
**Unofficial Redline Rule Language
for the Final Rule—
Increased Flexibility in the Mandatory Hearing
Process**

NRC-2025-1502; RIN 3150-AL59

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 final rule titled “Increased Flexibility in the Mandatory Hearing Process” would make to the rule language in Title 10 of the *Code of Federal Regulations* (CFR) Parts 2, 50, 51, and 52.

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

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

§ 2.300 Scope of subpart C.

The provisions of this subpart apply to all **contested** adjudications conducted under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and 10 CFR Part 2, **and to uncontested proceedings or uncontested portions of proceedings involving applications for a license to construct and operate a uranium enrichment facility**, unless specifically stated otherwise in this subpart. **This subpart does not apply to the conduct of other uncontested proceedings or uncontested portions of proceedings.**

PART 50: DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96-295, 94 Stat. 783.

§ 50.10 License required; limited work authorization.

(e) **Issuance of limited work authorization.**

- (1) The Director of the Office of Nuclear Reactor Regulation may issue a limited work authorization only after:
 - (i) The NRC staff issues the final environmental impact statement for the limited work authorization in accordance with subpart A of part 51 of this chapter;
 - ~~(ii) The presiding officer makes the finding in § 51.105(c) or § 51.107(d) of this chapter, as applicable;~~
 - (iii) The Director determines that the applicable standards and requirements of the Act, and the Commission's regulations applicable to the activities to be conducted under the limited work authorization, have been met; the applicant is technically qualified to engage in the activities authorized; and issuance of the limited work authorization will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security; and
 - ~~(iiiv) If a contested hearing is held, Thethe~~ presiding officer finds that there are no unresolved safety issues relating to the activities to be conducted under the limited work authorization that would constitute good cause for withholding the authorization.
- (2) Each limited work authorization will specify the activities that the holder is authorized to perform.

- (f) **Effect of limited work authorization.** Any activities undertaken under a limited work authorization are entirely at the risk of the applicant and, except as to the matters determined under paragraph (e)(1) of this section, the issuance of the limited work authorization has no bearing on the issuance of a construction permit or combined license with respect to the requirements of the Act, and rules, regulations, or orders issued under the Act. The environmental impact statement for a construction permit or combined license application for which a limited work authorization was previously issued will not address, and the presiding officer **in a contested hearing** will not consider, the sunk costs of the holder of limited work authorization in determining the proposed action (*i.e.*, issuance of the construction permit or combined license).

§ 50.30 Filing of application; oath or affirmation.

(a) **Serving of applications.**

- (1) Each filing of an application for a standard design approval or license to construct and/or operate, or manufacture, a production or utilization facility (including an early site permit, combined license, and manufacturing license under part 52 of this chapter), and any amendments to the applications, must be submitted to the U.S.

Nuclear Regulatory Commission in accordance with § 50.4 or § 52.3 of this chapter, as applicable.

- (2) The applicant shall maintain the capability to generate additional copies of the general information and the safety analysis report, or part thereof or amendment thereto, for subsequent distribution in accordance with the written instructions of the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate.
 - ~~(3) Each applicant for a construction permit under this part, or an early site permit, combined license, or manufacturing license under part 52 of this chapter, shall, upon notification by the Atomic Safety and Licensing Board appointed to conduct the public hearing required by the Atomic Energy Act, update the application and serve the updated copies of the application or parts of it, eliminating all superseded information, together with an index of the updated application, as directed by the Atomic Safety and Licensing Board. Any subsequent amendment to the application must be served on those served copies of the application and must be submitted to the U.S. Nuclear Regulatory Commission as specified in § 50.4 or § 52.3 of this chapter, as applicable.~~
 - (43) The applicant must make a copy of the updated application available at the public hearing for the use of any other parties to the proceeding, and shall certify that the updated copies of the application contain the current contents of the application submitted in accordance with the requirements of this part.
 - (54) At the time of filing an application, the Commission will make available at the NRC Web site, <http://www.nrc.gov>, a copy of the application, subsequent amendments, and other records pertinent to the matter which is the subject of the application for public inspection and copying.
 - (65) The serving of copies required by this section must not occur until the application has been docketed under § 2.101(a) of this chapter. Copies must be submitted to the Commission, as specified in § 50.4 or § 52.3 of this chapter, as applicable, to enable the Director, Office of Nuclear Reactor Regulation, or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate, to determine whether the application is sufficiently complete to permit docketing.
- (b) **Oath or affirmation.** Each application for a standard design approval or license, including, whenever appropriate, a construction permit or early site permit, or amendment of it, and each amendment of each application must be executed in a signed original by the applicant or duly authorized officer thereof under oath or affirmation.
- (c) [Reserved]
- (d) **Application for operating licenses.** The holder of a construction permit for a production or utilization facility shall, at the time of submission of the final safety analysis report, file an application for an operating license. The application shall state the name of the applicant, the name, location and power level, if any, of the facility and the time when the facility is expected to be ready for operation and may incorporate by reference any pertinent information submitted in accordance with § 50.33 with the application for a construction permit.
- (e) **Filing Fees.** Each application for a standard design approval or production or utilization facility license, including, whenever appropriate, a construction permit or early site permit, other than a license exempted from [part 170 of this chapter](#), shall be accompanied by the fee prescribed in part 170 of this chapter. No fee will be required to accompany an application for renewal, amendment, or termination of a construction permit, operating license, combined license, or manufacturing license, except as provided in § 170.21 of this chapter.
- (f) **Environmental report.** An application for a construction permit, operating license, early site permit, combined license, or manufacturing license for a nuclear power reactor, testing

