

Enclosure 4

Final Template C: Procedures for Hearings Not Involving Testimony

TEMPLATE KEY:

- Brackets (“[” and “]”) designate information that will need to be inserted into the document when it is issued in a specific proceeding.
- Curly brackets (“{” and “}”) designate cases where a particular procedure would only apply under certain conditions.
- Angle brackets (“<” and “>”) designate information about the template that is for information only and will not appear in the document that is issued in a specific proceeding.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

[List Commissioners]

In the Matter of)	
)	
LICENSEE)	Docket No. 52-0XX-COL
)	
(Facility Name))	
)	

CLI-XX-__

MEMORANDUM AND ORDER

Today we granted the request of _____ for a hearing concerning [licensee’s] intent to operate [facility name and unit number].¹ We admitted __ contention(s), which assert(s) ~~that~~ that the facility as constructed does not, or upon completion of construction will not, comply with the acceptance criteria set forth in the combined license.² This order provides a schedule and procedures for additional briefing on the contested issues, which are legal in nature (i.e., the

¹ CLI-XX-XX, XX NRC __ (DATE) (slip op.).

² The acceptance criteria are part of the inspections, tests, analyses, and acceptance criteria (ITAAC) set forth in Appendix [X] of the combined license.

contested issues do not involve a dispute of fact). The legal issues raised by the contention(s) are: [\[describe admitted legal issues.\]](#)

I. BACKGROUND

The Atomic Energy Act of 1954, as amended (AEA), grants us discretion to establish appropriate procedures for conducting a hearing on whether the facility as constructed complies, or upon completion will comply, with the acceptance criteria in the combined license, provided that we explain our reasoning for establishing those procedures.³ As provided by 10 C.F.R. § 2.310(j), the procedures for a hearing on conformance with the acceptance criteria are designated by the Commission on a case-specific basis. The admitted contention(s) solely involve(s) legal issues, and therefore we find that the contention(s) is(are) best suited to resolution on the briefs. We [invite/require] [the petitioner], [the licensee], [and the NRC staff] to submit additional briefs in accordance with the schedule set forth below.

II. BRIEFING SCHEDULE

{The presiding officer for the resolution of these contentions will be a single legal judge (assisted as appropriate by technical advisors), as determined by the Chief Administrative Judge.

OR

The Commission will act as the presiding officer for the resolution of these contentions.}

[Nature and scope of briefs: which parties are to respond; which issues are to be briefed]

³ The procedures and schedule imposed by this order are based on a set of general procedures that were approved by the Commission after the consideration of public comments. See [Federal Register notice announcing final procedures and providing responses to comments]; [Federal Register notice soliciting comments on draft procedures]. {If the Commission makes case-specific modifications to these general procedures, then also state: As explained below, the Commission has modified these general procedures to tailor them to the specific circumstances of this proceeding.}

[Briefing deadlines: filed concurrently/serially; multiple rounds]

In order to meet our expectation for a timely decision on the admitted contention(s),⁴ the decision on the admitted contention(s) shall be issued no later than _____, which is a strict deadline. This strict deadline will not be extended absent a showing that “unavoidable and extreme circumstances” necessitate a delay.⁵ *{If a single legal judge is the presiding officer for the resolution of these contentions:* In addition, the presiding officer may extend the strict deadline only after notifying the Commission of its decision with an explanation of why “unavoidable and extreme circumstances” necessitate a delay. The Commission expects that the presiding officer will make this notification at the earliest practicable opportunity after the presiding officer determines that an extension is necessary.}

{If a single legal judge is the presiding officer for the resolution of these contentions: The presiding officer, in its discretion, may hold a prehearing conference to discuss the briefing schedule and whether oral argument is needed. The presiding officer’s decision to hold oral argument does not obviate the need to issue a decision on the briefs by the Commission-imposed deadline. If oral argument is held, the transcript shall be provided to the parties on an expedited basis. Joint transcript corrections are due within 7 days of the oral argument.}

III. ADDITIONAL PROCEDURES

[The additional hearing procedures for legal contentions will be taken from Template B, with the exception of those that involve testimony (or associated filings) and those that involve

⁴ The AEA provides that the “Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the [notice of intended operation] or the anticipated date for initial loading of fuel into the reactor, whichever is later.” AEA § 189a.(1)(B)(v), 42 U.S.C. § 2239(a)(1)(B)(v).

