that the issue for which the party seeks interlocutory review:

* * * * *

(3) The Commission will endeavor to issue a final decision on a petition submitted under paragraph (f)(2) of this section within 45 days of service of an answer to the petition

unless, in the judgment of the Commission, the complexity of the case necessitates additional time for a decision.

§ 2.342 Stays of decisions.

(a) Within seven (7) ten (10) days after service of a decision or action of a presiding officer, any party to the proceeding may file an application for a stay of the effectiveness of the decision or action pending filing of and a decision on a petition for review. This application may be filed with the Commission or the presiding officer, but not both at the same time.

* * * * *

(d) Within seven (7) ten (10) days after service of an application for a stay under this section, any party may file an answer supporting or opposing the granting of a stay. This answer may not be longer than ten (10) pages, exclusive of affidavits, and should concisely address the matters in paragraph (b) of this section to the extent appropriate. Further replies to answers will not be entertained. Filing of and service of an answer on the other parties must be by the same method, e.g., electronic or facsimile transmission, mail, as the method for filing the application for the stay.

* * * * *

§ 2.345 Petition for reconsideration.

(a)

(1) Any petition for reconsideration of a final decision must be filed by a party within seven (7) ten (10) days after the date of the decision.

* * * * *

(b) A petition for reconsideration must demonstrate a compelling circumstance, such as the existence of a clear and material error in a decision, which could not have been reasonably anticipated, which renders the decision invalid. The petition must state the relief sought. Within seven (7) ten (10) days after a petition for reconsideration has been served, any other party may file an answer in opposition to or in support of the petition.

* * * * *

§ 2.700 Scope of subpart G.

The provisions of this subpart apply to and supplement the provisions set forth in subpart C of this part with respect to enforcement proceedings initiated under subpart B of this part unless otherwise agreed to by the parties, ~~proceedings conducted with respect to the initial licensing of a uranium enrichment facility, proceedings for the grant, renewal, licensee initiated amendment, or termination of licenses or permits for nuclear power reactors, where the presiding officer by order finds that resolution of the contention necessitates resolution of: issues of material fact relating to the occurrence of a past event, where the credibility of an eyewitness may reasonably be expected to be at issue, and/or issues of motive or intent of the party or eyewitness material to the resolution of the contested matter,~~ proceedings for initial applications for construction authorization for high-level radioactive waste repository noticed under §§ 2.101(f)(8) or 2.105(a)(5), proceedings for initial applications for a license to receive and possess high-level radioactive waste at a geologic repository operations area, and any other

proceeding as ordered by the Commission. If there is any conflict between the provisions of this subpart and those set forth in subpart C of this part, the provisions of this subpart control.

§ 2.901 Scope of subpart I.

This subpart applies, as applicable, to all proceedings under subparts G, J, K, L, ~~M~~, and N of this part.

§ 2.1103 Scope of subpart K.

~~(a) Except as otherwise provided by paragraph (b) of this section, t~~The provisions of this subpart, together with subpart C and applicable provisions of subparts G and L of this part, govern ~~all~~ adjudicatory proceedings on the following applications filed after January 7, 1983, if a party requests that the proceeding be conducted under this subpart:

~~(1) An application~~ for a license or license amendment under parts 50 or 52 of this chapter, to expand the spent fuel storage capacity at the site of a civilian nuclear power plant, through the use of high density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means ~~;~~ or

~~(2) This subpart also applies to proceedings on An~~ applications for a license under part 72 of this chapter to store spent nuclear fuel in an independent spent fuel storage installation located at the site of a civilian nuclear power reactor.

~~(b)~~ This subpart shall not apply to the first application for a license or license amendment to expand the spent fuel storage capacity at a particular site through the use of a new technology not previously approved by the Commission for use at any other nuclear power plant. This subpart shall not apply to proceedings on applications for transfer of a license issued under part 72 of this chapter.

§ 2.1200 Scope of this subpart.

The provisions of this subpart, together with subpart C of this part, govern all adjudicatory proceedings conducted for the grant, renewal, licensee-initiated amendment, ~~or termination, or transfer~~ of licenses or permits subject to parts 30, 32 through 36, 39, 40, 50, 52, 54, 55, 61, 70, and 72 of this chapter (except as otherwise provided in accordance with § 2.310), -except as determined through the application of § 2.310(b) through (h) and adjudicatory proceedings on enforcement actions conducted under this subpart in accordance with § 2.310.

§ 2.1202 Authority and role of NRC staff.

(a)* * *

(1) An application to construct and/or operate a production or utilization facility of the type described in §§ 50.21(b) or 50.22 of this chapter or a testing facility as defined in § 50.2 of this chapter (including an application for a limited work authorization under ~~40 CFR~~ § 50.10 of this chapter, or an application for a combined license under subpart C of 10 CFR part 52);

* * * * *

(3) ~~An application for a license to construct and operate a uranium enrichment facility. An application for a manufacturing license under subpart F of 10 CFR part 52;~~

* * * * *

(b)* * *

(2) Within ~~seven (7) fifteen (15)~~ days of the issuance of the order granting requests for hearing/petitions to intervene ~~and or~~ admitting contentions, the NRC staff shall notify the presiding officer and the parties whether it desires to participate as a party, and identify the contentions on which it wishes to participate as a party. If the NRC staff desires to be a party thereafter, the NRC staff shall notify the presiding officer and the parties, ~~and~~ identify the contentions on which it wishes to participate as a party, ~~and make the disclosures required by § 2.336(b)(3) through (5) unless accompanied by an affidavit explaining why the disclosures cannot be provided to the parties with the notice.~~

* * * * *

§ 2.1203 ~~Hearing file; p~~Prohibition on discovery.