facility, fuel reprocessing plant, or other production or utilization facility whose construction or operation may be determined by the Commission to have a significant impact in the environment, shall be accompanied by an Environmental Report required under subpart A of part 51 of this chapter.

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.

§ 51.102 Requirement to provide a record of decision; preparation.

- (a) A Commission decision on any action for which a final environmental impact statement has been prepared shall be accompanied by or include a concise public record of decision.
- (b) Except as provided in paragraph (c) of this section, the record of decision will be prepared by the NRC staff director authorized to take the action.
- (c) When a **contested** hearing is held on the proposed action under the regulations in **ef**-part 2 of this chapter or when the action can only be taken by the Commissioners acting as a collegial body, the initial decision of the presiding officer or the final decision of the Commissioners acting as a collegial body will constitute the record of decision. An initial or final decision constituting the record of decision will be distributed as provided in § 51.93.

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

- (a) (1) In any proceeding in which
 - (i) a **contested** 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 **contested** 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.
- (c) In any proceeding in which a limited work authorization is requested, unless the Commission orders otherwise, a party **to the proceeding in a contested hearing** may take a position and offer evidence only on the aspects of the proposed action within the scope of

NEPA and this subpart which are within the scope of that party's admitted contention, in accordance with the provisions of part 2 of this chapter applicable to the limited work authorization or in accordance with the terms of any notice of hearing applicable to the limited work authorization. In the proceeding, the presiding officer will decide all matters in controversy among the parties.

§ 51.105 Public hearings in proceedings for issuance of construction permits or early site permits; limited work authorizations.

- ~~[Reserved](a) In addition to complying with applicable requirements of § 51.104, in a proceeding for the issuance of a construction permit or early site permit for a nuclear power reactor, testing facility, fuel reprocessing plant or isotopic enrichment plant, the presiding officer will:~~
- ~~(1) Determine whether the requirements of Sections 102(2) (A), (C), and (E) of NEPA and the regulations in this subpart have been met;~~
 - ~~(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;~~
 - ~~(3) Determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the construction permit or early site permit should be issued, denied, or appropriately conditioned to protect environmental values;~~
 - ~~(4) Determine, in an uncontested proceeding, whether the NEPA review conducted by the NRC staff has been adequate; and~~
 - ~~(5) Determine, in a contested proceeding, whether in accordance with the regulations in this subpart, the construction permit or early site permit should be issued as proposed by the NRC's Director, Office of Nuclear Reactor Regulation.~~
- ~~(b) The presiding officer in an early site permit hearing shall not admit contentions proffered by any party concerning the benefits assessment (e.g., need for power) or alternative energy sources if those issues were not addressed by the applicant in the early site permit application.~~
- ~~(c)~~
- ~~(1) In addition to complying with the applicable provisions of § 51.104, in any proceeding for the issuance of a construction permit for a nuclear power plant or an early site permit under part 52 or part 53 of this chapter, where the applicant requests a limited work authorization under § 50.10(d) or § 53.1130 of this chapter, the presiding officer will—~~
 - ~~(i) Determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and the regulations in the subpart have been met, with respect to the activities to be conducted under the limited work authorization;~~
 - ~~(ii) Independently consider the balance among conflicting factors with respect to the limited work authorization which is contained in the record of the proceeding, with a view to determining the appropriate action to be taken;~~
 - ~~(iii) Determine whether the redress plan will adequately redress the activities performed under the limited work authorization, should limited work activities be terminated by the holder or the limited work authorization be revoked by the NRC, or upon effectiveness of the Commission's final decision denying the associated construction permit or early site permit, as applicable;~~
 - ~~(iv) In an uncontested proceeding, determine whether the NEPA review conducted by the NRC staff for the limited work authorization has been adequate; and~~
 - ~~(v) Determine whether, in accordance with the regulations in this subpart, the limited work authorization should be issued as proposed.~~

- ~~(2) If the limited work authorization is for activities to be conducted at a site for which the Commission has previously prepared an environmental impact statement for the construction and operation of a nuclear power plant, and a construction permit was issued but construction of the plant was never completed, then in making the determinations in paragraph (c)(1) of this section, the presiding officer shall be limited to a consideration whether there is, with respect to construction activities encompassed by the environmental impact statement which are analogous to the activities to be conducted under the limited work authorization, new and significant information on the environmental impacts of those activities, such that the limited work authorization should not be issued as proposed.~~
- ~~(3) The presiding officer's determination in this paragraph shall be made in a partial initial decision to be issued separately from, and in advance of, the presiding officer's decision in paragraph (a) of this section.~~

§ 51.106 Public hearings in proceedings for issuance of operating licenses.

