

³The impact findings in this column are based on the definitions of three significance levels. Unless the significance level is identified as beneficial, the impact is adverse, or in the case of "small," may be negligible. The definitions of significance follow:

SMALL—For the issue, environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purposes of assessing radiological impacts, the Commission has concluded that those impacts that do not exceed permissible levels in the Commission's regulations are considered small as the term is used in this table.

MODERATE—For the issue, environmental effects are sufficient to alter noticeably, but not to destabilize, important attributes of the resource.

LARGE—For the issue, environmental effects are clearly noticeable and are sufficient to destabilize important attributes of the resource.

For issues where probability is a key consideration (i.e. accident consequences), probability was a factor in determining significance.

⁴NA (not applicable). The categorization and impact finding definitions do not apply to these issues.

⁵Scientific evidence about a chronic biological effect on humans from exposure to transmission line electric and magnetic fields is inconclusive. If the Commission finds that a consensus has been reached by appropriate Federal health agencies that there are adverse health effects, the Commission will require applicants to submit plant-specific reviews of these health effects. Until such time, applicants for license renewal are not required to submit information on this issue.

⁶Environmental Justice was not addressed in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants," because guidance for implementing Executive Order 12898 issued on February 11, 1994, was not available prior to completion of NUREG-1437. This issue will be addressed in individual license renewal reviews.

[61 FR 28490, June 5, 1996; 61 FR 39555, 39556, July 30, 1996]

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFI- CATIONS; AND COMBINED LI- CENSES FOR NUCLEAR POWER PLANTS

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Nuclear Regulatory Commission

§ 52.13

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AUTHORITY: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

SOURCE: 54 FR 15386, Apr. 18, 1989, unless otherwise noted.

GENERAL PROVISIONS

§ 52.1 Scope.

This part governs the issuance of early site permits, standard design certifications, and combined licenses for nuclear power facilities licensed under section 103 or 104b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242).

§ 52.3 Definitions.

As used in this part,

(a) *Combined license* means a combined construction permit and operating license with conditions for a nuclear power facility issued pursuant to subpart C of this part.

(b) *Early site permit* means a Commission approval, issued pursuant to subpart A of this part, for a site or sites for one or more nuclear power facilities.

(c) *Standard design* means a design which is sufficiently detailed and complete to support certification in accordance with subpart B of this part, and which is usable for a multiple number of units or at a multiple number of sites without reopening or repeating the review.

(d) *Standard design certification, design certification, or certification* means a Commission approval, issued pursuant to subpart B of this part, of a standard design for a nuclear power facility. A design so approved may be referred to as a *certified standard design*.

(e) All other terms in this part have the meaning set out in 10 CFR 50.2, or section 11 of the Atomic Energy Act, as applicable.

§ 52.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 52.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). OMB has approved the information collection requirements contained in this part under control number 3150-0151.

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.45, 52.47, 52.57, 52.75, 52.77, 52.78, and 52.79.

[57 FR 60977, Dec. 23, 1992, as amended at 58 FR 21912, Apr. 26, 1993]

Subpart A—Early Site Permits

§ 52.11 Scope of subpart.

This subpart sets out the requirements and procedures applicable to Commission issuance of early site permits for approval of a site or sites for one or more nuclear power facilities separate from the filing of an application for a construction permit or combined license for such a facility.

§ 52.13 Relationship to subpart F of 10 CFR part 2 and appendix Q of this part.

The procedures of this subpart do not replace those set out in subpart F of 10 CFR part 2 or appendix Q of this part. Subpart F applies only when early review of site suitability issues is sought in connection with an application for a permit to construct certain power facilities. Appendix Q applies only when NRC staff review of one or more site suitability issues is sought separately

from and prior to the submittal of a construction permit. A Staff Site Report issued under appendix Q in no way affects the authority of the Commission or the presiding officer in any proceeding under subpart F or G of 10 CFR part 2. Subpart A applies when any person who may apply for a construction permit under 10 CFR part 50 or for a combined license under 10 CFR part 52 seeks an early site permit from the Commission separately from an application for a construction permit or a combined license for a facility.

§ 52.15 Filing of applications.

(a) Any person who may apply for a construction permit under 10 CFR part 50, or for a combined license under 10 CFR part 52, may file with the Director of Nuclear Reactor Regulation an application for an early site permit. An application for an early site permit may be filed notwithstanding the fact that an application for a construction permit or a combined license has not been filed in connection with the site or sites for which a permit is sought.

(b) The application must comply with the filing requirements of 10 CFR 50.30 (a), (b), and (f) as they would apply to an application for a construction permit. The following portions of § 50.4, which is referenced by § 50.30(a)(1), are applicable: paragraphs (a), (b) (1)–(3), (c), (d), and (e).

§ 52.17 Contents of applications.

(a)(1) The application must contain the information required by § 50.33 (a) through (d), the information required by § 50.34 (a)(12) and (b)(10), and to the extent approval of emergency plans is sought under paragraph (b)(2)(ii) of this section, the information required by § 50.33 (g) and (j), and § 50.34 (b)(6)(v) of this chapter. The application must also contain a description and safety assessment of the site on which the facility is to be located. The assessment must contain an analysis and evaluation of the major structures, systems, and components of the facility that bear significantly on the acceptability of the site under the radiological consequence evaluation factors identified in § 50.34(a)(1) of this chapter. Site characteristics must comply with part

100 of this chapter. In addition, the application should describe the following:

- (i) The number, type, and thermal power level of the facilities for which the site may be used;
- (ii) The boundaries of the site;
- (iii) The proposed general location of each facility on the site;
- (iv) The anticipated maximum levels of radiological and thermal effluents each facility will produce;
- (v) The type of cooling systems, intakes, and outflows that may be associated with each facility;
- (vi) The seismic, meteorological, hydrologic, and geologic characteristics of the proposed site;
- (vii) The location and description of any nearby industrial, military, or transportation facilities and routes; and
- (viii) The existing and projected future population profile of the area surrounding the site.

(2) A complete environmental report as required by 10 CFR 51.45 and 51.50 must be included in the application, provided, however, that such environmental report must focus on the environmental effects of construction and operation of a reactor, or reactors, which have characteristics that fall within the postulated site parameters, and provided further that the report need not include an assessment of the benefits (for example, need for power) of the proposed action, but must include an evaluation of alternative sites to determine whether there is any obviously superior alternative to the site proposed.

(b) (1) The application must identify physical characteristics unique to the proposed site, such as egress limitations from the area surrounding the site, that could pose a significant impediment to the development of emergency plans.

