

December 7, 2012

MEMORANDUM TO: Brooke D. Poole, Director  
Office of Commission Appellate Adjudication

R. W. Borchardt  
Executive Director for Operations

FROM: Kenneth R. Hart, Acting Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS – CONDUCT OF MANDATORY  
HEARINGS ON COMBINED LICENSE APPLICATIONS  
PENDING APPROVAL OF AN UPDATED WASTE CONFIDENCE  
RULE

The Commission has approved a revised hearing format for those uncontested proceedings on combined license applications that would take place during the pendency of the waste confidence proceeding.

The revised process envisions an uncontested hearing that is held on the schedule set forth in the Internal Commission Procedures. Specifically, the staff will complete and issue both the Safety Evaluation Report (SER) and the final Environmental Impact Statement (EIS). The EIS will include conditional conclusions regarding the environmental impacts of spent nuclear fuel storage and disposal following the plant's licensed life. Following the completion of the latter of the SER or the final EIS, the uncontested hearing will proceed, encompassing all issues except contested matters, matters related to the certified design, and matters related to waste confidence.

Following the hearing, the Commission will issue an adjudicatory decision addressing all matters raised at the hearing, ruling on the adequacy of the staff's review, and—if the Commission recommends issuance of the license—making the requisite findings, including conditional environmental findings, if appropriate. This decision will include the caveat that no final license may issue during the pendency of the waste confidence review. Upon approval by the Commission of a final Waste Confidence Rule, the Commission will issue a second adjudicatory decision that would confirm, if appropriate, the conditional environmental findings previously made, and address any other matters of Commission concern. This second decision will address final license issuance.

A description of this revised hearing process will be included in the notice of hearing issued by the Secretary for any affected proceeding.

The hearing notice will articulate what is being decided at each stage of an affected hearing and will state that the Commission is not prejudging the outcome of the waste confidence update or any necessary follow-up action in advance of the Commission's final licensing decision.

For each uncontested proceeding, the Commission remains committed to issuing the first decision in accordance with the Internal Commission Procedures milestone of four months, recognizing that the final licensing decision (provided the Commission otherwise makes findings in support of issuance of a combined license) will be contingent upon the Commission's subsequent determination as part of the Waste Confidence rulemaking, which will reflect the environmental impacts analyzed in the associated EIS. The Commission is also committed to issuing the second decision without undue delay following its approval of a final Waste Confidence Rule.

cc: Chairman Macfarlane  
Commissioner Svinicki  
Commissioner Apostolakis  
Commissioner Magwood  
Commissioner Ostendorff  
OGC  
CFO  
OCA  
OPA  
Office Directors, Regions, ACRS, ASLBP (via E-Mail)  
PDR