- (a) Consistent with the requirements of this section and as appropriate, the presiding officer in an operating license hearing shall comply with any applicable requirements of §§ 51.104 and ~~51.105~~.
- (b) During the course of a hearing on an application for issuance of an operating license for a nuclear power reactor, or a testing facility, the presiding officer may authorize, pursuant to § 50.57(c) of this chapter, the loading of nuclear fuel in the reactor core and limited operation within the scope of § 50.57(c) of this chapter, upon compliance with the procedures described therein. In any such hearing, where any party opposes such authorization on the basis of matters covered by subpart A of this part, the provisions of §§ 51.104 and ~~51.105~~ will apply, as appropriate.
- (c) The presiding officer in an operating license hearing shall not admit contentions proffered by any party concerning need for power or alternative energy sources or alternative sites for the facility for which an operating license is requested.
- (d) The presiding officer in an operating license hearing shall not raise issues concerning alternative sites for the facility for which an operating license is requested *sua sponte*.

§ 51.107 Public hearings in proceedings for issuance of combined licenses; limited work authorizations.

~~[Reserved](a) In addition to complying with the applicable requirements of § 51.104, in a proceeding for the issuance of a combined license for a nuclear power reactor under part 52 or part 53 of this chapter, the presiding officer will:~~

- ~~(1) Determine whether the requirements of Sections 102(2) (A), (C), and (E) of NEPA and the regulations in this subpart have been met;~~
- ~~(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;~~
- ~~(3) Determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the combined license should be issued, denied, or appropriately conditioned to protect environmental values;~~
- ~~(4) Determine, in an uncontested proceeding, whether the NEPA review conducted by the NRC staff has been adequate; and~~
- ~~(5) Determine, in a contested proceeding, whether, in accordance with the regulations in this subpart, the combined license should be issued as proposed by the NRC's Director, Office of Nuclear Reactor Regulation.~~

- ~~(b) If a combined license application references an early site permit, then the presiding officer in the combined license hearing must not admit any contention proffered by any party on environmental issues that have been accorded finality under § 52.39 or § 53.1188 of this chapter, unless the contention:~~
- ~~(1) Demonstrates that the nuclear power reactor proposed to be built does not fit within one or more of the site characteristics or design parameters included in the early site permit;~~
 - ~~(2) Raises any significant environmental issue that was not resolved in the early site permit proceeding; or~~
 - ~~(3) Raises any issue involving the impacts of construction and operation of the facility that was resolved in the early site permit proceeding for which new and significant information has been identified.~~
- ~~(c) If the combined license application references a standard design certification, or proposes to use a manufactured reactor, then the presiding officer in a combined license hearing shall not admit contentions proffered by any party concerning severe accident mitigation design alternatives unless the contention demonstrates that the site characteristics fall outside of the site parameters in the standard design certification or underlying manufacturing license for the manufactured reactor.~~
- ~~(d) (1) In any proceeding for the issuance of a combined license where the applicant requests a limited work authorization under § 50.10(d) or § 53.1130(a) of this chapter, the presiding officer, in addition to complying with any applicable provision of § 51.104, will:~~
- ~~(i) Determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and the regulations in this subpart have been met, with respect to the activities to be conducted under the limited work authorization;~~
 - ~~(ii) Independently consider the balance among conflicting factors with respect to the limited work authorization which is contained in the record of the proceeding, with a view to determining the appropriate action to be taken;~~
 - ~~(iii) Determine whether the redress plan will adequately redress the activities performed under the limited work authorization, should limited work activities be terminated by the holder or the limited work authorization be revoked by the NRC, or upon effectiveness of the Commission's final decision denying the combined license application;~~
 - ~~(iv) In an uncontested proceeding, determine whether the NEPA review conducted by the NRC staff for the limited work authorization has been adequate; and~~
 - ~~(v) In a contested proceeding, determine whether, in accordance with the regulations in this subpart, the limited work authorization should be issued as proposed by the Director, Office of Nuclear Reactor Regulation.~~
- ~~(2) If the limited work authorization is for activities to be conducted at a site for which the Commission has previously prepared an environmental impact statement for the construction and operation of a nuclear power plant, and a construction permit was issued but construction of the plant was never completed, then in making the determinations in paragraph (c)(1) of this section, the presiding officer shall be limited to a consideration whether there is, with respect to construction activities encompassed by the environmental impact statement which are analogous to the activities to be conducted under the limited work authorization, new and significant information on the environmental impacts of those activities, so that the limited work authorization should not be issued as proposed by the Director, Office of Nuclear Reactor Regulation.~~
- ~~(3) In making the determination required by this section, the presiding officer may not address or consider the sunk costs associated with the limited work authorization.~~

~~(4) The presiding officer's determination in this paragraph shall be made in a partial initial decision to be issued separately from, and in advance of, the presiding officer's decision in paragraph (a) of this section on the combined license.~~

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 **applicable** 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 a contested** 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 **contested** 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.