⁵ See Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 NRC 18, 21 (1998). This policy statement was also published in the *Federal Register* on August 5, 1998. 63 Fed. Reg. 41,872.

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discovery. Also, if the Commission designates itself as the presiding officer for resolving the contention(s), then the procedures taken from Template B will be revised to reflect this.

Appendix A to this template contains a list of changes to the Template B procedures that will be made when a single legal judge is the presiding officer. Appendix B to this template contains a list of changes to the Template B procedures that will be made when the Commission is the presiding officer.]

IT IS SO ORDERED.

For the Commission

[Name]
Secretary of the Commission

Dated at Rockville, Maryland,
this __ day of [month], 20__.

APPENDIX A**Application of Template B Procedures When a Single Legal Judge is the Presiding Officer**

Template C Section	Template B Section	Application of Template B Sections to Template C
III – Intro Paragraph	III – Intro Paragraph	The Introductory Paragraph from Section III of Template B <u>applies in its entirety.</u>
III.A	III.A	Section III.A (Briefing of Legal Issues in Filings) from Template B <u>applies in its entirety.</u>
III.B	III.B	Section III.B (General Motions) from Template B <u>applies with the following exception:</u> The last sentence of Section III.B is revised as follows to remove the reference to 10 C.F.R. § 2.323(h) because there is no discovery for a legal contention: “The provisions of 10 C.F.R. § 2.323(g) apply to this proceeding.”
III.C	III.C	Section III.C (Motions for Extension of Time) from Template B <u>applies with the following exception:</u> Footnote 11 (which appears just after the title of the section) is deleted because the footnote refers to a schedule table that pertains only to hearings involving testimony.
III.D	III.D	Section III.D (Motions/Petitions for Reconsideration and Motions for Clarification) from Template B <u>applies in its entirety.</u>
III.E	III.E	Section III.E (Motions to Dismiss/Motions for Summary Disposition) from Template B <u>applies in its entirety.</u>
III.F	III.F	Section III.F (Disclosures/Presiding Officer Notifications/Role of the NRC Staff) from Template B <u>applies with the following exceptions:</u> The title of Section III.F is changed to “ SUNSI-SGI Access/Presiding Officer Notifications/Role of the NRC Staff. ” Sections III.F.1 (Disclosures), III.F.2 (Hearing File), and III.F.4 (No Other Discovery Permitted) are eliminated and replaced with the following Section III.F.1: “ <i>Prohibition on Discovery.</i> Because the admitted contention(s) does/do not involve a dispute of fact, no discovery of any kind is permitted.” <u>Sections III.F.2 and III.F.4 will be reserved.</u>