~~(a)(1) Within thirty (30) days of the issuance of the order granting requests for hearing/petitions to intervene and admitting contentions, the NRC staff shall file in the docket, present to the presiding officer, and make available to the parties to the proceeding a hearing file.~~

~~(2) The hearing file must be made available to the parties either by service of hard copies or by making the file available at the NRC Web site, <http://www.nrc.gov>.~~

~~(3) The hearing file also must be made available for public inspection and copying at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room.~~

~~(b) The hearing file consists of the application, if any, and any amendment to the application, and, when available, any NRC environmental impact statement or assessment and any NRC report related to the proposed action, as well as any correspondence between the applicant/licensee and the NRC that is relevant to the proposed action. Hearing file documents already available at the NRC Web site and/or the NRC Public Document Room when the hearing request/petition to intervene is granted may be incorporated into the hearing file at those locations by a reference indicating where at those locations the documents can be found. The presiding officer shall rule upon any issue regarding the appropriate materials for the hearing file.~~

~~(c) The NRC staff has a continuing duty to keep the hearing file up to date with respect to the materials set forth in paragraph (b) of this section and to provide those materials as required in paragraphs (a) and (b) of this section.~~

~~(d) Except as otherwise permitted by subpart C of this part, a party may not seek discovery from any other party or the NRC or its personnel, whether by document production, deposition, interrogatories or otherwise.~~

§ 2.1205 Summary disposition.

(a) Unless the presiding officer or the Commission directs otherwise, motions for summary disposition may be submitted to the presiding officer by any party no later than 30 45 days before the scheduled date for the filing of initial written testimony commencement of hearing. The motions must be in writing and must include a written explanation of the basis of the motion. The moving party must attach a short and concise statement of material facts for

which the moving party contends that there is no genuine issue to be heard. Motions for summary disposition must be served on the parties and the Secretary at the same time that they are submitted to the presiding officer.

- (b) Any other party may serve an answer supporting or opposing the motion within fifteen (15) ~~twenty (20)~~ days after service of the motion.
- (c) The presiding officer shall issue a determination on each motion for summary disposition no later than twenty (20) days after the filing of answers ~~fifteen (15) days before the date scheduled for commencement of hearing~~. In ruling on motions for summary disposition, the presiding officer shall apply the standards for summary disposition set forth in subpart G of this part.

§ 2.1206 Process and Schedule for Hearing. Informal hearings.

~~Hearings under this subpart will be oral hearings as described in § 2.1207, unless, within fifteen (15) days of the service of the order granting the request for hearing, the parties unanimously agree and file a joint motion requesting a hearing consisting of written submissions. A motion to hold a hearing consisting of written submissions will not be entertained unless there is unanimous consent of the parties.~~

(a)

- (1) Upon consideration of the contested matters raised in the admitted contention(s) and after consulting with the parties, the presiding officer must issue a scheduling order in accordance with § 2.332 that determines which written filings in paragraph (b)(1) of this section the parties will be permitted to make and the schedule for these filings, the schedule for motions for cross-examination, whether and when to hold an oral hearing, and the schedule for issuing an initial decision. The schedule for issuing an initial decision must comply with the requirements of § 2.332 and (as applicable) § 2.1207. If the presiding officer initially determines to hold an oral hearing but later determines an oral hearing is unnecessary, the presiding officer may amend the scheduling order to remove the oral hearing and should inform the parties at the earliest practical opportunity.
- (2) Hearings in a proceeding for the grant of a license to construct and operate a uranium enrichment facility must comply with the procedures in the Administrative Procedure Act for "on the record" hearings.

(b)

- (1) The presiding officer will determine which of the following written filings may be submitted by the parties and the schedule for these filings:
 - (i) Initial testimony, position statements, and supporting exhibits;
 - (ii) Rebuttal testimony, position statements, and supporting exhibits;
 - (iii) Motions in limine and motions to strike;
 - (iv) Written briefing and/or written responses to questions from the presiding officer;
 - (v) Proposed questions for the presiding officer to ask the witnesses; and
 - (vi) Proposed findings of fact and conclusions of law.
- (2) Written testimony may be submitted in affidavit or question-and-answer form. If statements of position and proposed findings of fact and conclusions of law are both

permitted, then the statements of position may be filed in the form of proposed findings of fact and conclusions of law. Proposed questions need not be filed with any other party. The presiding officer may allow oral motions in limine or motions to strike in lieu of (or in addition to) written filings.

(c)

(1) Participants may designate and present their own witnesses to the presiding officer. Testimony for the NRC staff will be presented only by persons designated by the Executive Director for Operations or his or her designee for that purpose.

(2) The presiding officer may formulate and ask oral or written questions to the participants that the presiding officer considers appropriate to develop an adequate record.

(3) The presiding officer may accept written testimony from a person unable to appear at an oral hearing, and may request that person to respond in writing to questions.

(4) Unless cross-examination is permitted in accordance with § 2.1204, only the presiding officer will be permitted to pose questions to witnesses. If the presiding officer permits the parties to submit proposed questions under paragraph (b) of this section, the proposed questions may be propounded at the discretion of the presiding officer. All questions must be kept by the presiding officer in confidence until they are either propounded by the presiding officer, or until issuance of the initial decision on the issue being litigated. The presiding officer shall then provide all proposed questions to the Commission's Secretary for inclusion in the official record of the proceeding.

(d) In a proceeding for the grant of a license to construct and operate a uranium enrichment facility and in a proceeding on a denial of an application:

(1) A transcribed oral hearing must be held unless all parties jointly agree to dispense with an oral hearing; and

(2) Each party must be permitted:

(i) To file written testimony, a position statement, and supporting exhibits;

(ii) To submit rebuttal evidence and argument; and

(iii) To file proposed findings of fact and conclusions of law.

§ 2.1207 Schedule for Issuance of Initial Decision. ~~Process and schedule for submissions and presentations in an oral hearing.~~

With the exception of enforcement proceedings and proceedings on denials of applications, the initial decision must be issued within the applicable timeframe prescribed by paragraphs (a) through (e) of this section.

(a) In a proceeding for the grant of a license to construct and operate a uranium enrichment facility, the initial decision must be issued within the following timeframes, except to the extent that unavoidable and extreme circumstances necessitate a delay.