§ 52.24 Issuance of early site permit.

(a) ~~After conducting a hearing under § 52.21 and receiving the report to be submitted by the ACRS under § 52.23,~~†The Commission may issue an early site permit, in the form the Commission deems appropriate, if the Commission finds that:

- (1) An application for an early site permit meets the applicable standards and requirements of the Act and the Commission's regulations;
- (2) Notifications, if any, to other agencies or bodies have been duly made;
- (3) There is reasonable assurance that the site is in conformity with the provisions of the Act, and the Commission's regulations;
- (4) The applicant is technically qualified to engage in any activities authorized;
- (5) The proposed inspections, tests, analyses and acceptance criteria, including any on emergency planning, are necessary and sufficient, within the scope of the early site permit, to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's regulations;
- (6) Issuance of the permit will not be inimical to the common defense and security or to the health and safety of the public;
- (7) Any significant adverse environmental impact resulting from activities requested under § 52.17(c) can be redressed; and
- (8) The findings required by subpart A of 10 CFR part 51 have been made.

(b) The early site permit must specify the site characteristics, design parameters, and terms and conditions of the early site permit the Commission deems appropriate. Before issuance of either a construction permit or combined license referencing an early site permit, the Commission shall find that any relevant terms and conditions of the early site permit have been met. Any terms or conditions of the early site permit that could not be met by the time of issuance of the construction permit or combined license, must be set forth as terms or conditions of the construction permit or combined license.

(c) The early site permit shall specify those 10 CFR 50.10 activities requested under § 52.17(c) that the permit holder is authorized to perform.

§ 52.85 Administrative review of applications; hearings.

A proceeding on a combined license is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing (§ 2.101 of this chapter) and issuance of a notice of hearing (§ 2.104 of this chapter). If an applicant requests a Commission finding on certain ITAAC with the issuance of the combined license, then those ITAAC will be identified in the notice of hearing. All **contested** hearings on combined licenses are governed by the procedures contained in 10 CFR part 2.

§ 52.91 Authorization to conduct limited work authorization activities.

(a) If the application does not reference an early site permit which authorizes the holder to perform the activities under 10 CFR 50.10(d), the applicant may not perform those activities without obtaining the separate authorization required by 10 CFR 50.10(d). Authorization may be granted only after the presiding officer in ~~the proceeding~~ **a contested hearing** on the application has made the findings and determination required by 10 CFR 50.10(e), and the Director of the Office of Nuclear Reactor Regulation makes the determination required by 10 CFR 50.10(e).

(b) If, after an applicant has performed the activities permitted by a limited work authorization issued under § 50.10 of this chapter, the application for the combined license is withdrawn or denied, then the applicant shall implement the approved site redress plan.

§ 52.97 Issuance of combined licenses.

(a)

(1) ~~After conducting a hearing in accordance with § 52.85 and receiving the report submitted by the ACRS, if~~ The Commission may issue a combined license if the Commission finds that:

- (i) The applicable standards and requirements of the Act and the Commission's regulations have been met;
- (ii) Any required notifications to other agencies or bodies have been duly made;
- (iii) There is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations.
- (iv) The applicant is technically and financially qualified to engage in the activities authorized; and
- (v) Issuance of the license will not be inimical to the common defense and security or to the health and safety of the public; and
- (vi) The findings required by subpart A of part 51 of this chapter have been made.

(2) The Commission may also find, at the time it issues the combined license, that certain acceptance criteria in one or more of the inspections, tests, analyses, and acceptance criteria (ITAAC) in a referenced early site permit or standard design certification have been met. This finding will finally resolve that those acceptance criteria have been met, those acceptance criteria will be deemed to be excluded from the combined license, and findings under § 52.103(g) with respect to those acceptance criteria are unnecessary.

(b) The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform,

and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations.

(c) A combined license shall contain the terms and conditions, including technical specifications, as the Commission deems necessary and appropriate.

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

The Commission's regulations in part 2 of this chapter specifically provide for the holding of hearings on particular issues separately from other issues involved in hearings in licensing proceedings, and for the consolidation of adjudicatory proceedings and of the presentations of parties in adjudicatory proceedings such as licensing proceedings (§§ 2.316 and 2.317 of this chapter).