(2) The application may also either:

- (i) Propose major features of the emergency plans, such as the exact sizes of the emergency planning zones, that can be reviewed and approved by NRC in consultation with FEMA in the absence of complete and integrated emergency plans; or
- (ii) Propose complete and integrated emergency plans for review and approval by the NRC, in consultation

with the Federal Emergency Management Agency, in accord with the applicable provisions of 10 CFR 50.47.

(3) Under paragraphs (b)(1) and (2)(i) of this section, the application must include a description of contacts and arrangements made with local, state, and federal governmental agencies with emergency planning responsibilities. Under the option set forth in paragraph (b)(2)(ii) of this section, the applicant shall make good faith efforts to obtain from the same governmental agencies certifications that: (i) The proposed emergency plans are practicable; (ii) These agencies are committed to participating in any further development of the plans, including any required field demonstrations, and (iii) that these agencies are committed to executing their responsibilities under the plans in the event of an emergency. The application must contain any certifications that have been obtained. If these certifications cannot be obtained, the application must contain information, including a utility plan, sufficient to show that the proposed plans nonetheless provide reasonable assurance that adequate protective measures can and will be taken, in the event of a radiological emergency at the site.

(c) If the applicant wishes to be able to perform, after grant of the early site permit, the activities at the site allowed by 10 CFR 50.10(e)(1) without first obtaining the separate authorization required by that section, the applicant shall propose, in the early site permit, a plan for redress of the site in the event that the activities are performed and the site permit expires before it is referenced in an application for a construction permit or a combined license issued under subpart C of this part. The application must demonstrate that there is reasonable assurance that redress carried out under the plan will achieve an environmentally stable and aesthetically acceptable site suitable for whatever non-nuclear use may conform with local zoning laws.

[54 FR 15386, Spt. 18, 1989, as amended at 61 FR 65175, Dec. 11, 1996]

EFFECTIVE DATE NOTE: At 61 FR 65175, Dec. 11, 1996, §52.17 was amended by revising the introductory text of paragraph (a)(1) and paragraph (a)(1)(vi), effective Jan. 10, 1997.

For the convenience of the user, the superseded text is set forth as follows:

§52.17 Contents of applications.

(a)(1) The application must contain the information required by 10 CFR 50.33 (a)-(d), the first three sentences of § 50.34(a)(1), and, to the extent approval of emergency plans is sought under paragraph (b)(2)(ii) of this section, the information required by §50.33 (g) and (j), and §50.34(b)(6)(v). In particular, the application should describe the following:

* * * * *

(vi) The seismic, meteorological, hydrologic, and geologic characteristics of the proposed site (see appendix A to 10 CFR part 100);

* * * * *

§52.18 Standards for review of applications.

Applications filed under this subpart will be reviewed according to the applicable standards set out in 10 CFR part 50 and its appendices and part 100 as they apply to applications for construction permits for nuclear power plants. In particular, the Commission shall prepare an environmental impact statement during review of the application, in accordance with the applicable provisions of 10 CFR part 51, provided, however, that the draft and final environmental impact statements prepared by the Commission focus on the environmental effects of construction and operation of a reactor, or reactors, which have characteristics that fall within the postulated site parameters, and provided further that the statements need not include an assessment of the benefits (for example, need for power) of the proposed action, but must include an evaluation of alternative sites to determine whether there is any obviously superior alternative to the site proposed. The Commission shall determine, after consultation with the Federal Emergency Management Agency, whether the information required of the applicant by §52.17(b)(1) shows that there is no significant impediment to the development of emergency plans, whether any major features of emergency plans submitted by the applicant under §52.17(b)(2)(i) are acceptable, and

whether any emergency plans submitted by the applicant under § 52.17(b)(2)(ii) provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

§ 52.19 Permit and renewal fees.

The fees charged for the review of an application for the initial issuance or renewal of an early site permit are set forth in 10 CFR 170.21 and shall be paid in accordance with 10 CFR 170.12.

[56 FR 31499, July 10, 1991]

§ 52.21 Hearings.

An early site permit is a partial construction permit and is therefore subject to all procedural requirements in 10 CFR part 2 which are applicable to construction permits, including the requirements for docketing in §§ 2.101(a)(1)–(4), and the requirements for issuance of a notice of hearing in §§ 2.104(a), (b)(1)(iv) and (v), (b)(2) to the extent it runs parallel to (b)(1)(iv) and (v), and (b)(3), 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 the proposed action. In the hearing, the presiding officer shall also determine whether, taking into consideration the site criteria contained in 10 CFR part 100, a reactor, or reactors, having characteristics that fall within the parameters for the site can be constructed and operated without undue risk to the health and safety of the public. All hearings conducted on applications for early site permits filed under this part are governed by the procedures contained in subpart G of part 2.

§ 52.23 Referral to the ACRS.

The Commission shall refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety.

§ 52.24 Issuance of early site permit.

After conducting a hearing under § 52.21 of this subpart and receiving the report to be submitted by the Advisory

Committee on Reactor Safeguards under § 52.23 of this subpart, and upon determining that an application for an early site permit meets the applicable standards and requirements of the Atomic Energy Act and the Commission's regulations, and that notifications, if any, to other agencies or bodies have been duly made, the Commission shall issue an early site permit, in the form and containing the conditions and limitations, as the Commission deems appropriate and necessary.

§ 52.25 Extent of activities permitted.

(a) If an early site permit contains a site redress plan, the holder of the permit, or the applicant for a construction permit or combined license who references the permit, may perform the activities at the site allowed by 10 CFR 50.10(e)(1) without first obtaining the separate authorization required by that section, provided that the final environmental impact statement prepared for the permit has concluded that the activities will not result in any significant adverse environmental impact which cannot be redressed.

(b) If the activities permitted by paragraph (a) of this section are performed at any site for which an early site permit has been granted, and the site is not referenced in an application for a construction permit or a combined license issued under subpart C of this part while the permit remains valid, then the early site permit must remain in effect solely for the purpose of site redress, and the holder of the permit shall redress the site in accordance with the terms of the site redress plan required by § 52.17(c). If, before redress is complete, a use not envisaged in the redress plan is found for the site or parts thereof, the holder of the permit shall carry out the redress plan to the greatest extent possible consistent with the alternate use.

§ 52.27 Duration of permit.

(a) Except as provided in paragraph (b) of this section, an early site permit issued under this subpart may be valid for not less than ten nor more than twenty years from the date of issuance.

(b)(1) An early site permit continues to be valid beyond the date of expiration in any proceeding on a construction permit application or a combined license application which references the early site permit and is docketed either before the date of expiration of the early site permit, or, if a timely application for renewal of the permit has been filed, before the Commission has determined whether to renew the permit.