(1) For hearing requests, intervention petitions, and contentions submitted by the Standard Record Closure Date, the initial decision must be issued within 145 days of:

(i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or

- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (2) For hearing requests, intervention petitions, and contentions submitted after the Standard Record Closure Date, the initial decision must be issued within 110 days of:
- (i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or
- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (3) The Standard Record Closure Date in a proceeding under paragraph (a) of this section is 272 days after the *Federal Register* notice announcing the opportunity to request a hearing.
- (b) In a proceeding for the grant of a construction permit, an initial operating license, or an initial combined license under 10 CFR parts 50 or 52 for a production or utilization facility of the type described in §§ 50.21(b) or 50.22 of this chapter (where the application does not reference a design certification or manufacturing license), or the grant of a license to construct and/or operate a uranium recovery or fuel cycle facility under parts 40 or 70 of this chapter (other than a license to construct and operate a uranium enrichment facility), the initial decision must be issued within the following timeframes, except to the extent that unavoidable and extreme circumstances necessitate a delay.
- (1) For contentions submitted by the Standard Record Closure Date, the initial decision must be issued within 110 days of:
- (i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or
- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (2) For contentions submitted after the Standard Record Closure Date, the initial decision must be issued within 90 days of:
- (i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or
- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (3) The Standard Record Closure Date in a proceeding under paragraph (b) of this section is 237 days after the *Federal Register* notice announcing the opportunity to request a hearing.
- (c) In a highly expedited proceeding where the application references both a categorical exclusion and an NRC approval providing finality in the adjudicatory proceeding on design information within the application (including a design certification or a manufacturing license), the initial decision must be issued within the following timeframes, except to the extent that unavoidable and extreme circumstances necessitate a delay.
- (1) The initial decision must be issued within 45 days of:
- (i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or

- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (2) The Standard Record Closure Date in a proceeding under paragraph (c) of this section is 132 days after the *Federal Register* notice announcing the opportunity to request a hearing.
- (d) In a highly expedited proceeding other than one under paragraph (c) of this section or in a proceeding for the direct or indirect transfer of control of an NRC license authorizing reactor operation when the transfer requires prior approval of the NRC under the Commission's regulations, governing statute, or pursuant to a license condition, the initial decision must be issued within the following timeframes, except to the extent that unavoidable and extreme circumstances necessitate a delay.
- (1) The initial decision must be issued within 60 days of:
- (i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or
- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (2) The Standard Record Closure Date in a highly expedited proceeding under paragraph (d) of this section is 147 days after the *Federal Register* notice announcing the opportunity to request a hearing. The Standard Record Closure Date in a transfer proceeding under paragraph (d) of this section is 137 days after the *Federal Register* notice announcing the opportunity to request a hearing.
- (e) In a proceeding other than one described in paragraphs (a) through (d) of this section, the initial decision must be issued within the following timeframes, except to the extent that unavoidable and extreme circumstances necessitate a delay.
- (1) For contentions submitted by the Standard Record Closure Date, the initial decision must be issued within 100 days of:
- (i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or
- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (2) For contentions submitted after the Standard Record Closure Date, the initial decision must be issued within 90 days of:
- (i) The admission of the contention if the presiding officer immediately proceeds to the evidentiary hearing phase in accordance with § 2.332(d); or
- (ii) Otherwise, the triggering event for the evidentiary hearing as determined in the presiding officer's scheduling order issued in accordance with § 2.332.
- (3) The Standard Record Closure Date in a proceeding under paragraph (e) of this section is 212 days after the *Federal Register* notice announcing the opportunity to request a hearing.
- ~~(a) Unless otherwise limited by this subpart or by the presiding officer, participants in an oral hearing may submit and sponsor in the hearings:~~

- ~~(1) Initial written statements of position and written testimony with supporting affidavits on the admitted contentions. These materials must be filed on the dates set by the presiding officer.~~
- ~~(2) Written responses and rebuttal testimony with supporting affidavits directed to the initial statements and testimony of other participants. These materials must be filed within twenty (20) days of the service of the materials submitted under paragraph (a)(1) of this section unless the presiding officer directs otherwise.~~
- ~~(3)
 - ~~(i) Proposed questions for the presiding officer to consider for propounding to the persons sponsoring the testimony. Unless the presiding officer directs otherwise, these questions must be received by the presiding officer no later than twenty (20) days after the service of the materials submitted under paragraph (a)(1) of this section, unless that date is less than five (5) days before the scheduled commencement of the oral hearing, in which case the questions must be received by the presiding officer no later than five (5) days before the scheduled commencement of the hearing. Proposed questions need not be filed with any other party.~~
 - ~~(ii) Proposed questions directed to rebuttal testimony for the presiding officer to consider for propounding to persons sponsoring the testimony. Unless the presiding officer directs otherwise, these questions must be received by the presiding officer no later than seven (7) days after the service of the rebuttal testimony submitted under paragraph (a)(2) of this section, unless that date is less than five (5) days before the scheduled commencement of the oral hearing, in which case the questions must be received by the presiding officer no later than five (5) days before the scheduled commencement of the hearing. Proposed questions directed to rebuttal need not be filed with any other party.~~
 - ~~(iii) Questions submitted under paragraphs (a)(3)(i) and (ii) of this section may be propounded at the discretion of the presiding officer. All questions must be kept by the presiding officer in confidence until they are either propounded by the presiding officer, or until issuance of the initial decision on the issue being litigated. The presiding officer shall then provide all proposed questions to the Commission's Secretary for inclusion in the official record of the proceeding.~~~~

~~(b) Oral hearing procedures.~~

- ~~(1) The oral hearing must be transcribed.~~
- ~~(2) Written testimony will be received into evidence in exhibit form.~~
- ~~(3) Participants may designate and present their own witnesses to the presiding officer.~~
- ~~(4) Testimony for the NRC staff will be presented only by persons designated by the Executive Director for Operations or their delegate for that purpose.~~
- ~~(5) The presiding officer may accept written testimony from a person unable to appear at the hearing, and may request that person to respond in writing to questions.~~
- ~~(6) Participants and witnesses will be questioned orally or in writing and only by the presiding officer or the presiding officer's designee (e.g., a Special Assistant appointed under § 2.322). The presiding officer will examine the participants and witnesses using questions prepared by the presiding officer or the presiding officer's designee, questions submitted by the participants at the discretion of the presiding officer, or a combination of both. Questions may be addressed to individuals or to panels of participants or~~

witnesses. No party may submit proposed questions to the presiding officer at the hearing, except upon request by, and in the sole discretion of, the presiding officer.