This appendix sets out the particular requirements and provisions applicable to situations in which applications for combined licenses under subpart C of this part are filed by one or more applicants for licenses to construct and operate nuclear power reactors of identical design ("common design") to be located at multiple sites.[1]

1. Except as otherwise specified in this appendix or as the context otherwise indicates, the provisions of subpart C of this part and subpart D of part 2 of this chapter apply to combined license applications subject to this appendix.
2. Each combined license application submitted pursuant to this appendix must be submitted as specified in § 52.75 and 10 CFR 2.101. Each application must state that the applicant wishes to have the application considered under 10 CFR part 52, appendix N, and must list each of the applications to be treated together under this appendix.
3. Each application must include the information required by §§ 52.77, 52.79, and 52.80(a), provided however, that the application must identify the common design, and, if applicable, reference a standard design certification under subpart B of this part, or the use of a reactor manufactured under subpart F of this part. The final safety analysis report for each application must either incorporate by reference or include the final safety analysis of the common design, including, if applicable, the final safety analysis report for the referenced design certification or the manufactured reactor.[2]
4. Each combined license application submitted pursuant to this appendix must contain an environmental report as required by § 52.80(b), and which complies with the applicable provisions of 10 CFR part 51, provided, however, that the application may incorporate by reference a single environmental report on the environmental impacts of the common design.
5. Upon a determination that each application is acceptable for docketing under 10 CFR 2.101, each application will be docketed and a notice of docketing for each application will be published in the Federal Register, in accordance with 10 CFR 2.104, provided, however, that the notice must state that the application will be processed under the provisions of 10 CFR part 52, appendix N, and subpart D of part 2 of this chapter. As the discretion of the Commission, a single notice of docketing for multiple applications may be published in the Federal Register.

6. The NRC staff shall prepare draft and final environmental impact statements for each of the applications under part 51 of this chapter. Scoping under 10 CFR 51.28 and 51.29 for each of the combined license applications may be conducted simultaneously and joint scoping may be conducted with respect to the environmental issues relevant to the common design.

If the applications reference a standard design certification, then the environmental impact statement for each of the applications must incorporate by reference the design certification environmental assessment. If the applications do not reference a standard design certification, then the NRC staff shall prepare draft and final supplemental environmental impact statements which address severe accident mitigation design alternatives for the common design, which must be incorporated by reference into the environmental impact statement prepared for each application. Scoping under 10 CFR 51.28 and 51.29 for the supplemental environmental impact statement may be conducted simultaneously, and may be part of the scoping for each of the combined license applications.

7. The ACRS shall report on each of the applications as required by § 52.87. Each report must be limited to those safety matters for each application which are not relevant to the common design. In addition, the ACRS shall separately report on the safety of the common design, provided, however, that the report need not address the safety of a referenced standard design certification or reactor manufactured under subpart F of this part.

~~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.~~

Footnotes - Appendix N to Part 52:

^[1] If the design for the power reactor(s) proposed in a particular application is not identical to the others, that application may not be processed under this appendix and subpart D of part 2 of this chapter.

^[2] As used in this appendix, the design of a nuclear power reactor included in a single referenced safety analysis report means the design of those structures, systems, and components important to radiological health and safety and the common defense and security.

PART 53—RISK-INFORMED, TECHNOLOGY-INCLUSIVE REGULATORY FRAMEWORK FOR COMMERCIAL NUCLEAR PLANTS

§ 53.1100 Filing of application for licenses, certifications, or approvals; oath or affirmation.

(a) *Serving of applications.*

(1) Each filing of an application for a standard design approval, standard design certification, or license under this part, and any amendments to the applications, must be submitted to the U.S. Nuclear Regulatory Commission (NRC) under § 53.040, as applicable.

(i) Any person, except one excluded by § 53.1118, may file an application for a manufacturing license (ML), combined license (COL), construction permit (CP), or operating license (OL) under this part with the Director, Office of Nuclear Reactor Regulation.

(ii) Any person who may apply for a CP or for a COL under this part, may file an application for an early site permit with the Director, Office of Nuclear Reactor Regulation. An application for an early site permit may be filed notwithstanding the fact that an application for a CP or a COL has not been filed in connection with the site for which a permit is sought.

(iii) Any person may submit a proposed standard design for a commercial nuclear plant to the NRC for its review. The submittal may consist of either the final design for the entire facility or the final design for major portions thereof.

(iv) An application for design certification may be filed notwithstanding the fact that an application for a CP, COL, or ML for such a facility has not been filed. The application must comply with §§ 2.811 through 2.819 of this chapter.

~~(2) Each applicant for a construction permit (CP), early site permit, combined license (COL), or manufacturing license (ML) under this part must, upon notification by the presiding officer designated to conduct the public hearing required by the Atomic Energy Act of 1954, as amended, (the Act) update the application and serve the updated copies of the application or parts of it, eliminating all superseded information, together with an index of the updated application, as directed by the presiding officer. Any subsequent amendment to the application must be served on those served copies of the application and must be submitted to the NRC as specified in § 53.040, as applicable.~~

~~(32) The applicant must make a copy of the updated application available at the public hearing for the use of any other parties to the proceeding and must certify that the updated copies of the application contain the current contents of the application submitted in accordance with the requirements under this part.~~

(43) At the time of filing an application, the Commission will make available at the NRC website, <https://www.nrc.gov>, a copy of the application, subsequent amendments, and other records pertinent to the matter that is the subject of the application for public inspection and copying.