(2) An early site permit also continues to be valid beyond the date of expiration in any proceeding on an operating license application which is based on a construction permit which references the early site permit, and in any hearing held under § 52.103 of this part before operation begins under a combined license which references the early site permit.

(c) An applicant for a construction permit or combined license may, at its own risk, reference in its application a site for which an early site permit application has been docketed but not granted.

§ 52.29 Application for renewal.

(a) Not less than twelve nor more than thirty-six months prior to the end of the initial twenty-year period, or any later renewal period, the permit holder may apply for a renewal of the permit. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application.

(b) Any person whose interests may be affected by renewal of the permit may request a hearing on the application for renewal. The request for a hearing must comply with 10 CFR 2.714. If a hearing is granted, notice of the hearing will be published in accordance with 10 CFR 2.703.

(c) An early site permit, either original or renewed, for which a timely application for renewal has been filed, remains in effect until the Commission has determined whether to renew the permit. If the permit is not renewed, it continues to be valid in certain proceedings in accordance with the provisions of § 52.27(b).

(d) The Commission shall refer a copy of the application for renewal to the

Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety and shall apply the criteria set forth in § 52.31.

§ 52.31 Criteria for renewal.

(a) The Commission shall grant the renewal if the Commission determines that the site complies with the Atomic Energy Act and the Commission's regulations and orders applicable and in effect at the time the site permit was originally issued, and any new requirements the Commission may wish to impose after a determination that there is a substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements and that the direct and indirect costs of implementation of those requirements are justified in view of this increased protection.

(b) A denial of renewal on this basis does not bar the permit holder or another applicant from filing a new application for the site which proposes changes to the site or the way in which it is used which correct the deficiencies cited in the denial of the renewal.

§ 52.33 Duration of renewal.

Each renewal of an early site permit may be for not less than ten nor more than twenty years.

§ 52.35 Use of site for other purposes.

A site for which an early site permit has been issued under this subpart may be used for purposes other than those described in the permit, including the location of other types of energy facilities. The permit holder shall inform the Director of Nuclear Reactor Regulation of any significant uses for the site which have not been approved in the early site permit. The information about the activities must be given to the Director in advance of any actual construction or site modification for the activities. The information provided could be the basis for imposing new requirements on the permit, in accordance with the provisions of § 52.39. If the permit holder informs the Director that the holder no longer intends to use the site for a nuclear power plant,

the Director shall terminate the permit.

§ 52.37 Reporting of defects and non-compliance; revocation, suspension, modification of permits for cause.

For purposes of part 21 and 10 CFR 50.100, an early site permit is a construction permit.

§ 52.39 Finality of early site permit determinations.

(a)(1) Notwithstanding any provision in 10 CFR 50.109, while an early site permit is in effect under §§ 52.27 or 52.33 the Commission may not impose new requirements, including new emergency planning requirements, on the early site permit or the site for which it was issued, unless the Commission determines that a modification is necessary either to bring the permit or the site into compliance with the Commission's regulations and orders applicable and in effect at the time the permit was issued, or to assure adequate protection of the public health and safety or the common defense and security.

(2) In making the findings required for issuance of a construction permit, operating license, or combined license, or the findings required by § 52.103 of this part, if the application for the construction permit, operating license, or combined license references an early site permit, the Commission shall treat as resolved those matters resolved in the proceeding on the application for issuance or renewal of the early site permit, unless a contention is admitted that a reactor does not fit within one or more of the site parameters included in the site permit, or a petition is filed which alleges either that the site is not in compliance with the terms of the early site permit, or that the terms and conditions of the early site permit should be modified.

(i) A contention that a reactor does not fit within one or more of the site parameters included in the site permit may be litigated in the same manner as other issues material to the proceeding.

(ii) A petition which alleges that the site is not in compliance with the terms of the early site permit must include, or clearly reference, official NRC documents, documents prepared by or

for the permit holder, or evidence admissible in a proceeding under subpart G of part 2, which show, prima facie, that the acceptance criteria have not been met. The permit holder and NRC staff may file answers to the petition within the time specified in 10 CFR 2.730 for answers to motions by parties and staff. If the Commission, in its judgment, decides, on the basis of the petitions and any answers thereto, that the petition meets the requirements of this paragraph, that the issues are not exempt from adjudication under 5 U.S.C. 554(a)(3), that genuine issues of material fact are raised, and that settlement or other informal resolution of the issues is not possible, then the genuine issues of material fact raised by the petition must be resolved in accordance with the provisions in 554, 556, and 557 which are applicable to determining application for initial licenses.

(iii) A petition which alleges that the terms and conditions of the early site permit should be modified will be processed in accord with 10 CFR 2.206. Before construction commences, the Commission shall consider the petition and determine whether any immediate action is required. If the petition is granted, then an appropriate order will be issued. Construction under the construction permit or combined license will not be affected by the granting of the petition unless the order is made immediately effective.

(iv) Prior to construction, the Commission shall find that the terms of the early site permit have been met.

(b) An applicant for a construction permit, operating license, or combined license who has filed an application referencing an early site permit issued under this subpart may include in the application a request for a variance from one or more elements of the permit. In determining whether to grant the variance, the Commission shall apply the same technically relevant criteria as were applicable to the application for the original or renewed site permit. Issuance of the variance must be subject to litigation during the construction permit, operating license, or combined license proceeding in the same manner as other issues material to those proceedings.

Subpart B—Standard Design Certifications

§ 52.41 Scope of subpart.

This subpart set out the requirements and procedures applicable to Commission issuance of rules granting standard design certification for nuclear power facilities separate from the filing of an application for a construction permit or combined license for such facility.

§ 52.43 Relationship to appendices M, N, and O of this part.

(a) Appendix M to this part governs the issuance of licenses to manufacture nuclear power reactors to be installed and operated at sites not identified in the manufacturing license application. Appendix N governs licenses to construct and operate nuclear power reactors of duplicate design at multiple sites. These appendices may be used independently of the provisions in this subpart unless the applicant also wishes to use a certified standard design approved under this subpart.

(b) Appendix O governs the staff review and approval of preliminary and final standard designs. A staff approval under appendix O in no way affects the authority of the Commission or the presiding officer in any proceeding under subpart G of 10 CFR part 2. Subpart B of part 52 governs Commission approval, or certification, of standard designs by rulemaking.

(c) A final design approval under appendix O is a prerequisite for certification of a standard design under this subpart. An application for a final design approval must state whether the applicant intends to seek certification of the design. If the applicant does so intend, the application for the final design approval must, in addition to containing the information required by appendix O, comply with the applicable requirements of part 52, subpart B, particularly §§ 52.45 and 52.47.

§ 52.45 Filing of applications.