§ 2.1208 – 2.1209 [Reserved]

§ 2.1208 Process and schedule for a hearing consisting of written presentations.

~~(a) Unless otherwise limited by this subpart or by the presiding officer, participants in a hearing consisting of written presentations may submit:~~

- ~~(1) Initial written statements of position and written testimony with supporting affidavits on the admitted contentions. These materials must be filed on the dates set by the presiding officer;~~
- ~~(2) Written responses, rebuttal testimony with supporting affidavits directed to the initial statements and testimony of witnesses and other participants, and proposed written questions for the presiding officer to consider for submission to the persons sponsoring testimony under paragraph (a)(1) of this section. These materials must be filed within twenty (20) days of the service of the materials submitted under paragraph (a)(1) of this section unless the presiding officer directs otherwise;~~
- ~~(3) Written questions on the written responses and rebuttal testimony submitted under paragraph (a)(2) of this section, which the presiding officer may, in his or her discretion, require the persons offering the written responses and rebuttal testimony to provide responses. These questions must be filed within seven (7) days of service of the materials submitted under paragraph (a)(2) of this section unless the presiding officer directs otherwise; and~~
- ~~(4) Written concluding statements of position on the contentions. These statements shall be filed within twenty (20) days of the service of written responses to the presiding officer's questions to the participants or, in the absence of questions from the presiding officer, within twenty (20) days of the service of the materials submitted under paragraph (a)(2) of this section unless the presiding officer directs otherwise.~~

~~(b) The presiding officer may formulate and submit written questions to the participants that he or she considers appropriate to develop an adequate record.~~

§ 2.1209 Findings of fact and conclusions of law.

~~Each party shall file written post-hearing proposed findings of fact and conclusions of law on the contentions addressed in an oral hearing under § 2.1207 or a written hearing under § 2.1208 within 30 days of the close of the hearing or at such other time as the presiding officer directs. Proposed findings of fact and conclusions of law must conform to the format requirements in § 2.712(c).~~

§ 2.1210 Initial decision and its effect.

(a) Unless the Commission directs that the record be certified to it in accordance with paragraph (b) of this section, the presiding officer shall render an initial decision after completion of ~~an~~ **informal a** hearing under this subpart. That initial decision constitutes the final action of the Commission on the contested matter 120 days after the date of issuance, unless:

* * * * *

(c) An initial decision must be in writing and must be based only upon information in the record or facts officially noticed. The record must include all information submitted in the proceeding with respect to which all parties have been given reasonable prior notice and an opportunity to comment as provided in § 2.1206-§§ 2.1207 or 2.1208. The initial decision must include:

* * * * *

§ 2.1213 Application for a stay.

* * * * *

(c) Within seven (7) ~~ten (10)~~ days after service of an application for a stay of the NRC staff's action under this section, any party and/or the NRC staff may file an answer supporting or opposing the granting of a stay. Answers may not be longer than ten (10) pages, exclusive of affidavits, and must concisely address the matters in paragraph (b) of this section as appropriate. Further replies to answers will not be entertained.

* * * * *

§ 2.1214 Additional procedures for license transfer applications.

(a) Notice of receipt and withdrawal of application.

(1) The Commission will notice the receipt of each application for direct or indirect transfer of a specific NRC license by placing a copy of the application at the NRC website, <https://www.nrc.gov>.

(2) The Commission will also publish in the *Federal Register* a notice of receipt of an application for approval of a license transfer involving 10 CFR parts 50 or 52 licenses, major fuel cycle facility licenses issued under part 70, or part 72 licenses. This notice constitutes the notice required by § 2.105 with respect to all matters related to the application requiring NRC approval.

(3) Periodic lists of applications received may be obtained upon request addressed to the NRC Public Document Room, US Nuclear Regulatory Commission, Washington, DC 20555-0001.

(4) The Commission will notice the withdrawal of an application by publishing the notice of withdrawal in the same manner as the notice of receipt of the application was published under paragraphs (a)(1) and (2) of this section.

(b) Written comments.

(1) As an alternative to requests for hearings and petitions to intervene, persons may submit written comments regarding license transfer applications. The Commission will consider and, if appropriate, respond to these comments, but these comments do not otherwise constitute part of the decisional record.

(2) These comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

(3) The Commission will provide the applicant with a copy of the comments. Any response the applicant chooses to make to the comments must be submitted within 10 days of

service of the comments on the applicant. Such responses do not constitute part of the decisional record.

(c) Generic determination regarding license amendments to reflect transfers.

(1) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an Independent Spent Fuel Storage Installation which does no more than conform the license to reflect the transfer action, involves respectively, “no significant hazards consideration,” or “no genuine issue as to whether the health and safety of the public will be significantly affected.”

(2) Where administrative license amendments are necessary to reflect an approved transfer, such amendments will be included in the order that approves the transfer. Any challenge to the administrative license amendment is limited to the question of whether the license amendment accurately reflects the approved transfer.

(d) Role of NRC staff. Except as otherwise directed in accordance with § 2.1202(b)(1), the NRC staff is not required to be a party to proceedings under this subpart but will offer into evidence its safety evaluation report associated with the transfer application and provide one or more sponsoring witnesses.

Subpart M—~~Procedures for Hearings on License Transfer Applications~~ [Reserved]

~~§ 2.1300 Scope of subpart M.~~

~~The provisions of this subpart, together with the generally applicable intervention provisions in subpart C of this part, govern all adjudicatory proceedings on an application for the direct or indirect transfer of control of an NRC license when the transfer requires prior approval of the NRC under the Commission’s regulations, governing statutes, or pursuant to a license condition. This subpart provides the only mechanism for requesting hearings on license transfer requests, unless contrary case specific orders are issued by the Commission.~~

~~§ 2.1301 Public notice of receipt of a license transfer application.~~

~~(a) The Commission will notice the receipt of each application for direct or indirect transfer of a specific NRC license by placing a copy of the application at the NRC Web site, <http://www.nrc.gov>.~~

~~(b) The Commission will also publish in the *Federal Register* a notice of receipt of an application for approval of a license transfer involving 10 CFR part 50 and part 52 licenses, major fuel cycle facility licenses issued under part 70, or part 72 licenses. This notice constitutes the notice required by § 2.105 with respect to all matters related to the application requiring NRC approval.~~