		<p>Section III.F.3 (Requests for Access to SUNSI or SGI) from Template B is modified as follows because there is no discovery for a legal contention:</p> <p>3. <i>Requests for Access to SUNSI or SGI</i></p> <p>a. Where a petitioner seeks access to SUNSI or SGI for contention formulation, the “Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation” (SUNSI-SGI Access Order) that was issued with the notice of intended operation applies, subject to the following clarifications:</p> <p>i. The timeliness standard for requests for access to SUNSI or SGI is the later of (a) 10 days from the date that the existence of the SUNSI or SGI document becomes public information, or (b) 10 days from the availability of new information giving rise to the need for the SUNSI or SGI to formulate the contention.</p> <p>ii. Any contentions in this proceeding that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 20 days after the requestor receives access to that information. Any answers to such contentions must be filed within 14 days thereafter.</p> <p>iii. Any requests for review of NRC staff determinations on access to SUNSI or SGI must be filed in accordance with the SUNSI-SGI Access Order. The SUNSI-SGI Access Order shall govern the selection of the presiding officer for requests for review and for protective orders and other related matters.</p> <p>b. If a participant is granted access to SUNSI or SGI, the approved protective order templates announced at [citation to document announcing the availability of approved templates] should serve as a basis for a case-specific protective order, as appropriate.</p> <p>The first sentence in Section III.F.6.c is revised as follows to reflect the elimination of mandatory disclosures:</p> <p>ITAAC re-performance: If the licensee re-performs the ITAAC associated with an admitted contention, then information and documents concerning this re-performance</p>
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		are subject to the ITAAC post-closure notification requirement in 10 C.F.R. § 52.99(c)(2) and the licensee’s continuing obligation to notify the other parties, the presiding officer, and the Commission of relevant new developments in the proceeding.
III.G	III.G	<p>Section III.G (Hearing Requests, Intervention Petitions, and Motions for Leave to File New or Amended Contentions or Claims of Incompleteness Filed After the Original Deadline) from Template B <u>applies in its entirety</u>.</p> <p><u>However</u>, if a non-legal contention is admitted at the same time as a legal contention, then to avoid unnecessary duplication, the text of this section (other than the title) may be replaced with the following text:</p> <p style="padding-left: 40px;">Hearing requests, intervention petitions, and motions for leave to file new or amended contentions or claims of incompleteness that are filed by petitioners after the original deadline are subject to the requirements set forth in Section III.G of [CLI-XX-YY]. Hearing requests that are filed by the licensee after the original deadline, and any answers thereto, are subject to the requirements in the “Order Imposing Additional Procedures for ITAAC Hearings Before a Commission Ruling on the Hearing Request” that was issued with the notice of intended operation.</p>
III.H	III.H	Section III.H (Statements of Position, Testimony, Exhibits, and Oral Hearing) from Template B <u>does not apply</u> because the relevant contention(s) involve(s) legal issues. <u>Section III.H will be reserved</u> .
III.I	III.I	Section III.I (Post-Hearing Filings and Initial Decision) from Template B <u>applies with the following exception</u> : Section III.I.4 (Findings of Fact and Conclusions of Law) is eliminated. <u>Section III.I.4 will be reserved</u> .
III.J	III.J	Section III.J (Commission Review of Presiding Officer Decisions) from Template B <u>applies in its entirety</u> .
III.K	III.K	Section III.K (Stays of Decisions or Actions) from Template B <u>applies in its entirety</u> .
III.L	III.L	Section III.L (Additional Provisions) from Template B <u>applies with the following exceptions</u> :

	<p>Section III.L.1.i, which addresses the applicability of 10 C.F.R. § 2.312 (Notice of hearing), will be changed as follows: “10 C.F.R. § 2.312 (Notice of hearing): except that no oral hearing will be held, but the presiding officer may allow oral argument on the contested issues.”</p> <p>Section III.L.1.l, which addresses the applicability of 10 C.F.R. § 2.315 (Participation by a person not a party), will be changed as follows: “10 C.F.R. § 2.315 (Participation by a person not a party): with the exceptions (1) that there is no right for a non-party to introduce evidence under § 2.315(c) because this hearing is on a legal contention, and (2) any appeal rights are subject to Section III.J of this order.”</p> <p>Section III.L.1.s, which addresses the applicability of 10 C.F.R. § 2.322 (Special assistants to the presiding officer), will be changed as follows because the hearing involves a legal contention:</p> <p style="padding-left: 40px;">10 C.F.R. § 2.322 (Special assistants to the presiding officer): except that subsections (a)(2)-(a)(4) do not apply because this hearing does not involve a dispute of fact and does not provide for discovery, pre-filed written testimony, or an oral hearing. For the same reasons, and to ensure that the presiding officer clearly understands any relevant technical issues (even if these involve undisputed facts), subsection (a)(1) is modified as follows: “Technical interrogators in their individual fields of expertise. The interrogators shall study the adjudicatory record, may sit with the presiding officer to hear any oral presentations, may take a role in questioning the parties, and may advise the presiding officer on any relevant technical issues.”</p> <p>Section III.L.1.aa, which addresses the applicability of 10 C.F.R. § 2.332 (General case scheduling and management), will be changed as follows because in hearings not involving testimony, the presiding officer may, but is not required to, hold a prehearing conference or issue a scheduling order: “10 C.F.R. § 2.332 (General case scheduling and management): with the exceptions (1) that the presiding officer may not amend the schedule and procedures for this proceeding except as otherwise provided in this order, (2) that the presiding officer may, but is not required to, hold a prehearing conference or issue a scheduling order, and (3) that subsection (d) does not apply.</p>
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APPENDIX B**Application of Template B Procedures When the Commission is the Presiding Officer**