(a)(1) Any person may seek a standard design certification for an essentially complete nuclear power plant design which is an evolutionary change from light water reactor designs of plants which have been licensed and in

commercial operation before the effective date of this rule.

(2) Any person may also seek a standard design certification for a nuclear power plant design which differs significantly from the light water reactor designs described in paragraph (a)(1) of this section or utilizes simplified, inherent, passive, or other innovative means to accomplish its safety functions.

(b) An application for certification may be filed notwithstanding the fact that an application for a construction permit or combined license for such a facility has not been filed.

(c)(1) Because a final design approval under appendix O of this part is a prerequisite for certification of a standard design, a person who seeks such a certification and does not hold, or has not applied for, a final design approval, shall file with the Director of Nuclear Reactor Regulation an application for a final design approval and certification.

(2) Any person who seeks certification but already holds, or has applied for, a final design approval, also shall file with the Director of Nuclear Reactor Regulation an application for certification, because the NRC staff may require that the information before the staff in connection with the review for the final design approval be supplemented for the review for certification.

(d) The applicant must comply with the filing requirements of 10 CFR 50.30(a) (1)–(4), and (6) and 50.30(b) as they would apply to an application for a nuclear power plant construction permit. The following portions of § 50.4, which is referenced by § 50.30(a)(1), are applicable to the extent technically relevant: paragraphs (a); (b), except for paragraphs (6); (c); and (e).

§ 52.47 Contents of applications.

(a) The requirements of this paragraph apply to all applications for design certification. (1) An application for design certification must contain:

(i) The technical information which is required of applicants for construction permits and operating licenses by 10 CFR part 20, part 50 and its appendices, and parts 73 and 100, and which is technically relevant to the design and not site-specific;

(ii) Demonstration of compliance with any technically relevant portions of the Three Mile Island requirements set forth in 10 CFR 50.34(f);

(iii) The site parameters postulated for the design, and an analysis and evaluation of the design in terms of such parameters;

(iv) Proposed technical resolutions of those Unresolved Safety Issues and medium- and high-priority Generic Safety Issues which are identified in the version of NUREG-0933 current on the date six months prior to application and which are technically relevant to the design;

(v) A design-specific probabilistic risk assessment;

(vi) Proposed tests, inspections, analyses, and acceptance criteria which are necessary and sufficient to provide reasonable assurance that, if the tests, inspections and analyses are performed and the acceptance criteria met, a plant which references the design is built and will operate in accordance with the design certification.

(vii) The interface requirements to be met by those portions of the plant for which the application does not seek certification. These requirements must be sufficiently detailed to allow completion of the final safety analysis and design-specific probabilistic risk assessment required by paragraph (a)(1)(v) of this section;

(viii) Justification that compliance with the interface requirements of paragraph (a)(1)(vii) of this section is verifiable through inspection, testing (either in the plant or elsewhere), or analysis. The method to be used for verification of interface requirements must be included as part of the proposed tests, inspections, analyses, and acceptance criteria required by paragraph (a)(1)(vi) of this section; and

(ix) A representative conceptual design for those portions of the plant for which the application does not seek certification, to aid the staff in its review of the final safety analysis and probabilistic risk assessment required by paragraph (a)(1)(v) of this section, and to permit assessment of the adequacy of the interface requirements called for by paragraph (a)(1)(vii) of this subsection.

(2) The application must contain a level of design information sufficient to enable the Commission to judge the applicant's proposed means of assuring that construction conforms to the design and to reach a final conclusion on all safety questions associated with the design before the certification is granted. The information submitted for a design certification must include performance requirements and design information sufficiently detailed to permit the preparation of acceptance and inspection requirements by the NRC, and procurement specifications and construction and installation specifications by an applicant. The Commission will require, prior to design certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if such information is necessary for the Commission to make its safety determination.

(3) The staff shall advise the applicant on whether any technical information beyond that required by this section must be submitted.

(b) This paragraph applies, according to its provisions, to particular applications:

(1) The application for certification of a nuclear power plant design which is an evolutionary change from light water reactor designs of plants which have been licensed and in commercial operation before the effective date of this rule must provide an essentially complete nuclear power plant design except for site-specific elements such as the service water intake structure and the ultimate heat sink.

(2)(i) Certification of a standard design which differs significantly from the light water reactor designs described in paragraph (b)(1) of this section or utilizes simplified, inherent, passive, or other innovative means to accomplish its safety functions will be granted only if

(A)(1) The performance of each safety feature of the design has been demonstrated through either analysis, appropriate test programs, experience, or a combination thereof;

(2) Interdependent effects among the safety features of the design have been

found acceptable by analysis, appropriate test programs, experience, or a combination thereof;

(3) Sufficient data exist on the safety features of the design to assess the analytical tools used for safety analyses over a sufficient range of normal operating conditions, transient conditions, and specified accident sequences, including equilibrium core conditions; and

(4) The scope of the design is complete except for site-specific elements such as the service water intake structure and the ultimate heat sink; or

(B) There has been acceptable testing of an appropriately sited, full-size, prototype of the design over a sufficient range of normal operating conditions, transient conditions, and specified accident sequences, including equilibrium core conditions. If the criterion in paragraph (b)(2)(i)(A)(4) of this section is not met, the testing of the prototype must demonstrate that the non-certified portion of the plant cannot significantly affect the safe operation of the plant.

(ii) The application for final design approval of a standard design of the type described in this subsection must propose the specific testing necessary to support certification of the design, whether the testing be prototype testing or the testing required in the alternative by paragraph (b)(2)(i)(A) of this section.

The Appendix O final design approval of such a design must identify the specific testing required for certification of the design.

(3) An application seeking certification of a modular design must describe the various options for the configuration of the plant and site, including variations in, or sharing of, common systems, interface requirements, and system interactions. The final safety analysis and the probabilistic risk assessment should also account for differences among the various options, including any restrictions which will be necessary during the construction and startup of a given module to ensure the safe operation of any module already operating.

§ 52.48 Standards for review of applications.

Applications filed under this subpart will be reviewed for compliance with the standards set out in 10 CFR part 20, part 50 and its appendices, and parts 73 and 100 as they apply to applications for construction permits and operating licenses for nuclear power plants, and as those standards are technically relevant to the design proposed for the facility.

§ 52.49 Fees for review of applications.

The fee charged for the review of an application for the initial issuance or renewal of a standard design certification are set forth in 10 CFR 170.21 and shall be paid in accordance with 10 CFR 170.12.

[56 FR 31499, July 10, 1991]

§ 52.51 Administrative review of applications.

(a) A standard design certification is a rule that will be issued in accordance with the provisions of subpart H of 10 CFR part 2, as supplemented by the provisions of this section. The Commission shall initiate the rulemaking after an application has been filed under § 52.45 and shall specify the procedures to be used for the rulemaking.