~~(c) Periodic lists of applications received may be obtained upon request addressed to the NRC Public Document Room, US Nuclear Regulatory Commission, Washington, DC 20555-0001.~~

~~§ 2.1302 Notice of withdrawal of an application.~~

~~The Commission will notice the withdrawal of an application by publishing the notice of withdrawal in the same manner as the notice of receipt of the application was published under § 2.1301.~~

~~§ 2.1303 Availability of documents.~~

~~Unless exempt from disclosure under part 9 of this chapter, the following documents pertaining to each application for a license transfer requiring Commission approval will be placed at the NRC Web site, <http://www.nrc.gov>, when available:~~

- ~~(a) The license transfer application and any associated requests;~~
- ~~(b) Commission correspondence with the applicant or licensee related to the application;~~
- ~~(c) *Federal Register* notices;~~
- ~~(d) The NRC staff Safety Evaluation Report (SER).~~
- ~~(e) Any NRC staff order which acts on the license transfer application; and~~
- ~~(f) If a hearing is held, the hearing record and decision.~~

~~§ 2.1305 Written comments.~~

~~(a) As an alternative to requests for hearings and petitions to intervene, persons may submit written comments regarding license transfer applications. The Commission will consider and, if appropriate, respond to these comments, but these comments do not otherwise constitute part of the decisional record.~~

~~(b) These comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.~~

~~(c) The Commission will provide the applicant with a copy of the comments. Any response the applicant chooses to make to the comments must be submitted within 10 days of service of the comments on the applicant. Such responses do not constitute part of the decisional record.~~

~~§ 2.1308 Oral hearings.~~

~~Hearings under this subpart will be oral hearings, unless, within 15 days of the service of the notice or order granting the hearing, the parties unanimously agree and file a joint motion requesting a hearing consisting of written comments. No motion to hold a hearing consisting of written comments will be entertained absent consent of all the parties.~~

~~§ 2.1309 Notice of oral hearing.~~

~~(a) A notice of oral hearing will—~~

- ~~(1) State the time, place, and issues to be considered;~~
- ~~(2) Provide names and addresses of participants,~~
- ~~(3) Specify the time limit for participants and others to indicate whether they wish to present views;~~
- ~~(4) Specify the schedule for the filing of written testimony, statements of position, proposed questions for the Presiding Officer to consider, and rebuttal testimony consistent with the schedule provisions of § 2.1321.~~

- ~~(5) Specify that the oral hearing shall commence within 15 days of the date for submittal of rebuttal testimony unless otherwise ordered;~~
- ~~(6) State any other instructions the Commission deems appropriate;~~
- ~~(7) If so determined by the NRC staff or otherwise directed by the Commission, direct that the staff participate as a party with respect to some or all issues.~~
- ~~(b) If the Commission is not the Presiding Officer, the notice of oral hearing will also state:~~
 - ~~(1) When the jurisdiction of the Presiding Officer commences and terminates;~~
 - ~~(2) The powers of the Presiding Officer;~~
 - ~~(3) Instructions to the Presiding Officer to certify promptly the completed hearing record to the Commission without a recommended or preliminary decision.~~

~~§ 2.1310 Notice of hearing consisting of written comments.~~

~~A notice of hearing consisting of written comments will:~~

- ~~(a) State the issues to be considered;~~
- ~~(b) Provide the names and addresses of participants;~~
- ~~(c) Specify the schedule for the filing of written testimony, statements of position, proposed questions for the Presiding Officer to consider for submission to the other parties, and rebuttal testimony, consistent with the schedule provisions of § 2.1321.~~
- ~~(d) State any other instructions the Commission deems appropriate.~~

~~§ 2.1311 Conditions in a notice or order.~~

- ~~(a) A notice or order granting a hearing or permitting intervention shall—~~
 - ~~(1) Restrict irrelevant or duplicative testimony; and~~
 - ~~(2) Require common interests to be represented by a single participant.~~
- ~~(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit her/his participation accordingly.~~

~~§ 2.1315 Generic determination regarding license amendments to reflect transfers.~~

- ~~(a) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an Independent Spent Fuel Storage Installation which does no more than conform the license to reflect the transfer action, involves respectively, “no significant hazards consideration,” or “no genuine issue as to whether the health and safety of the public will be significantly affected.”~~
- ~~(b) Where administrative license amendments are necessary to reflect an approved transfer, such amendments will be included in the order that approves the transfer. Any challenge to the administrative license amendment is limited to the question of whether the license amendment accurately reflects the approved transfer.~~

~~§ 2.1316 Authority and role of NRC staff.~~

~~(a) During the pendency of any hearing under this subpart, consistent with the NRC staff's findings in its Safety Evaluation Report (SER), the staff is expected to promptly issue approval or denial of license transfer requests. Notice of such action shall be promptly transmitted to the Presiding Officer and parties to the proceeding.~~

~~(b) Except as otherwise directed in accordance with § 2.1309(a)(7), the NRC staff is not required to be a party to proceedings under this subpart but will offer into evidence its SER associated with the transfer application and provide one or more sponsoring witnesses.~~

~~(c)~~

~~(1) Within 15 days of the issuance of the order granting requests for hearing/petitions to intervene and admitting contentions, the NRC staff must notify the presiding officer and the parties whether it desires to participate as a party, and identify the contentions on which it wishes to participate as a party. If the NRC staff desires to be a party thereafter, the NRC staff must notify the presiding officer and the parties, and identify the contentions on which it wishes to participate as a party, and make the disclosures required by § 2.336(b)(3) through (b)(5) unless accompanied by an affidavit explaining why the disclosures cannot be provided to the parties with the notice.~~

~~(2) Once the NRC staff chooses to participate as a party, it will have all the rights and responsibilities of a party with respect to the admitted contention/matter in controversy on which the staff chooses to participate.~~

~~§ 2.1319 Presiding Officer.~~

~~(a) The Commission will ordinarily be the Presiding Officer at a hearing under this part. However, the Commission may provide in a hearing notice that one or more Commissioners, or any other person permitted by law, will preside.~~