(54) The serving of copies required by this section must not occur until the application has been docketed under § 2.101(a) of this chapter. Copies must be submitted to the Commission, as specified in § 53.040, as applicable, to enable the Director, Office of Nuclear Reactor Regulation to determine whether the application is sufficiently complete to permit docketing.

(b) *Oath or affirmation.* Each application for a standard design approval, standard design certification, or license, including, whenever appropriate, a CP or early site permit, or amendment of it, and each amendment of each application must be executed in a signed original by the applicant or duly authorized officer thereof under oath or affirmation.

(c) [Reserved]

(d) [Reserved]

(e) *Filing fees.* Each application for a standard design approval, standard design

certification, or commercial nuclear plant license under this part, including, whenever appropriate, a CP, COL, operating license (OL), ML, or early site permit, other than a license exempted from 10 CFR part 170, must be accompanied by the fee prescribed in 10 CFR part 170. No fee will be required to accompany an application for renewal, amendment, or termination of a CP, OL, COL, or ML, except as provided in § 170.21 of this chapter.

(f) *Environmental report.* An application for a CP, OL, early site permit, design certification, COL, or ML for a commercial nuclear plant must be accompanied by an environmental report required under 10 CFR part 51.

§ 53.1130 Limited work authorizations.

(a) *Request for limited work authorization.*

(1) Any person to whom the Commission may otherwise issue either a license or permit related to a commercial nuclear plant may request an LWA allowing that person to perform the driving of piles, subsurface preparation, placement of backfill, concrete, or permanent retaining walls within an excavation, and installation of the foundation, including placement of concrete, any of which are for a structure, system, or component (SSC) of the facility for which either a CP or COL is otherwise required under § 53.610.

(2) An application for an LWA may be submitted as part of a complete application for a CP or COL in accordance with § 2.101(a)(1) through (a)(5) of this chapter, or as a partial application in accordance with § 2.101(a)(9) of this chapter. An application for an LWA by the holder of an early site permit must be submitted as a complete application in accordance with § 2.101(a)(1) through (a)(4) of this chapter.

(3) The application must include—

(i) A Safety Analysis Report required by § 53.1146, § 53.1309 or § 53.1416, as applicable, a description of the activities requested to be performed, and the design and construction information otherwise required by the Commission's rules and regulations to be submitted for a CP or COL under this part but limited to those portions of the facility that are within the scope of the LWA. The Safety Analysis Report must demonstrate that activities conducted under the LWA will be conducted in compliance with the technically relevant Commission requirements in 10 CFR chapter I applicable to the design of those portions of the facility within the scope of the LWA;

(ii) An environmental report in accordance with § 51.49 of this chapter; and

(iii) A plan for redress of activities performed under the LWA, should limited work activities be terminated by the holder, or the LWA be revoked by the NRC or upon effectiveness of the Commission's final decision denying the associated CP or COL application, as applicable.

(b) *Issuance of limited work authorization.* (1) The Director, Office of Nuclear Reactor Regulation may issue an LWA only after—

(i) The NRC staff issues the final environmental impact statement for the LWA under part 51 of this chapter;

~~(ii) The presiding officer makes the finding in § 51.105(c) or § 51.107(d) of this chapter, as applicable;~~

(iii) The Director determines that the applicable standards and requirements of the Act, and the Commission's regulations applicable to the activities to be conducted under the LWA, have been met, the applicant is technically qualified to engage in the activities authorized, and that issuance of the LWA will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security; and

~~(iviii) If a contested hearing is held, The the~~ presiding officer finds that there are no unresolved safety issues relating to the activities to be conducted under the LWA that would constitute good cause for withholding the authorization.

(2) Each LWA will specify the activities that the holder is authorized to perform.

(c) *Effect of limited work authorization.* Any activities undertaken under an LWA are entirely at the risk of the applicant and, except as to the matters determined under paragraph (b)(1) of this section, the issuance of the LWA has no bearing on the issuance of a CP or COL with respect to the requirements of the Act and rules, regulations, or orders issued under the Act. The environmental impact statement for a CP or COL application for which an LWA was previously issued will not address, and the presiding officer **in a contested hearing** will not consider, the sunk costs of the holder of the LWA in determining the proposed action (i.e., issuance of the CP or COL).

(d) *Implementation of redress plan.* If construction is terminated by the holder, the underlying application is withdrawn by the applicant or denied by the NRC, or the LWA is revoked by the NRC, then the holder must begin implementation of the redress plan in a reasonable time. The holder must also complete the redress of the site no later than 18 months after termination of construction, revocation of the LWA, or upon effectiveness of the Commission's final decision denying the associated CP application or the associated COL application, as applicable.

§ 53.1149 Review of applications.

