

New Reactor Hearing Process

Explanation of Issues

Section 189 of the Atomic Energy Act requires that the Commission hold hearings in proceedings that grant, suspend, revoke, or amend, Commission licenses. The NRC has specific rules of practice to make the hearing process effective and efficient. New reactor proceedings [early site permits (ESPs), combined licenses (COLs)] utilize the same hearing procedures (10 CFR Part 2, Subpart L) that are followed in most other NRC licensing actions. However, COLs and ESPs are also subject to uncontested or “mandatory” hearings, meaning that a hearing will be held even in the absence of a request by a third party or dispute between the applicant and the NRC staff. For most other licensing actions, such as those on license renewals and license amendments, a hearing is only held if one is requested to resolve a contested issue.

Status

The status of the new reactor hearing proceedings is as follows:

- Currently, six COL proceedings have admitted contentions pending before a Board of the ASLBP; in one of the two ESP proceedings, contentions have been proposed but the Board has not yet ruled on their admissibility
- Two COL proceedings have had all contentions dismissed but are on appeal to the Commission as to whether the dismissal of the contentions was warranted
- Six COL proceedings and one ESP proceeding have no admitted contentions and no pending appeals before the Commission.
- Two COL proceedings have not yet been noticed for hearing
- One COL proceeding was suspended prior to a Board ruling on submitted intervention petitions.

Relevant Additional Information

Depending on the type of facility being licensed, hearings can be uncontested, contested, or both. For the uncontested portion of any hearing, the Commission plans to act as the presiding officer. For a petitioner to be admitted as a party in a proceeding, the petitioner must file a request for hearing which demonstrates “standing” (i.e., a right to participate) and must offer at least one admissible contention in accordance with 10 CFR § 2.309. A “contention” is a disputed issue of law or fact regarding the application.

Generally, the Commission refers requests for a contested hearing to the Atomic Safety and Licensing Board Panel, which then assigns a three-member Board (ASLB) to rule on the request and conduct the hearing, if the request is granted. If the Board denies the request for hearing, the petitioner may appeal the denial to the Commission. If the Board grants a hearing, and the applicant or staff think that the request should have been wholly denied, either may appeal the grant of the hearing to the Commission. If a hearing is granted, the hearing will be held under the Commission’s rules of practice, typically following the procedures in 10 CFR Part 2, subpart L. The ASLB issues a decision based on the contested matters before it, and the decision may include denial of the application or approval with conditions. A party may petition the Commission for review of the Board decision, and the Commission may take review at its discretion.