~~(b) A participant may submit a written motion for the disqualification of any person presiding. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. If the Presiding Officer does not grant the motion or the person does not disqualify themselves and the Presiding Officer or such other person is not the Commission or a Commissioner, the Commission will decide the matter.~~

~~(c) If any person presiding deems themselves disqualified, they shall withdraw by notice on the record after notifying the Commission.~~

~~(d) If a Presiding Officer becomes unavailable, the Commission will designate a replacement.~~

~~(e) Any motion concerning the designation of a replacement Presiding Officer shall be made within 5 days after the designation.~~

~~(f) Unless otherwise ordered by the Commission, the jurisdiction of a Presiding Officer other than the Commission commences as designated in the hearing notice and terminates upon certification of the hearing record to the Commission, or when the Presiding Officer is disqualified.~~

~~§ 2.1320 Responsibility and power of the Presiding Officer in an oral hearing.~~

~~(a) The Presiding Officer in any oral hearing shall conduct a fair hearing, develop a record that will contribute to informed decisionmaking, and, within the framework of the Commission's orders, have the power necessary to achieve these ends, including the power to:~~

- ~~(1) Take action to avoid unnecessary delay and maintain order;~~
- ~~(2) Dispose of procedural requests;~~
- ~~(3) Question participants and witnesses, and entertain suggestions as to questions which may be asked of participants and witnesses.~~
- ~~(4) Order consolidation of participants;~~
- ~~(5) Establish the order of presentation;~~
- ~~(6) Hold conferences before or during the hearing;~~
- ~~(7) Establish time limits;~~
- ~~(8) Limit the number of witnesses; and~~
- ~~(9) Strike or reject duplicative, unreliable, immaterial, or irrelevant presentations.~~
- ~~(b) Where the Commission itself does not preside:~~
 - ~~(1) The Presiding Officer may certify questions or refer rulings to the Commission for decision;~~
 - ~~(2) Any hearing order may be modified by the Commission; and~~
 - ~~(3) The Presiding Officer will certify the completed hearing record to the Commission, which may then issue its decision on the hearing or provide that additional testimony be presented.~~

~~§ 2.1321 Participation and schedule for submission in a hearing consisting of written comments.~~

~~Unless otherwise limited by this subpart or by the Commission, participants in a hearing consisting of written comments may submit:~~

- ~~(a) Initial written statements of position and written testimony with supporting affidavits on the issues. These materials must be filed on the date set by the Commission or the presiding officer.~~
- ~~(b) Written responses, rebuttal testimony with supporting affidavits directed to the initial statements and testimony of other participants, and proposed written questions for the Presiding Officer to consider for submittal to persons sponsoring testimony submitted under paragraph (a) of this section. These materials shall be filed within 20 days of the filing of the materials submitted under paragraph (a) of this section, unless the Commission or Presiding Officer directs otherwise. Proposed written questions directed to rebuttal testimony for the Presiding Officer to consider for submittal to persons offering such testimony shall be filed within 7 days of the filing of the rebuttal testimony.~~
- ~~(c) Written concluding statements of position on the issues. These materials shall be filed within 20 days of the filing of the materials submitted under paragraph (b) of this section, unless the Commission or the Presiding Officer directs otherwise.~~

~~§ 2.1322 Participation and schedule for submissions in an oral hearing.~~

- ~~(a) Unless otherwise limited by this subpart or by the Commission, participants in an oral hearing may submit and sponsor in the hearings:~~

~~(1) Initial written statements of position and written testimony with supporting affidavits on the issues. These materials must be filed on the date set by the Commission or the presiding officer.~~

~~(2)~~

~~(i) Written responses and rebuttal testimony with supporting affidavits directed to the initial statements and testimony of other participants;~~

~~(ii) Proposed questions for the Presiding Officer to consider for propounding to persons sponsoring testimony.~~

~~(3) These materials must be filed within 20 days of the filing of the materials submitted under paragraph (a)(1) of this section, unless the Commission or Presiding Officer directs otherwise.~~

~~(4) Proposed questions directed to rebuttal testimony for the Presiding Officer to consider for propounding to persons offering such testimony shall be filed within 7 days of the filing of the rebuttal testimony.~~

~~(b) The oral hearing should commence within 65 days of the date of the Commission's notice granting a hearing unless the Commission or Presiding Officer directs otherwise. Ordinarily, questioning in the oral hearing will be conducted by the Presiding Officer, using either the Presiding Officer's questions or questions submitted by the participants or a combination of both.~~

~~(c) Written post hearing statements of position on the issues addressed in the oral hearing may be submitted within 20 days of the close of the oral hearing.~~

~~(d) The Commission, on its own motion, or in response to a request from a Presiding Officer other than the Commission, may use additional procedures, such as direct and cross-examination, or may convene a formal hearing under subpart G of this part on specific and substantial disputes of fact, necessary for the Commission's decision, that cannot be resolved with sufficient accuracy except in a formal hearing. The staff will be a party in any such formal hearing. Neither the Commission nor the Presiding Officer will entertain motions from the parties that request such special procedures or formal hearings.~~

~~§ 2.1323 Presentation of testimony in an oral hearing.~~

~~(a) All direct testimony in an oral hearing shall be filed no later than 15 days before the hearing or as otherwise ordered or allowed pursuant to the provisions of § 2.1322.~~

~~(b) Written testimony will be received into evidence in exhibit form.~~

~~(c) Participants may designate and present their own witnesses to the Presiding Officer.~~

~~(d) Testimony for the NRC staff will be presented only by persons designated for that purpose by either the Executive Director for Operations or a delegate of the Executive Director for Operations.~~

~~(e) Participants and witnesses will be questioned orally or in writing and only by the Presiding Officer. Questions may be addressed to individuals or to panels of participants or witnesses.~~

~~(f) The Presiding Officer may accept written testimony from a person unable to appear at the hearing, and may request him or her to respond to questions.~~

~~(g) No subpoenas will be granted at the request of participants for attendance and testimony of participants or witnesses or the production of evidence.~~

~~§ 2.1324 Appearance in an oral hearing.~~

~~(a) A participant may appear in a hearing on her or his own behalf or be represented by an authorized representative.~~