(a) *Standards for review of applications.* Applications filed under this part will be reviewed according to the applicable standards set out in this part. In addition, the Commission must prepare an environmental impact statement during review of the application, under the applicable provisions of 10 CFR part 51. The Commission must determine, after consultation with FEMA, as applicable, whether the information required of the applicant by § 53.1146(b)(1) shows that there is no significant impediment to the development of emergency plans that cannot be mitigated or eliminated by measures proposed by the applicant, whether any major features of emergency plans submitted by the applicant under § 53.1146(b)(2)(i) are acceptable under either § 50.160 or appendix E to part 50 and § 50.47(b) of this chapter, and whether any emergency plans submitted by the applicant under § 53.1146(b)(2)(ii) provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

(b) *Administrative review of applications; hearings.* An early site permit application is subject to all **applicable** 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 includes 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 a contested** early site permit hearing must 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 **contested** 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.

§ 53.1158 Issuance of early site permit.

(a) ~~After conducting a hearing under § 53.1149(b) and receiving the report to be submitted by the ACRS under § 53.1155, the~~ The Commission may issue an early site permit, in the form the Commission deems appropriate, if the Commission finds that—

(1) An application for an early site permit demonstrates compliance with the applicable standards and requirements of the Act and the Commission's regulations;

- (2) Notifications, if any, to other agencies or bodies have been duly made;
 - (3) There is reasonable assurance that the site is in conformity with the provisions of the Act and the Commission's regulations;
 - (4) The applicant is technically qualified to engage in any activities authorized;
 - (5) The proposed ITAAC, including any on emergency planning, are necessary and sufficient, within the scope of the early site permit, to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's regulations;
 - (6) Issuance of the permit will not be inimical to the common defense and security or to the health and safety of the public;
 - (7) Any significant adverse environmental impact resulting from activities requested under § 53.1146(c) can be redressed; and
 - (8) The findings required by 10 CFR part 51 have been made.
- (b) The early site permit must specify the site characteristics, design parameters, and terms and conditions of the early site permit the Commission deems appropriate. Before issuance of either a CP or COL referencing an early site permit, the Commission must find that any relevant terms and conditions of the early site permit have been met. Any terms or conditions of the early site permit that could not be met by the time of issuance of the CP or COL, must be set forth as terms or conditions of the CP or COL.
- (c) The early site permit must specify those § 53.1130(b) activities requested under § 53.1146(c) that the permit holder is authorized to perform.

§ 53.1315 Review of applications.

- (a) *Standards for review of applications.* Applications filed under this part will be reviewed according to the standards set out in 10 CFR parts 20, 51, 53, 73, and 140.
- (b) *Administrative review of applications; hearings.* A proceeding on a CP application is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing (§ 2.101 of this chapter) and issuance of a notice of hearing (§ 2.104 of this chapter). All **contested** hearings on CP applications are governed by the procedures contained in 10 CFR part 2.

§ 53.1327 Authorization to conduct limited work authorization activities.

- (a) If the application does not reference an early site permit which authorizes the holder to perform the activities under § 53.1130, the applicant may not perform those activities without obtaining the separate authorization required by § 53.1130. Authorization may be granted only after the presiding officer in ~~the proceeding~~ **a contested hearing** on the application has made the findings and determination required by § 53.1130(b)(1)(iii) ~~and (iv)~~, and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(iii).
- (b) If, after an applicant has performed the activities permitted by paragraph (a) of this section, the application for the CP is withdrawn or denied, then the applicant must implement an approved site redress plan.

§ 53.1333 Issuance of construction permits.

- (a) ~~After conducting a hearing in accordance with § 53.1315 and receiving the report submitted by the ACRS, t~~The Commission may issue a CP only if the Commission finds that—
- (1) The applicant has described the proposed design of the facility and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(2) Such further technical or design information as may be required to complete the safety analysis, and which can reasonably be left for later consideration, will be supplied in the FSAR;

(3) Safety features or components, if any, that require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(4) On the basis of the foregoing, there is reasonable assurance of the following —

(i) Such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility; and

(ii) Taking into consideration the site criteria contained in subpart D to this part, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

(b) A CP must contain the terms and conditions for the permit, as the Commission deems necessary and appropriate. The Commission may, in its discretion, incorporate in any CP provisions requiring the applicant to furnish periodic reports of the progress and results of research and development programs designed to resolve safety questions.

§ 53.1422 Review of applications.

(a) *Standards for review of applications.* Applications filed under this part will be reviewed according to the standards set out in 10 CFR parts 20, 51, 53, 73, and 140.

(b) *Administrative review of applications; hearings.* A proceeding on a COL is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docketing (§ 2.101 of this chapter) and issuance of a notice of hearing (§ 2.104 of this chapter). If an applicant requests a Commission finding on certain ITAAC with the issuance of the COL, then those ITAAC will be identified in the notice of hearing. All **contested** hearings on COLs are governed by the procedures contained in 10 CFR part 2.

§ 53.1434 Authorization to conduct limited work authorization activities.

(a) If the application for a COL under this part does not reference an early site permit which authorizes the holder to perform the activities under § 53.1130(b), the applicant may not perform those activities without obtaining the separate authorization required by § 53.1130(a). Authorization may be granted only after the presiding officer in ~~the proceeding~~ **contested hearing** on the application has made the findings and determination required by § 53.1130(b)(1)(iii) ~~and (b)(1)(iv)~~, and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(iii).