Template C Section	Template B Section	Application of Template B Sections to Template C
III – Intro Paragraph	III – Intro Paragraph	The Introductory Paragraph from Section III of Template B <u>applies with the following addition</u> : Add the following text at the end of footnote 10 to acknowledge the possible appointment of other presiding officers even though the Commission is the presiding officer for the contention: “While the Commission is the presiding officer for the admitted legal contention(s), a single legal judge may preside over SUNSI-SGI access disputes and a licensing board or single legal judge may rule on the admissibility of an amended contention.”
III.A	III.A	Section III.A (Briefing of Legal Issues in Filings) from Template B <u>applies in its entirety</u> .
III.B	III.B	Section III.B (General Motions) from Template B <u>applies with the following exception</u> : The last sentence of Section III.B is revised as follows to remove the reference to 10 C.F.R. § 2.323(h) because there is no discovery for a legal contention: “The provisions of 10 C.F.R. § 2.323(g) apply to this proceeding.”
III.C	III.C	Section III.C (Motions for Extension of Time) from Template B <u>applies with the following exception</u> : Footnote 11 (which appears just after the title of the section) is deleted because the footnote refers to a schedule table that pertains only to hearings involving testimony.
III.D	III.D	<p>Section III.D (Motions/Petitions for Reconsideration and Motions for Clarification) from Template B <u>applies with the following exception</u>: Section III.D is revised as follows to reflect that the Commission is the presiding officer:</p> <p style="text-align: center;">D. Motions/Petitions for Reconsideration and Motions for Clarification</p> <p>Motions for reconsideration are governed by 10 C.F.R. § 2.323(e), except that the motion must be filed within 7 days of the action for which reconsideration is requested and the answer is due within 7 days of service of the motion. Petitions for reconsideration are governed by 10 C.F.R. § 2.345, except that the petition must be filed within 7 days of the date of the decision and the answer is due within 7 days of service of the petition. In addition, motions and petitions for reconsideration are only allowed for the Commission’s initial decision. Reconsideration is allowed in this</p>

		<p>narrow instance because this is the most important decision in the proceeding and a motion/petition for reconsideration of this decision does not prevent it from taking effect. Reconsideration is not permitted for other decisions because (1) reconsideration is unlikely to be necessary for other decisions, which are interlocutory in nature, (2) the resources necessary to prepare, review, and rule on requests for reconsideration would take time away from preparing for the hearing, (3) participants who disagree with an order of the Commission may seek redress through reconsideration of the initial decision or through an appeal of the initial decision with the Federal Courts of Appeals, and (4) awaiting the initial decision to commence such processes will not cause undue delay given the expedited nature of the proceeding. Motions for clarification are allowed for decisions other than the initial decision, but to prevent such motions from becoming de facto motions for reconsideration, motions for clarification will be limited to ambiguities in a presiding officer order. In addition, a motion for clarification must explain the basis for the perceived ambiguity and may offer possible interpretations of the purportedly ambiguous language.</p>
<p>III.E</p>	<p>III.E</p>	<p>Section III.E (Motions to Dismiss/Motions for Summary Disposition) from Template B <u>applies in its entirety.</u></p>
<p>III.F</p>	<p>III.F</p>	<p>Section III.F (Disclosures/Presiding Officer Notifications/Role of the NRC Staff) from Template B <u>applies with the following exceptions:</u></p> <p>The title of Section III.F is changed to “SUNSI-SGI Access/Presiding Officer Notifications/Role of the NRC Staff.”</p> <p>Sections III.F.1 (Disclosures), III.F.2 (Hearing File), and III.F.4 (No Other Discovery Permitted) are eliminated and replaced with the following Section III.F.1: “<i>Prohibition on Discovery.</i> Because the admitted contention(s) does/do not involve a dispute of fact, no discovery of any kind is permitted.” <u>Sections III.F.2 and III.F.4 will be reserved.</u></p> <p>Section III.F.3 (Requests for Access to SUNSI or SGI) from Template B is modified as follows because there is no discovery for a legal contention:</p> <ol style="list-style-type: none"> 3. <i>Requests for Access to SUNSI or SGI</i> <ol style="list-style-type: none"> a. Where a petitioner seeks access to SUNSI or SGI for contention formulation, the “Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

