[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50, 51, 52, and 53

[NRC-2025-1502]

RIN 3150-AL59

Increased Flexibility in the Mandatory Hearing Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising the agency's rules of practice and procedure and other procedural regulations to increase the flexibility in conducting mandatory hearings in NRC licensing proceedings in response to the Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024 (ADVANCE Act) and Executive Order 14300, Ordering the Reform of the Nuclear Regulatory Commission.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Please refer to Docket ID NRC-2025-1502 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Electronically at https://www.regulations.gov. Search for Docket ID NRC-2025-1502. Address questions about NRC dockets to Helen Chang; telephone: 301-415-3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at https://www.nrc.gov/reading-rm/adams.html. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marcia Simon, Office of the General Counsel, telephone: 301-287-9176; email: Marcia.Simon@nrc.gov and Sara Kirkwood, Office of the General Counsel, telephone: 301-287-9187; email: Sara.Kirkwood@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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I. Executive Order 14300: Ordering the Reform of the Nuclear Regulatory Commission

On May 23, 2025, the President signed Executive Order (E.O.) 14300, "Ordering the Reform of the Nuclear Regulatory Commission." Section 5, "Reforming and Modernizing the NRC's Regulations," requires the NRC to undertake a review and wholesale revision of its regulations and guidance documents as guided by the policies set forth in section 2 of the E.O. This rulemaking addresses section 5(j), which requires the NRC to "Streamline the public hearings process," and also supports meeting the objectives of sections 5(a), 5(d), and 5(e) of E.O. 14300, as discussed below.

II. Background

Section 189 of the Atomic Energy Act of 1954, as amended (AEA) requires mandatory (uncontested) hearings for applications under section 103 or 104b of the AEA for a construction permit for a facility, and on any application under section 104c for a

construction permit for a testing facility. Over the last two decades the Commission has revisited its process for conducting these mandatory hearings several times. In 2007, as part of a major revision to 10 CFR part 52, "Licenses, Certifications, And Approvals for Nuclear Power Plants," the Commission revised § 2.104 to remove all provisions specifying safety and environmental findings to be made by the presiding officer in hearings (72 FR 49352, 49412, August 28, 2007). This change to the NRC's rules of procedure was based on the Commission's desire to ensure maximum flexibility in the conduct of mandatory reactor licensing hearings and its determination, based on prior experience and consideration of the nature of mandatory hearings under section 189 of the AEA, that such detailed prescription was unnecessary (ADAMS Accession No. ML071010223). No reference was made at that time to §§ 51.105 and 51.107, which contain provisions specifying environmental findings to be made by presiding officers that are similar to those removed from § 2.104.

This final rule removes those two provisions from 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," and makes conforming changes to remove references to those provisions in other parts of the regulations. In addition, the Commission is revising certain provisions in 10 CFR parts 2, 50, 51, 52, and 53 to clarify that references to hearings in those regulations apply only to contested hearings.

III. Discussion

In its 1971 decision in *Calvert Cliffs' Coordinating Committee v. Atomic Energy Commission*, the U.S. Court of Appeals for the District of Columbia Circuit held that the Atomic Energy Commission (predecessor of the NRC) could not exclude environmental issues from its mandatory reactor licensing hearings that addressed safety and security

issues. 449 F.2d 1109, 1117-19 (D.C. Cir. 1971). In response to that decision, the Atomic Energy Commission added to its regulations the provisions containing specific environmental issues to be addressed by the presiding officer, which are now found in §§ 51.105 and 51.107 and were formerly found in § 2.104 (37 FR 15127, 15130-31, 15141-42, July 28, 1972). These provisions call for the presiding officer in mandatory hearings on construction permits, early site permits, and combined licenses to determine whether the requirements in sections 102(2)(A), (C), and (D) of the National Environmental Policy Act (NEPA) have been met; to independently consider the final balance among conflicting factors with a view to determining the appropriate action to be taken; to determine whether the permit or license should be issued after weighing costs versus benefits and considering reasonable alternatives; and to determine whether the NRC staff's NEPA review has been adequate.

Although the language in the regulations derives from the *Calvert Cliffs* decision, the court did not hold that NEPA required specific findings to be made in a hearing. Rather, the court held that NEPA issues must be considered in the same way that safety and security issues are considered within the process. Therefore, to the extent that NRC regulations required findings on safety and security issues in hearings, they also had to include findings on NEPA issues. At bottom, *Calvert Cliffs* requires only that NEPA issues receive equal treatment to non-environmental issues during the hearing process.