~~(b) A person appearing shall file a written notice stating her or his name, address and telephone number, and if an authorized representative, the basis of her or his eligibility and the name and address of the participant on whose behalf she or he appears.~~

~~(c) A person may be excluded from a hearing for disorderly, dilatory or contemptuous conduct, provided he or she is informed of the grounds and given an opportunity to respond.~~

~~§ 2.1325 Motions and requests.~~

~~(a) Motions and requests shall be addressed to the Presiding Officer, and, if written, also filed with the Secretary and served on other participants.~~

~~(b) Other participants may respond to the motion or request. Responses to written motions or requests shall be filed within 5 days after service unless the Commission or Presiding Officer directs otherwise.~~

~~(c) The Presiding Officer may entertain motions for extension of time and changes in schedule in accordance with paragraphs (a) and (b) of this section.~~

~~(d) When the Commission does not preside, in response to a motion or request, the Presiding Officer may refer a ruling or certify a question to the Commission for decision and notify the participants.~~

~~(e) Unless otherwise ordered by the Commission, a motion or request, or the certification of a question or referral of a ruling, shall not stay or extend any aspect of the hearing.~~

~~§ 2.1327 Application for a stay of the effectiveness of NRC staff action on license transfer.~~

~~(a) Any application for a stay of the effectiveness of the NRC staff's order on the license transfer application shall be filed with the Commission within 5 days of the issuance of the notice of staff action pursuant to § 2.1316(a).~~

~~(b) An application for a stay must be no longer than 10 pages, exclusive of affidavits, and must contain:~~

~~(1) A concise summary of the action which is requested to be stayed; and~~

~~(2) A concise statement of the grounds for a stay, with reference to the factors specified in paragraph (d) of this section.~~

~~(c) Within 10 days after service of an application for a stay under this section, any participant may file an answer supporting or opposing the granting of a stay. Answers must be no longer than 10 pages, exclusive of affidavits, and should concisely address the matters in paragraph (b) of this section, as appropriate. No further replies to answers will be entertained.~~

~~(d) In determining whether to grant or deny an application for a stay, the Commission will consider:~~

~~(1) Whether the requestor will be irreparably injured unless a stay is granted;~~

- ~~(2) Whether the requestor has made a strong showing that it is likely to prevail on the merits;~~
- ~~(3) Whether the granting of a stay would harm other participants; and~~
- ~~(4) Where the public interest lies.~~

~~**§ 2.1331 Commission action.**~~

- ~~(a) Upon completion of a hearing, the Commission will issue a written opinion including its decision on the license transfer application and the reasons for the decision.~~
- ~~(b) The decision on issues designated for hearing under § 2.309 will be based on the record developed at hearing.~~

Appendix B TO 10 CFR PART 2—MODEL MILESTONES TO BE USED BY A PRESIDING OFFICER AS A GUIDELINE IN DEVELOPING A HEARING SCHEDULE FOR THE CONDUCT OF AN ADJUDICATORY PROCEEDING IN ACCORDANCE WITH 10 CFR 2.332.

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~~**II. [Reserved] Model Milestones for Hearings Conducted Under 10 CFR Part 2, Subpart L**~~

~~These model milestones would apply to proceedings conducted under 10 CFR Part 2, Subpart L, including those on applications for combined licenses (COLs), renewed licenses, and license amendments. While such proceedings differ insofar as the scope and complexity of the NRC staff reviews for the requested actions may vary, such differences will be reflected in the staff's schedule for issuing its review documents in a particular type of action. Because the milestones are keyed to the staff's review schedule, separate milestones are not identified for proceedings on the different types of actions.~~

~~As required by 10 CFR 2.332 and 2.334, the presiding officer establishes, by order, a schedule for the conduct of each proceeding. In establishing a schedule, the presiding officer should use these milestones as a starting point, make appropriate modifications to the milestones, and set detailed schedules (e.g., for filings) based upon all relevant information. Such information would include, but not be limited to, the number of contentions admitted, the complexity of the issues, the NRC staff's schedule for completion of its safety and environmental evaluations, any other relevant consideration that a party brings to the attention of the presiding officer, and the NRC's interest in providing a fair and expeditious resolution of the issues sought to be admitted for adjudication in the proceeding. The model milestones are based on the Commission's Rules of Practice in 10 CFR Part 2, Subparts B, C, and L.~~

~~The model milestones include only the most significant events in the proceeding and are based upon the following assumptions: (i) the issues to be litigated will involve both disputes over fact and issues of compliance with the Commission's regulations and requirements; (ii) an oral hearing under 10 CFR 2.1207 will be held rather than a written hearing under 10 CFR 2.1208; and (iii) the final Safety Evaluation Report (SER) and final environmental document will be issued simultaneously. The model milestones reflect electronic filing and service in accordance with 10 CFR 2.305.~~

~~Model Milestones
[10 CFR part 2, subpart L]~~

• Within 140 days of publication of notice in <i>Federal Register</i>	Presiding officer decision on intervention petitions and admission of contentions.
• Within 55 days of presiding officer decision granting intervention and admitting contentions	Presiding officer to set initial schedule for proceeding, based on staff schedule for issuing draft and final SERs and any necessary NEPA document.
• Within 30 days of issuance of SER and any necessary NEPA document	Proposed new or amended contentions filed after the deadline on SER and necessary NEPA documents due.
• Within 30 days of issuance of SER and any necessary NEPA document	Motions for summary disposition on previously admitted contentions due.
• Within 85 days of issuance of SER and NEPA document	Presiding officer decision on admission of proposed new or amended contentions filed after the deadline and motions for summary disposition; presiding officer sets schedule for remainder of proceeding.
• Within 14 days after presiding officer decision on new or amended contentions filed after the deadline	All parties complete updates of mandatory disclosures.
• Within 115 days of issuance of SER and NEPA document	Motions for summary disposition due.
• Within 155 days of issuance of SER and NEPA document	Written direct testimony filed.
• Within 175 days of issuance of SER and NEPA document	Evidentiary hearing begins.
• Within 90 days of end of evidentiary hearing and closing of record	Presiding officer issues initial decision.