		<p>for Contention Preparation” (SUNSI-SGI Access Order) that was issued with the notice of intended operation applies, subject to the following clarifications:</p> <ul style="list-style-type: none"> i. The timeliness standard for requests for access to SUNSI or SGI is the later of (a) 10 days from the date that the existence of the SUNSI or SGI document becomes public information, or (b) 10 days from the availability of new information giving rise to the need for the SUNSI or SGI to formulate the contention. ii. Any contentions in this proceeding that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 20 days after the requestor receives access to that information. Any answers to such contentions must be filed within 14 days thereafter. iii. Any requests for review of NRC staff determinations on access to SUNSI or SGI must be filed in accordance with the SUNSI-SGI Access Order. The SUNSI-SGI Access Order shall govern the selection of the presiding officer for requests for review and for protective orders and other related matters. <p>b. If a participant is granted access to SUNSI or SGI, the approved protective order templates announced at [citation to document announcing the availability of approved templates] should serve as a basis for a case-specific protective order, as appropriate.</p> <p>Section III.F.6 (Additional Notification Procedures for <u>Admitted</u> Contentions), is modified to reflect that the Commission is the presiding officer for the admitted contention. Specifically, in Section III.F.6, “parties, the presiding officer, and the Commission” becomes “parties and the Commission” whenever it appears, and “the presiding officer (or the Commission, if the matter is before the Commission)” becomes “the Commission” whenever it appears.</p> <p>The first sentence in Section III.F.6.c is revised as follows to reflect the elimination of mandatory disclosures:</p> <p style="padding-left: 40px;">ITAAC re-performance: If the licensee re-performs the ITAAC associated with an admitted contention, then information and documents concerning this re-performance are subject to the ITAAC post-closure notification requirement in 10 C.F.R. §</p>
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		52.99(c)(2) and the licensee’s continuing obligation to notify the other parties and the Commission of relevant new developments in the proceeding.
III.G	III.G	<p>Section III.G (Hearing Requests, Intervention Petitions, and Motions for Leave to File New or Amended Contentions or Claims of Incompleteness Filed After the Original Deadline) from Template B <u>applies in its entirety</u>.</p> <p><u>However</u>, if a non-legal contention is admitted at the same time as a legal contention, then to avoid unnecessary duplication, the text of this section (other than the title) may be replaced with the following text:</p> <p style="padding-left: 40px;">Hearing requests, intervention petitions, and motions for leave to file new or amended contentions or claims of incompleteness that are filed by petitioners after the original deadline are subject to the requirements set forth in Section III.G of [CLI-XX-YY]. Hearing requests that are filed by the licensee after the original deadline, and any answers thereto, are subject to the requirements in the “Order Imposing Additional Procedures for ITAAC Hearings Before a Commission Ruling on the Hearing Request” that was issued with the notice of intended operation.</p>
III.H	III.H	Section III.H (Statements of Position, Testimony, Exhibits, and Oral Hearing) from Template B <u>does not apply</u> because the relevant contention(s) involve(s) legal issues. <u>Section III.H will be reserved</u> .
III.I	III.I	<p>Section III.I (Post-Hearing Filings and Initial Decision) from Template B <u>applies with the following exceptions</u>:</p> <p>Section III.I.4 (Findings of Fact and Conclusions of Law) is eliminated. <u>Section III.I.4 will be reserved</u>.</p> <p>Section III.I.5.a is revised as follows to reflect that the Commission is the presiding officer:</p> <p style="padding-left: 40px;">The initial decision shall be issued in accordance with, and is subject to, the provisions of 10 C.F.R. § 2.340(c), (f), and (j), and § 2.1210, except that § 2.1210(a), (b), and (c)(4) do not apply because the Commission is the presiding officer. Also, since the Commission is the presiding officer, § 2.1210(d) is revised as follows: “An initial decision resolving all issues before the presiding officer is immediately effective upon issuance except as provided by the Commission in special circumstances.” Further,</p>