Section 189a of the AEA states that a hearing must be held on certain applications but does not prescribe any findings that must be made prior to issuing a license or permit, nor does it prescribe the manner in which a hearing must be held. NEPA and *Calvert Cliffs* likewise do not require particular findings on environmental issues in a hearing unless the NRC is using that hearing to make comparable findings on safety and security issues. Currently, although NRC regulations require the NRC to make certain safety and security findings to issue a license or permit, NRC regulations

contain no specific findings that a presiding officer must make in a hearing with respect to those non-environmental issues.

Accordingly, because the specific environmental findings delineated in §§ 51.105 and 51.107 are not legally required, the Commission is removing them from the NRC regulations. Removing these findings from the regulations gives the Commission increased flexibility, both now and in the future, in deciding how to efficiently conduct mandatory hearings held pursuant to section 189 of the AEA.

In addition to deleting §§ 51.105 and 51.107 from the regulations, the Commission is making conforming changes to other regulations in 10 CFR part 51 to remove references to the deleted sections. The Commission is also making changes to provisions in 10 CFR parts 50, 51, 52, and 53 containing references to hearings to clarify that those provisions are intended to refer only to contested hearings and making changes to 10 CFR part 2 to clarify that the rules governing adjudications do not apply to mandatory reactor licensing hearings under section 189 of the AEA.

Similarly, the Commission is removing references in 10 CFR parts 50 and 53 (§§ 50.30(a)(3) and 53.1100(a)(2)) to the Atomic Safety and Licensing Board and the presiding officer requiring service of the application in the mandatory AEA hearing. These provisions have been superseded by the advent of the electronic hearing docket and are being removed as part of this rulemaking because the reference to the mandatory hearing could create confusion in the future. Likewise, references in appendix N of 10 CFR part 52 and in 10 CFR part 53 to the Commission designating a presiding officer to conduct the proceeding on issues relating to the common design are being removed. These provisions are redundant to the provisions in subpart D of 10 CFR part 2 which contain the procedures for the conduct of a proceeding involving an identical design at multiple sites and could create confusion regarding what is needed for a mandatory hearing. Subpart D of 10 CFR part 2 provides the Commission with the

flexibility to hold individual or separate proceedings, as appropriate, in any contested hearing.

Finally, the Commission is revising certain sections in 10 CFR part 52 (§ 52.24 for early site permits and § 52.97 for combined licenses). These provisions currently state that, after a hearing is conducted and a report is received from the Advisory Committee on Reactor Safeguards, the Commission may issue the permit or license upon making the requisite findings. The references in these regulations to conducting a hearing are being removed to fully sever the historical but unnecessary link between the findings that must be made to support issuance of a license and the conduct of a mandatory hearing pursuant to section 189 of AEA.

Because these provisions are procedural rules related to the conduct of hearings, notice and comment is not required under the Administrative Procedure Act, 5 U.S.C. 553(b)(A).

IV. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, as amended, 5 U.S.C. 605(b), the NRC certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies in the context of NRC adjudicatory proceedings concerning nuclear reactors. Reactor licensees do not fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632, within the small business standards set forth in 13 CFR part 121, or within the size standards established by the NRC (§ 2.810).

V. Regulatory Analysis

This final rule removes requirements from the agency's rules of practice for mandatory hearings to further streamline the new reactor licensing process in response to the ADVANCE Act and the May 23, 2025, E.O. 14300, "Ordering the Reform of the Nuclear Regulatory Commission." This regulatory action removes the findings that a presiding officer must make in a mandatory hearing, which are not required by the AEA or NEPA. This rulemaking does not change the applicant's process in preparing a new license application nor does it change NRC's process for reviewing those applications. This rulemaking has the potential to shorten the time it takes the NRC to review an application by providing additional flexibility in the conduct of the mandatory hearing. These amendments will neither impose new safety requirements nor relax existing ones.

The cost savings or benefits[1] of this rule are that it is expected to increase the efficiency with which the NRC conducts mandatory hearings. The elimination of the requirement that the presiding officer in a mandatory hearing make certain findings, which are not required by statute, can not only streamline the hearing process but also mean that the hearing could be conducted earlier in the process such that the mandatory hearing is not on the critical path to license issuance. The NRC expects the costs of implementing this rule to be minimal. The NRC would need to update its mandatory hearing procedures to reflect the additional flexibility.

Because these benefits outweigh the costs, the NRC expects this final rule to provide a net qualitative benefit without affecting safety.