(b) The rulemaking procedures must provide for notice and comment and an opportunity for an informal hearing before an Atomic Safety and Licensing Board. The procedures for the informal hearing must include the opportunity for written presentations made under oath or affirmation and for oral presentations and questioning if the Board finds them either necessary for the creation of an adequate record or the most expeditious way to resolve controversies. Ordinarily, the questioning in the informal hearing will be done by members of the Board, using either the Board's questions or questions submitted to the Board by the parties. The Board may also request authority from the Commission to use additional procedures, such as direct and cross examination by the parties, or may request that the Commission convene a formal hearing under subpart G of 10 CFR part 2 on specific and substantial disputes of fact, necessary for the Commission's

decision, that cannot be resolved with sufficient accuracy except in a formal hearing. The staff will be a party in the hearing.

(c) The decision in such a hearing will be based only on information on which all parties have had an opportunity to comment, either in response to the notice of proposed rulemaking or in the informal hearing. Notwithstanding anything in 10 CFR 2.790 to the contrary, proprietary information will be protected in the same manner and to the same extent as proprietary information submitted in connection with applications for construction permits and operating licenses under 10 CFR part 50, provided that the design certification shall be published in chapter I of this title.

§ 52.53 Referral to the ACRS.

The Commission shall refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety.

§ 52.54 Issuance of standard design certification.

After conducting a rulemaking proceeding under § 52.51 on an application for a standard design certification and receiving the report to be submitted by the Advisory Committee on Reactor Safeguards under § 52.53, and upon determining that the application meets the applicable standards and requirements of the Atomic Energy Act and the Commission's regulations, the Commission shall issue a standard design certification in the form of a rule for the design which is the subject of the application.

§ 52.55 Duration of certification.

(a) Except as provided in paragraph (b) of this section, a standard design certification issued pursuant to this subpart is valid for fifteen years from the date of issuance.

(b) A standard design certification continues to be valid beyond the date of expiration in any proceeding on an application for a combined license or operating license which references the standard design certification and is docketed either before the date of expi-

ration of the certification, or, if a timely application for renewal of the certification has been filed, before the Commission has determined whether to renew the certification. A design certification also continues to be valid beyond the date of expiration in any hearing held under § 52.103 before operation begins under a combined license which references the design certification.

(c) An applicant for a construction permit or combined license may, at its own risk, reference in its application a design for which a design certification application has been docketed but not granted.

§ 52.57 Application for renewal.

(a) Not less than twelve nor more than thirty-six months prior to expiration of the initial fifteen-year period, or any later renewal period, any person may apply for renewal of the certification. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application. The Commission will require, prior to renewal of certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if such information is necessary for the Commission to make its safety determination. Notice and comment procedures must be used for a rulemaking proceeding on the application for renewal. The Commission, in its discretion, may require the use of additional procedures in individual renewal proceedings.

(b) A design certification, either original or renewed, for which a timely application for renewal has been filed remains in effect until the Commission has determined whether to renew the certification. If the certification is not renewed, it continues to be valid in certain proceedings, in accordance with the provisions of § 52.55.

(c) The Commission shall refer a copy of the application for renewal to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety and shall apply the criteria set forth in § 52.59.

§ 52.59 Criteria for renewal.

(a) The Commission shall issue a rule granting the renewal if the design, either as originally certified or as modified during the rulemaking on the renewal, complies with the Atomic Energy Act and the Commission's regulations applicable and in effect at the time the certification was issued, and any other requirements the Commission may wish to impose after a determination that there is a substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements and that the direct and indirect costs of implementation of those requirements are justified in view of this increased protection. In addition, the applicant for renewal may request an amendment to the design certification. The Commission shall grant the amendment request if it determines that the amendment will comply with the Atomic Energy Act and the Commission's regulations in effect at the time or renewal. If the amendment request entails such an extensive change to the design certification that an essentially new standard design is being proposed, an application for a design certification shall be filed in accordance with § 52.45 and 52.47 of this part.

(b) Denial of renewal does not bar the applicant, or another applicant, from filing a new application for certification of the design, which proposes design changes which correct the deficiencies cited in the denial of the renewal.

§ 52.61 Duration of renewal.

Each renewal of certification for a standard design will be for not less than ten nor more than fifteen years.

§ 52.63 Finality of standard design certifications.

(a)(1) Notwithstanding any provision in 10 CFR 50.109, while a standard design certification is in effect under § 52.55 or 52.61, the Commission may not modify, rescind, or impose new requirements on the certification, whether on its own motion, or in response to a petition from any person, unless the Commission determines in a rulemaking that a modification is nec-

essary either to bring the certification or the referencing plants into compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security. The rulemaking procedures must provide for notice and comment and an opportunity for the party which applied for the certification to request an informal hearing which uses the procedures described in § 52.51 of this subpart.

(2) Any modification the NRC imposes on a design certification rule under paragraph (a)(1) of this section will be applied to all plants referencing the certified design, except those to which the modification has been rendered technically irrelevant by action taken under paragraphs (a)(3), (a)(4), or (b) of this section.

(3) While a design certification is in effect under § 52.55 or § 52.61, unless (i) a modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security, and (ii) special circumstances as defined in 10 CFR 50.12(a) are present, the Commission may not impose new requirements by plant-specific order on any part of the design of a specific plant referencing the design certification if that part was approved in the design certification. In addition to the factors listed in § 50.12(a), the Commission shall consider whether the special circumstances which § 50.12(a)(2) requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the plant-specific order.

(4) Except as provided in 10 CFR 2.758, in making the findings required for issuance of a combined license or operating license, or for any hearing under § 52.103, the Commission shall treat as resolved those matters resolved in connection with the issuance or renewal of a design certification.

(b)(1) An applicant or licensee who references a standard design certification may request an exemption from

one or more elements of the design certification. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). In addition to the factors listed in § 50.12(a), the Commission shall consider whether the special circumstances which § 50.12(a)(2) requires to be present outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption. The granting of an exemption on request of an applicant must be subject to litigation in the same manner as other issues in the operating license or combined license hearing.

(2) Subject § 50.59, a licensee who references a standard design certification may make changes to the design of the nuclear power facility, without prior Commission approval, unless the proposed change involves a change to the design as described in the rule certifying the design. The licensee shall maintain records of all changes to the facility and these records must be maintained and available for audit until the date of termination of the license.

(c) The Commission will require, prior to granting a construction permit, combined license, or operating license which references a standard design certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if such information is necessary for the Commission to make its safety determinations, including the determination that the application is consistent with the certified design. This information may be acquired by appropriate arrangements with the design certification applicant.