		the initial decision constitutes final Commission action on the contested matter upon issuance of the decision. ¹
III.J	III.J	Section III.J (Commission Review of Presiding Officer Decisions) <u>applies with the following exceptions:</u> The last sentence in Section III.J.1 (which refers to 10 C.F.R. § 2.1212) is deleted because the Commission will issue the initial decision. In addition, a footnote will be added just after the title of Section III.J with the following text: “Provisions are included for Commission review of presiding officer decisions because a single legal judge may preside over SUNSI-SGI access disputes and an Atomic Safety and Licensing Board or a single legal judge may rule on the admissibility of an amended contention.”
III.K	III.K	Section III.K (Stays of Decisions or Actions) from Template B <u>applies in its entirety.</u>
III.L	III.L	Section III.L (Additional Provisions) from Template B <u>applies with the following exceptions:</u> Section III.L.1.i, which addresses the applicability of 10 C.F.R. § 2.312 (Notice of hearing), will be changed as follows: “10 C.F.R. § 2.312 (Notice of hearing): except that no oral hearing will be held, but the presiding officer may allow oral argument on the contested issues.” Section III.L.1.i, which addresses the applicability of 10 C.F.R. § 2.315 (Participation by a person not a party), will be changed as follows: “10 C.F.R. § 2.315 (Participation by a person not a party): with the exceptions (1) that there is no right for a non-party to introduce evidence under § 2.315(c) because this hearing is on a legal contention, and (2) any appeal rights are subject to Section III.J of this order.”

¹ Also, while 10 C.F.R. § 2.340(j) applies to ITAAC hearings, it “is not intended to be an exhaustive ‘roadmap’ to a possible 10 CFR 52.103(g) finding that acceptance criteria are met” after a hearing. Requirements for Maintenance of Inspections, Tests, Analyses, and Acceptance Criteria, 77 Fed. Reg. 51,880, 51,886 (Aug. 28, 2012) (final rule). Thus, there may be situations in which the mechanism and circumstances described by 10 C.F.R. § 2.340(j) are not wholly applicable. For example, if interim operation is allowed, then the § 52.103(g) finding will have been made prior to the initial decision. In this case, there is no need for another § 52.103(g) finding after an initial decision finding that the contested acceptance criteria have been met because the initial decision will have confirmed the correctness of the § 52.103(g) finding with respect to the contested acceptance criteria.

	<p>Section III.L.1.s, which addresses the applicability of 10 C.F.R. § 2.322 (Special assistants to the presiding officer), will be changed as follows because the hearing involves a legal contention and because the Commission is the presiding officer:</p> <p style="padding-left: 40px;">10 C.F.R. § 2.322 (Special assistants to the presiding officer): except that subsections (a)(2)-(a)(4) do not apply because this hearing does not involve a dispute of fact and does not provide for discovery, pre-filed written testimony, or an oral hearing. For the same reasons, and to ensure that the presiding officer clearly understands any relevant technical issues (even if these involve undisputed facts), subsection (a)(1) is modified as follows: “Technical interrogators in their individual fields of expertise. The interrogators shall study the adjudicatory record, may sit with the presiding officer to hear any oral presentations, may take a role in questioning the parties, and may advise the presiding officer on any relevant technical issues.” Also, the Commission may appoint a special master to address procedural matters.</p> <p>Section III.L.1.aa, which addresses the applicability of 10 C.F.R. § 2.332 (General case scheduling and management), will be changed as follows because the Commission is the presiding officer and because for hearings not involving testimony, the presiding officer may, but is not required to, hold a prehearing conference or issue a scheduling order: “10 C.F.R. § 2.332 (General case scheduling and management): with the exceptions (1) that the presiding officer may, but is not required to, hold a prehearing conference or issue a scheduling order and (2) that subsection (d) does not apply.</p> <p>Section III.L.1.cc, which addresses the applicability of 10 C.F.R. § 2.334 (Implementing hearing schedule for proceeding), will be changed as follows because the Commission is the presiding officer: “10 C.F.R. § 2.334 (Implementing hearing schedule for proceeding): with the exception that subsection (c) does not apply because the Commission is the presiding officer.”</p> <p>Section III.L.1.ii, which addresses the applicability of 10 C.F.R. § 2.344 (Final decision), does not apply because the Commission is the presiding officer, and § 2.344 addresses Commission action on review of an initial decision. <u>Section III.L.1.ii will be reserved.</u></p>
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