[1] Consistent with the Office of Management and Budget's Circular A-4 (2003), this final rule provides a qualitative analysis in absence of reliable data

VI. Backfitting and Issue Finality

The NRC has determined that the backfit rule and issue finality provisions do not apply to this rule because the amendments do not involve any provisions that would impose backfits as defined in 10 CFR chapter I and are not inconsistent with any applicable issue finality provision in 10 CFR part 52. Therefore, a backfit analysis or issue finality assessment is not required for this rule.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

VIII. National Environmental Policy Act

This rule involves an amendment to hearing procedures (in 10 CFR part 51) with conforming changes to 10 CFR parts 2, 50, 51, 52, and 53, and thus qualifies as an action for which no environmental review is required under the categorical exclusion set forth in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rulemaking.

IX. Paperwork Reduction Act

This rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

X. Executive Orders

Additional information about these statutes and Executive orders can be found at https://www.nrc.gov/about-nrc/regulatory/rulemaking/procedural-requirements.

Executive Order 12866: Regulatory Planning and Review (as amended by Executive Order 14215, Ensuring Accountability for All Agencies)

The Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action under E.O. 12866. More information can be found in section V, of this document, “Regulatory Analysis.”

Executive Order 14154: Unleashing American Energy

NRC has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154.

Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is a deregulatory action as defined by E.O. 14192. This final rule is considered an E.O. 14192 deregulatory action. Details on the estimated costs of this final rule can be found in section V, of this document, “Regulatory Analysis.”

Executive Order 14270: Zero-Based Regulatory Budgeting to Unleash American Energy

Executive Order 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,” requires the NRC to insert a conditional sunset date into all new or amended NRC regulations provided the regulations are (1) promulgated under the Atomic Energy Act of 1954, as amended (AEA), the Energy Reorganization Act of 1974, as amended (ERA), and the Nuclear Waste Policy Act of 1982, as amended (NWPA); (2) not statutorily required; and (3) not part of the NRC’s permitting regime. The NRC determined that the regulatory changes in this rule are for hearing processes that are required by statute and are part of the NRC’s regulatory permitting scheme authorized by the AEA, ERA, or NWPA. Therefore, the NRC views this rulemaking to be outside the scope of E.O. 14270 and did not insert conditional sunset dates for the regulatory changes in this final rule.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has found that it does not meet the criteria at 5 U.S.C. 804(2).

XII.Availability of Documents

The documents identified in the following table are available to interested

persons through one or more of the following methods, as indicated.

DOCUMENT	ADAMS ACCESSION NO. / WEB LINK / *FEDERAL REGISTER* CITATION
Executive Order 12866, “Regulatory Planning and Review,” October 4, 1993	58 FR 51735
Executive Order 14215, “Ensuring Accountability for All Agencies,” February 24, 2025	90 FR 10447
Executive Order 14154, “Unleashing American Energy,” January 29, 2025	90 FR 8353
Executive Order 14192, “Unleashing Prosperity Through Deregulation,” February 6, 2025	90 FR 9065
Executive Order 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,” April 15, 2025	90 FR 15643
Restructuring of Facility License Application Review and Hearing Processes, July 28, 1972	37 FR 15127
Final Rule - Licenses, Certifications, and Approvals for Nuclear Power Plants, August 28, 2007	72 FR 49352
Staff Requirements - Affirmation Session, 10:00 A.M., Wednesday, April 11, 2007, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open To Public Attendance)	ML071010223
Office of Management and Budget’s Circular A-4, 2003	https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf
Calvert Cliffs’ Coordinating Committee v. Atomic Energy Commission, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. 1971)	449 F.2d 1109

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants

and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Inspection, Issue finality, Limited work authorization, Manufacturing license, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 53

Administrative practice and procedure, Antitrust, Backfitting, Construction permit, Combined license, Classified information, Criminal penalties, Early site permit, Emergency planning, Fees, Fire prevention, Fire protection, Inspection,

Intergovernmental relations, Limited work authorization, Manufacturing license, Nuclear power plants and reactors, Operating license, Penalties, Prototype, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Standard design, Standard design certification, Training programs.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 2, 50, 51, 52, and 53:

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 2 continues to read as follows:

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. Revise and republish § 2.300 to read as follows:

§ 2.300 Scope of this subpart.

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 this part, 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

3. The authority citation for part 50 continues to read as follows:

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.

4. In § 50.10:

a. Remove paragraph (e)(1)(ii);

b. Redesignate paragraphs (e)(1)(iii) and (iv) as paragraphs (e)(1)(ii) and (iii); and

c. Revise newly designated paragraph (e)(1)(iii) and paragraph (f).

The revisions read as follows:

§ 50.10 License required; limited work authorization.