Subpart C—Combined Licenses

§ 52.71 Scope of subpart.

This subpart sets out the requirements and procedures applicable to Commission issuance of combined licenses for nuclear power facilities.

§ 52.73 Relationship to subparts A and B.

An application for a combined license under this subpart may, but need not,

reference a standard design certification issued under subpart B of this part or an early site permit issued under subpart A of this part, or both. In the absence of a demonstration that an entity other than the one originally sponsoring and obtaining a design certification is qualified to supply such design, the Commission will entertain an application for a combined license which references a standard design certification issued under subpart B only if the entity that sponsored and obtained the certification supplies the certified design for the applicant's use.

§ 52.75 Filing of applications.

Any person except one excluded by 10 CFR 50.38 may file an application for a combined license for a nuclear power facility with the Director of Nuclear Reactor Regulation. The applicant shall comply with the filing requirements of 10 CFR 50.4 and 50.30 (a) and (b), except for paragraph (b)(6) of § 50.4, as they would apply to an application for a nuclear power plant construction permit. The fees associated with the filing and review of the application are set out in 10 CFR part 170.

§ 52.77 Contents of applications; general information.

The application must contain all of the information required by 10 CFR 50.33, as that section would apply to applicants for construction permits and operating licenses, and 10 CFR 50.33a, as that section would apply to an applicant for a nuclear power plant construction permit. In particular, the applicant shall comply with the requirement of § 50.33a(b) regarding the submission of antitrust information.

§ 52.78 Contents of applications; training and qualification of nuclear power plant personnel.

(a) *Applicability.* The requirements of this section apply only to the personnel associated with the operating phase of the combined licenses.

(b) The application must demonstrate compliance with the requirements for training programs established in § 50.120 of this chapter.

[58 FR 21912, Apr. 26, 1993]

§52.79 Contents of applications; technical information.

(a)(1) In general, if the application references an early site permit, the application need not contain information or analyses submitted to the Commission in connection with the early site permit, but must contain, in addition to the information and analyses otherwise required, information sufficient to demonstrate that the design of the facility falls within the parameters specified in the early site permit, and to resolve any other significant environmental issue not considered in any previous proceeding on the site or the design.

(2) If the application does not reference an early site permit, the applicant shall comply with the requirements of 10 CFR 50.30(f) by including with the application an environmental report prepared in accordance with the provisions of subpart A of 10 CFR part 51.

(3) If the application does not reference an early site permit which contains a site redress plan as described in § 52.17(c), and if the applicant wishes to be able to perform the activities at the site allowed by 10 CFR 50.10(e)(1), then the application must contain the information required by § 52.17(c).

(b) The application must contain the technically relevant information required of applicants for an operating license by 10 CFR 50.34. The final safety analysis report and other required information may incorporate by reference the final safety analysis report for a certified standard design. In particular, an application referencing a certified design must describe those portions of the design which are site-specific, such as the service water intake structure and the ultimate heat sink. An application referencing a certified design must also demonstrate compliance with the interface requirements established for the design under § 52.47(a)(1), and have available for audit procurement specifications and construction and installation specifications in accordance with § 52.47(a)(2). If the application does not reference a certified design, the application must comply with the requirements of § 52.47(a)(2) for level of design information, and shall contain the technical

information required by §§ 52.47(a)(1)(i), (ii), (iv), and (v) and (3), and, if the design is modular, § 52.47(b)(3).

(c) The application for a combined license must include the proposed inspections, tests and analyses, including those applicable to emergency planning, which the licensee shall perform and the acceptance criteria therefor which are necessary and sufficient to provide reasonable assurance that, if the inspections, tests and analyses are performed and the acceptance criteria met, the facility has been constructed and will operate in conformity with the combined license, the provisions of the Atomic Energy Act, and the NRC's regulations. Where the application references a certified standard design, the inspections, tests, analyses and acceptance criteria contained in the certified design must apply to those portions of the facility design which are covered by the design certification.

(d) The application must contain emergency plans which provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the site. (1) If the application references an early site permit, the application may incorporate by reference emergency plans, or major features of emergency plans, approved in connection with the issuance of the permit.

(2) If the application does not reference an early site permit, or if no emergency plans were approved in connection with the issuance of the permit, the applicant shall make good faith efforts to obtain certifications from the local and State governmental agencies with emergency planning responsibilities (i) that the proposed emergency plans are practicable, (ii) that these agencies are committed to participating in any further development of the plans, including any required field demonstrations, and (iii) that these agencies are committed to executing their responsibilities under the plans in the event of an emergency. The application must contain any certifications that have been obtained. If these certifications cannot be obtained, the application must contain information, including a utility plan, sufficient to show that the proposed plans nonetheless provide reasonable

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assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the site.

[54 FR 15386, Apr. 18, 1989, as amended at 57 FR 60978, Dec. 23, 1992]

§ 52.81 Standards for review of applications.

Applications filed under this subpart will be reviewed according to the standards set out in 10 CFR parts 20, 50, 51, 55, 73, and 100 as they apply to applications for construction permits and operating licenses for nuclear power plants, and as those standards are technically relevant to the design proposed for the facility.

§ 52.83 Applicability of part 50 provisions.

Unless otherwise specifically provided for in this subpart, all provisions of 10 CFR part 50 and its appendices applicable to holders of construction permits for nuclear power reactors also apply to holders of combined licenses issued under this subpart. Similarly, all provisions of 10 CFR part 50 and its appendices applicable to holders of operating licenses also apply to holders of combined licenses issued under this subpart, once the Commission has made the findings required under § 52.99, provided that, as applied to a combined license, 10 CFR 50.51 must require that the initial duration of the license may not exceed 40 years from the date on which the Commission makes the findings required under § 52.99. However, any limitations contained in part 50 regarding applicability of the provisions to certain classes of facilities continue to apply. Provisions of 10 CFR part 50 that do not apply to holders of combined licenses issued under this subpart include §§ 50.55 (a), (b) and (d), and 50.58.

[57 FR 60978, Dec. 23, 1992]

§ 52.85 Administrative review of applications.

A proceeding on a combined license is subject to all applicable procedural requirements contained in 10 CFR part 2, including the requirements for docking (§ 2.101) and issuance of a notice of hearing (§ 2.104). All hearings on

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combined licenses are governed by the procedures contained in part 2, subpart G.

§ 52.87 Referral to the ACRS.

The Commission shall refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS). The ACRS shall report on those portions of the application which concern safety and shall apply the criteria set forth in § 52.81, in accordance with the finality provisions of this part.

§ 52.89 Environmental review.