(b) If, after an applicant has performed the activities permitted by a LWA issued under § 53.1130, the application for the COL is withdrawn or denied, then the applicant must implement the approved site redress plan.

§ 53.1440 Issuance of combined licenses.

(a)(1) ~~After conducting a hearing under § 53.1422(b) and receiving the report submitted by the ACRS, t~~The Commission may issue a COL if the Commission finds that—

(i) The applicable standards and requirements of the Act and the Commission's regulations have been met;

(ii) Any required notifications to other agencies or bodies have been duly made;

(iii) There is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations;

(iv) The applicant is technically and financially qualified to engage in the activities authorized; however, no finding of financial qualification is necessary for an electric utility applicant for a COL;

(v) Issuance of the license will not be inimical to the common defense and security or to the health and safety of the public; and

(vi) The findings required by 10 CFR part 51 have been made.

(2) The Commission may also find, at the time it issues the COL, that certain acceptance criteria in one or more of the ITAAC in a referenced early site permit, standard design certification, or ML have been met. This finding will finally resolve that those acceptance criteria have been met, those acceptance criteria will be deemed to be excluded from the COL, and findings under § 53.1452(g) with respect to those acceptance criteria are unnecessary.

(b) The Commission must identify within the COL the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee must perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations.

(c) A COL must contain the terms and conditions, including technical specifications, as the Commission deems necessary and appropriate.

§ 53.1470 Standardization of commercial nuclear plant designs: licenses to construct and operate nuclear power reactors of identical design at multiple sites.

(a) Except as otherwise specified in this section, the provisions of this section apply to CP, OL, and COL applications for commercial nuclear plants of identical design (the "common design") under this part.

(b) Each application for a CP, OL, or COL submitted pursuant to this section must be submitted as specified in § 53.1300, § 53.1360, or § 53.1410, respectively, and § 2.101 of this chapter. Each application must state that the applicant wishes to construct a facility identical to a facility proposed for one or more sites other than the applicant's (the "common design"), and the applicant wishes to have the application considered under this section. Each application must list each of the other applications to be treated together under this section or specify that such other applications will be submitted to the NRC within 12 months of submittal of the first application.

(c) Each application must include the information required by the applicable sections of this subpart, provided, however, that the application must identify the common design, and, if applicable, reference a standard design certification or standard design approval under this part, or the use of a reactor manufactured under this part. The FSAR for each application must either incorporate by reference or include the final safety analysis of the common design, including, if applicable, the FSAR for the referenced standard design certification, standard design approval, or the manufactured reactor.

(d) Each application submitted pursuant to this section must contain an environmental report under § 53.1312(a)(1), § 53.1372(a), or § 53.1419(a)(1), as applicable, that complies with the applicable provisions of 10 CFR part 51, *provided, however*, that the application may incorporate by reference a single environmental report on the environmental impacts of the common design that are applicable to each site.

(e) Upon a determination that each application is acceptable for docketing under § 2.101 of this chapter, each application will be docketed and a notice of docketing for each application will be published in the *Federal Register*, under § 2.104 of this chapter, *provided, however*, that the notice must state that the application will be processed under the provisions of this section and subpart D of 10 CFR part 2. At the discretion of the Commission, a single notice of

docketing for multiple applications may be published in the *Federal Register*.

(f) The NRC must prepare an environmental assessment or draft and final environmental impact statements for each of the applications under 10 CFR part 51. Scoping under §§ 51.28 and 51.29 of this chapter for each of the license applications may be conducted simultaneously and joint scoping may be conducted with respect to the environmental issues relevant to the common design. If the applications reference a standard design certification, then the environmental assessment or environmental impact statement for each of the applications must incorporate by reference the standard design certification environmental assessment. If the applications do not reference a standard design certification, then the NRC must prepare environmental assessments or draft and final supplemental environmental impact statements which address severe accident mitigation design alternatives for the common design, which must be incorporated by reference into the environmental assessment or environmental impact statement prepared for each application. Scoping under §§ 51.28 and 51.29 of this chapter for the supplemental environmental impact statement may be conducted simultaneously and may be part of the scoping for each of the applications.

(g) The ACRS must report on each of the applications as required by the applicable sections of this subpart. Each report must be limited to those safety matters for each application that are not relevant to the common design. In addition, the ACRS must separately report on the safety of the common design, *provided, however*, that the report need not address the safety of a referenced standard design certification or reactor manufactured under this part.

~~(h) The Commission must 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 and affecting at least two applications. The hearing will be governed by the applicable provisions of subparts A, C, G, L, N, and O of 10 CFR part 2 relating to applications for CPs, OLs, and COLs. The presiding officer must issue a partial initial decision on the common design.~~

(ih) If the design for the power reactor(s) proposed in a particular application is not identical to the others, that application may not be processed under this section and subpart D of 10 CFR part 2.

(ji) As used in this section, the design of a nuclear power reactor included in a single referenced Safety Analysis Report means the design of those SSCs important to radiological health and safety and the common defense and security.