III. [Reserved] Model Milestones for a Hearing on a Transfer of a License Conducted Under 10 CFR Part 2, Subpart M

These model milestones would apply to proceedings conducted under 10 CFR Part 2, Subpart M on applications for license transfer. As required by 10 CFR 2.332 and 2.334, the presiding officer establishes, by order, a schedule for the conduct of each proceeding. In establishing a schedule, the presiding officer should use these milestones as a starting point, make appropriate modifications to the milestones, and set detailed schedules (e.g., for filings) based upon all relevant information. Such information would include, but not be limited to, the number of contentions admitted, the complexity of the issues, the NRC staff's schedule for completion of its safety and environmental evaluations, any other relevant consideration that a party brings to the attention of the presiding officer, and the NRC's interest in providing a fair and expeditious resolution of the issues sought to be admitted for adjudication in the proceeding. The model

milestones are based on the Commission's Rules of Practice in 10 CFR Part 2, Subparts B, C and M.

The model milestones include only the most significant events in the proceeding, and are based upon the following assumptions: (i) The issues to be litigated will involve both disputes over fact and issues of compliance with the Commission's regulations and requirements; (ii) the parties do not file a joint request under 10 CFR 2.1308 for a hearing consisting of written comments; (iii) the final Safety Evaluation Report (SER) is not necessary to resolve the issues to be litigated; (iv) the Commission itself does not serve as the presiding officer; and (v) the Commission does not order further taking of testimony after the presiding officer certifies the record to the Commission under 10 CFR 2.1319(f). The model milestones reflect electronic filing and service in accordance with 10 CFR 2.305.

Model Milestones
[10 CFR Part 2, Subpart M]

• Within 100 days of publication of <i>Federal Register</i> notice of opportunity for hearing:	Presiding officer decision on intervention petitions and admission of contentions.
• Within 30 days of order granting hearing petitions:	NRC staff and other parties complete mandatory disclosures.
• Within 12 days of completion of mandatory disclosures:	Presiding Officer issues scheduling order to address, inter alia, scheduling of oral hearing, filing of written statements of position, direct testimony, and rebuttal testimony.
• Within 45 days of scheduling order:	Oral hearing commences.
• Within 25 days after hearing ends:	Presiding officer certifies hearing record to the Commission.

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PART 51 – ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

Authority: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

Sections 51.20, 51.30, 51.60, 51.80, and 51.97 also issued under Nuclear Waste Policy Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168).

Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141).

Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

§ 51.104 NRC proceeding using public hearings; ~~consideration of environmental impact statement.~~

~~(a) In any proceeding in which a hearing is held, any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing. In the proceeding, the presiding officer will decide any such matters in controversy among the parties.~~

~~(b) [Reserved]~~

~~(a)~~

~~(1) In any proceeding in which~~

~~(i) a hearing is held on the proposed action,~~

~~(ii) a final environmental impact statement has been prepared in connection with the proposed action, and~~

~~(iii) matters within the scope of NEPA and this subpart are in issue, the NRC staff may not offer the final environmental impact statement in evidence or present the position of the NRC staff on matters within the scope of NEPA and this subpart until the final environmental impact statement is filed with the Environmental Protection Agency, furnished to commenting agencies and made available to the public.~~

~~(2) Any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing.~~

~~(3) In the proceeding the presiding officer will decide those matters in controversy among the parties within the scope of NEPA and this subpart.~~

~~(b) In any proceeding in which a hearing is held where the NRC staff has determined that no environmental impact statement need be prepared for the proposed action, unless the Commission orders otherwise, any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing. In the proceeding, the presiding officer will decide any such matters in controversy among the parties.~~

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PART 52 – LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

Authority: Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

§ 52.21 Administrative review of applications; hearings.

An early site permit is subject to all procedural requirements in 10 CFR part 2, including the requirements for docketing in § 2.101(a)(1) through (4) of this chapter, and the requirements for issuance of a notice of hearing in §§ 2.104(a) and (d) of this chapter, provided that the designated sections may not be construed to require that the environmental report, or draft or final environmental impact statement include an assessment of the benefits of construction and operation of the reactor or reactors, or an analysis of alternative energy sources. The presiding officer in an early site permit hearing shall not admit contentions proffered by any party concerning an assessment of the benefits of construction and operation of the reactor or reactors, or an analysis of alternative energy sources if those issues were not addressed by the applicant in the early site permit application. All hearings conducted on applications for early site permits filed under this part are governed by the procedures contained in ~~subparts C, G, L, and N~~ of 10 CFR part 2, as applicable.

§ 52.163 Administrative review of applications; hearings.

A proceeding on a manufacturing license is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing in § 2.101(a)(1) through (4) of this chapter, and the requirements for issuance of a notice of proposed action in § 2.105 of this chapter, provided, however, that the designated sections may not be construed to require that the environmental report or draft or final environmental impact statement include an assessment of the benefits of constructing and/or operating the manufactured reactor or an evaluation of alternative energy sources. All hearings on manufacturing licenses are governed by the hearing procedures contained in 10 CFR part 2, ~~subparts C, E, G, L, and N.~~

Appendix N to Part 52—Standardization of Nuclear Power Plant Designs: Combined Licenses To Construct and Operate Nuclear Power Reactors of Identical Design at Multiple Sites

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8. The Commission shall designate a presiding officer to conduct the proceeding with respect to the health and safety, common defense and security, and environmental matters relating to the common design. The hearing will be governed by the applicable provisions ~~of subparts A, C, G, L, N, and O~~ of part 2 of this chapter relating to applications for combined licenses. The presiding officer shall issue a partial initial decision on the common design.

PART 54 – REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

Authority: Atomic Energy Act of 1954, secs. 102, 103, 104, 161, 181, 182, 183, 186, 189, 223, 234 (42 U.S.C. 2132, 2133, 2134, 2136, 2137, 2201, 2231, 2232, 2233, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); 44 U.S.C. 3504 note.

Section 54.17 also issued under E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391.

§ 54.27 Hearings.

A notice of an opportunity for a hearing will be published in the Federal Register in accordance with 10 CFR 2.105 and 2.309. In the absence of a request for a hearing filed ~~within 60 days~~ by a person whose interest may be affected, the Commission may issue a renewed operating license or renewed combined license without a hearing upon a 30-day notice and publication in the *Federal Register* of its intent to do so.