If the application references an early site permit or a certified standard design, the environmental review must focus on whether the design of the facility falls within the parameters specified in the early site permit and any other significant environmental issue not considered in any previous proceeding on the site or the design. If the application does not reference an early site permit or a certified standard design, the environmental review procedures set out in 10 CFR part 51 must be followed, including the issuance of a final environmental impact statement, but excluding the issuance of a supplement under § 51.95(a).

§ 52.91 Authorization to conduct site activities.

(a)(1) If the application references an early site permit which contains a site redress plan as described in § 52.17(c) the applicant is authorized by § 52.25 to perform the site preparation activities described in 10 CFR 50.10(e)(1).

(2) If the application does not reference an early site permit which contains a redress plan, the applicant may not perform the site preparation activities allowed by 10 CFR 50.10(e)(1) without first submitting a site redress plan in accord with § 52.79(a)(3) and obtaining the separate authorization required by 10 CFR 50.10(e)(1). Authorization must be granted only after the presiding officer in the proceeding on the application has made the findings and determination required by 10 CFR 50.10(e)(2) and has determined that the site redress plan meets the criteria in § 52.17(c).

(3) Authorization to conduct the activities described in 10 CFR

50.10(e)(3)(i) may be granted only after the presiding officer in the combined license proceeding makes the additional finding required by 10 CFR 50.10(e)(3)(ii).

(b) If, after an applicant for a combined license has performed the activities permitted by paragraph (a) of this section, the application for the license is withdrawn or denied, and the early site permit referenced by the application expires, then the applicant shall redress the site in accord with the terms of the site redress plan. If, before redress is complete, a use not envisaged in the redress plan is found for the site or parts thereof, the applicant shall carry out the redress plan to the greatest extent possible consistent with the alternate use.

§ 52.93 Exemptions and variances.

(a) Applicants for a combined license under this subpart, or any amendment to a combined license, may include in the application a request, under 10 CFR 50.12, for an exemption from one or more of the Commission's regulations, including any part of a design certification rule. The Commission shall grant such a request if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a) or 52.63(b)(1) if the exemption includes any part of the design certification rule.

(b) An applicant for a combined license, or any amendment to a combined license, who has filed an application referencing an early site permit issued under this subpart may include in the application a request for a variance from one or more elements of the permit. In determining whether to grant the variance, the Commission shall apply the same technically relevant criteria as were applicable to the application for the original or renewed site permit. Issuance of the variance must be subject to litigation during the combined license proceeding in the same manner as other issues material to that proceeding.

§ 52.97 Issuance of combined licenses.

(a) The Commission shall issue a combined license for a nuclear power facility upon finding that the applicable requirements of 10 CFR 50.40, 50.42,

50.43, 50.47, and 50.50 have been met, and that there is reasonable assurance that the facility will be constructed and operated in conformity with the license, the provisions of the Atomic Energy Act, and the Commission's regulations.

(b)(1) 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 Atomic Energy Act, and the Commission's rules and regulations.

(2)(i) Any modification to, addition to, or deletion from the terms of a combined construction and operating license, including any modification to, addition to, or deletion from the inspections, tests, analyses, or related acceptance criteria contained in the license is a proposed amendment to the license. There must be an opportunity for a hearing on these amendments.

(ii) The Commission may issue and make immediately effective any amendment to a combined construction and operating license upon a determination by the Commission that the amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. The amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. The amendment will be processed in accordance with the procedures specified in 10 CFR 50.91.

[54 FR 15386, Apr. 18, 1989, as amended at 57 FR 60978, Dec. 23, 1992]

§ 52.99 Inspection during construction.

After issuance of a combined license, the Commission shall ensure that the required inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Holders of combined licenses shall comply with the provisions of 10 CFR 50.70 and 50.71. At appropriate intervals during construction, the NRC staff

shall publish in the Federal Register notices of the successful completion of inspections, tests, and analyses.

[57 FR 60978, Dec. 23, 1992]

§ 52.103 Operation under a combined license.

(a) Not less than one hundred and eighty days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under subpart C of this part, the Commission shall publish in the FEDERAL REGISTER notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within sixty days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

(b) A request for hearing under paragraph (a) of this section shall show, *prima facie*, that—

(1) One or more of the acceptance criteria in the combined license have not been, or will not be met; and

(2) The specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

(c) After receiving a request for a hearing, the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' *prima facie* showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

(d) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under paragraph (a) of this section, and shall state its reasons therefor.

(e) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing

request within one hundred and eighty days of the publication of the notice provided by paragraph (a) of this section or the anticipated date for initial loading of fuel into the reactor, whichever is later.

(f) A petition to modify the terms and conditions of the combined license will be processed as a request for action in accord with 10 CFR 2.206. The petitioner shall file the petition with the Secretary of the Commission. Before the licensed activity allegedly affected by the petition (fuel loading, low power testing, etc.) commences, the Commission shall determine whether any immediate action is required. If the petition is granted, then an appropriate order will be issued. Fuel loading and operation under the combined license will not be affected by the granting of the petition unless the order is made immediately effective.

(g) Prior to operation of the facility, the Commission shall find that the acceptance criteria in the combined license are met. If the combined license is for a modular design, each reactor module may require a separate finding as construction proceeds.

[57 FR 60978, Dec. 23, 1992]

Subpart D—Violations

§ 52.111 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the

sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

[57 FR 55075, Nov. 24, 1992]

§52.113 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 52 are issued under one or more of sections 161b, 161i, or 160o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 52 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§52.1, 52.3, 52.5, 52.8, 52.11, 52.13, 52.15, 52.17, 52.18, 52.19, 52.21, 52.23, 52.24, 52.27, 52.29, 52.31, 52.33, 52.37, 52.39, 52.41, 52.43, 52.45, 52.47, 52.48, 52.49, 52.51, 52.53, 52.54, 52.55, 52.57, 52.59, 52.61, 52.71, 52.73, 52.75, 52.77, 52.78, 52.79, 52.81, 52.83, 52.85, 52.87, 52.89, 52.93, 52.97, 52.103, 52.111, and 52.113.

[57 FR 55075, Nov. 24, 1992, as amended at 58 FR 21912, Apr. 26, 1993]

APPENDICES A-L TO PART 52 [RESERVED]

APPENDIX M TO PART 52—STANDARDIZATION OF DESIGN; MANUFACTURE OF NUCLEAR POWER REACTORS; CONSTRUCTION AND OPERATION OF NUCLEAR POWER REACTORS MANUFACTURED PURSUANT TO COMMISSION LICENSE

Section 101 of the Atomic Energy Act of 1954, as amended, and §50.10 of this chapter require a Commission license to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any production or utilization facility. The regulations in part 50 require the issuance of a construction permit by the Commission before commencement of construction of a production or utilization facility, and the issuance of an operating license before operation of the facility. The provisions of part 50 relating to the facility licensing process are, in general, predicated on the assumption that the facility will be assembled and constructed on the site at which it is to be operated. In those cir-

cumstances, both facility design and site-related issues can be considered in the initial, construction permit stage of the licensing process.