* * * * *

(e) * * *

(1) * * *

(iii) If a contested hearing is held, the 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.

* * * * *

(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 [Amended]

5. In § 50.30, remove paragraph (a)(3) and redesignate paragraphs (a)(4) through (6) as paragraphs (a)(3) through (5).

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

6. The authority citation for part 51 continues to read as follows:

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

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

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

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

7. In § 51.102, revise paragraph (c) to read as follows:

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

* * * * *

(c) When a contested hearing is held on the proposed action under the regulations in 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.

8. In § 51.104, revise paragraphs (a)(1), (b), and (c) to read as follows:

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

(a)(1) In any proceeding in which a contested hearing is held on the proposed action; a final environmental impact statement has been prepared in connection with the proposed action; and 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.

* * * * *

(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 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 [Removed and Reserved]

9. Remove and reserve § 51.105.

§ 51.106 [Amended]

10. In § 51.106, in paragraphs (a) and (b), remove the phrase “§§ 51.104 and 51.105” and add in its place the phrase “§ 51.104”.

§ 51.107 [Removed and Reserved]

11. Remove and reserve § 51.107.

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

12. The authority citation for part 52 continues to read as follows:

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.

13. Revise and republish § 52.21 to read as follows:

§ 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 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.

14. In § 52.24, revise the paragraph (a) introductory text to read as follows:

§ 52.24 Issuance of early site permit.

(a) The Commission may issue an early site permit, in the form the Commission deems appropriate, if the Commission finds that:

* * * * *

§ 52.85 [Amended]

15. In § 52.85, add the word “contested” after the word “All” in the last sentence.

§ 52.91 [Amended]

16. In § 52.91, in the last sentence of paragraph (a), remove the phrase “the proceeding” and add in its place the phrase “a contested hearing”.

17. In § 52.97, revise paragraph (a)(1) introductory text to read as follows:

§ 52.97 Issuance of combined licenses.

(a)(1) The Commission may issue a combined license if the Commission finds that:

* * * * *

Appendix N to Part 52 - [Amended]

18. In appendix N to part 52, remove paragraph 8.

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

19. The authority citation of part 53 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 103, 108, 122, 147, 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; Pub. L. 115-439, 132 Stat. 5571.

§ 53.1100 [Amended]

20. In § 53.1100, remove paragraph (a)(2) and redesignate paragraphs (a)(3) through (5) as paragraphs (a)(2) through (4).

21. In § 53.1130:

a. Remove paragraph (b)(1)(ii);

b. Redesignate paragraphs (b)(1)(iii) and (iv) as paragraphs (b)(1)(ii) and (iii); and

c. Revise newly redesignated paragraph (b)(1)(iii) and paragraph (c).

The revisions read as follows:

§ 53.1130 Limited work authorizations.

* * * * *

(b)* * *

(1)* * *

(iii) If a contested hearing is held, 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.

* * * *

(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).

* * * * *

22. In § 53.1149, revise paragraph (b) to read as follows:

§ 53.1149 Review of applications.

* * * * *

(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 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.

23. In § 53.1158, revise paragraph (a) introductory text to read as follows:

§ 53.1158 Issuance of early site permit.

(a) The Commission may issue an early site permit, in the form the Commission deems appropriate, if the Commission finds that—

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§ 53.1315 [Amended]

24. In § 53.1315, in paragraph (b), add the word “contested” after the word “All” in the last sentence.

25. In § 53.1327, revise paragraph (a) to read as follows:

§ 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 a contested hearing on the application has made the findings and determination required by § 53.1130(b)(1)(iii), and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(ii).

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26. In § 53.1333, revise paragraph (a) introductory text to read as follows:

§ 53.1333 Issuance of construction permits.

(a) The Commission may issue a CP only if the Commission finds that—

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§ 53.1422 [Amended]

27. In § 53.1422, in paragraph (b), add the word “contested” after the word “All” in the last sentence.

28. In § 53.1434, revise paragraph (a) to read as follows:

§ 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 a contested hearing on the application has made the findings and determination required by § 53.1130(b)(1)(iii), and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(ii).

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29. In § 53.1440, revise paragraph (a)(1) introductory text to read as follows:

§53.1440 Issuance of combined licenses.

(a)(1) The Commission may issue a COL if the Commission finds that—

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§ 53.1470 [Amended]

30. In § 53.1470, remove paragraph (h) and redesignate paragraphs (i) and (j) as paragraphs (h) and (i).

Dated: April 13, 2026.

For the Nuclear Regulatory Commission.

Carrie Safford
Secretary of the Commission.