However, under the Atomic Energy Act, a license may be sought and issued authorizing the manufacture of facilities but not their construction and installation at the sites on which the facilities are to be operated. Prior to the “commencement of construction”, as defined in §50.10(c) of this chapter of a facility (manufactured pursuant to such a Commission license) on the site at which it is to operate—that is preparation of the site and installation of the facility—a construction permit that, among other things, reflects approval of the site on which the facility is to be operated, must be issued by the Commission. This appendix sets out the particular requirements and provisions applicable to such situations where nuclear power reactors to be manufactured pursuant to a Commission license and subsequently installed at the site pursuant to a Commission construction permit, are of the type described in §50.22 of this chapter. It thus codifies one approach to the standardization of nuclear power reactors.

1. Except as otherwise specified in this appendix or as the context otherwise indicates, the provisions in part 50 applicable to construction permits, including the requirement in §50.58 of this chapter for review of the application by the Advisory Committee on Reactor Safeguards and the holding of a public hearing, apply in context, with respect to matters of radiological health and safety, environmental protection, and the common defense and security, to licenses pursuant to this appendix M to manufacture nuclear power reactors (manufacturing licenses) to be operated at sites not identified in the license application.

2. An application for a manufacturing license pursuant to this appendix M must be submitted, as specified in §50.4 of this chapter and meet all the requirements of §§50.34(a) (1)–(9) and 50.34a (a) and (b) of this chapter except that the preliminary safety analysis report shall be designated as a “design report” and any required information or analyses relating to site matters shall be predicated on postulated site parameters which must be specified in the application. The application must also include information pertaining to design features of the proposed reactor(s) that affect plans for coping with emergencies in the operation of the reactor(s).

3. An applicant for a manufacturing license pursuant to this appendix M shall submit with his application an environmental report as required of applicants for construction permits in accordance with subpart A of part 51 of this chapter, provided, however, that such report shall be directed at the manufacture of the reactor(s) at the manufacturing

site; and, in general terms, at the construction and operation of the reactor(s) at a hypothetical site or sites having characteristics that fall within the postulated site parameters. The related draft and final environmental impact statement prepared by the Commission's regulatory staff will be similarly directed.

4. (a) Sections 50.10 (b) and (c), 50.12(b), 50.23, 50.30(d), 50.34(a)(10), 50.34a(c), 50.35 (a) and (c), 50.40(a), 50.45, 50.55(d), 50.56 of this chapter and appendix J of part 50 do not apply to manufacturing licenses. Appendices E and H of part 50 apply to manufacturing licenses only to the extent that the requirements of these appendices involve facility design features.

(b) The financial information submitted pursuant to § 50.33(f) of this chapter and appendix C of part 50 shall be directed at a demonstration of the financial qualifications of the applicant for the manufacturing license to carry out the manufacturing activity for which the license is sought.

5. The Commission may issue a license to manufacture one or more nuclear power reactors to be operated at sites not identified in the license application if the Commission finds that:

(a) The applicant has described the proposed design of and the site parameters postulated for the reactor(s), including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features of components incorporated therein for the protection of the health and safety of the public.

(b) Such further technical or design information as may be required to complete the design report and which can reasonably be left for later consideration, will be supplied in a supplement to the design report.

(c) Safety features or components, if any, which 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 of components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved before any of the proposed nuclear power reactor(s) are removed from the manufacturing site and (ii) taking into consideration the site criteria contained in part 100 of this chapter, the proposed reactor(s) can be constructed and operated at sites having characteristics that fall within the site parameters postulated for the design of the reactor(s) without undue risk to the health and safety of the public.

(e) The applicant is technically and financially qualified to design and manufacture the proposed nuclear power reactor(s).

(f) The issuance of a license to the applicant will not be inimical to the common defense and security or to the health and safety of the public.

(g) On the basis of the evaluations and analyses of the environmental effects of the proposed action required by subpart A of part 51 of this chapter and paragraph 3 of this appendix, the action called for is the issuance of the license.

NOTE: When an applicant has supplied initially all of the technical information required to complete the application, including the final design of the reactor(s), the findings required for the issuance of the license will be appropriately modified to reflect that fact.

6. Each manufacturing license issued pursuant to this appendix will specify the number of nuclear power reactors authorized to be manufactured and the latest date for the completion of the manufacture of all such reactors. Upon good cause shown, the Commission will extend such completion date for a reasonable period of time.

7. The holder of a manufacturing license issued pursuant to this appendix M shall submit to the Commission the final design of the nuclear power reactor(s) covered by the license as soon as such design has been completed. Such submittal shall be in the form of an application for amendment of the manufacturing license.

8. The prohibition in § 50.10(c) of this chapter against commencement of construction of a production or utilization facility prior to issuance of a construction permit applies to the transport of a nuclear power reactor(s) manufactured pursuant to this appendix from the manufacturing facility to the site at which the reactor(s) will be installed and operated. In addition, such nuclear power reactor(s) shall not be removed from the manufacturing site until the final design of the reactor(s) has been approved by the Commission in accordance with paragraph 7.

9. An application for a permit to construct a nuclear power reactor(s) which is the subject of an application for a manufacturing license pursuant to this appendix M need not contain such information or analyses as have previously been submitted to the Commission in connection with the application for a manufacturing license, but shall by §§ 50.34(a) and 50.34a of this chapter, sufficient information to demonstrate that the site on which the reactor(s) is to be operated falls within the postulated site parameters specified in the relevant manufacturing license application.

10. The Commission may issue a permit to construct a nuclear power reactor(s) which is the subject of an application for a manufacturing license pursuant to this appendix M if the Commission (a) finds that the site on which the reactor is to be operated falls

within the postulated site parameters specified in the relevant application for a manufacturing license and (b) makes the findings otherwise required by part 50. In no event will a construction permit be issued until the relevant manufacturing license has been issued.

11. An operating license for a nuclear power reactor(s) that has been manufactured under a Commission license issued pursuant to this appendix M may be issued by the Commission pursuant to §50.57 and subpart A of part 51 of this chapter except that the Commission shall find, pursuant to §50.57(a)(1), that construction of the reactor(s) has been substantially completed in conformity with both the manufacturing license and the construction permit and the applications therefor, as amended, and the provisions of the Act, and the rules and regulations of the Commission. Notwithstanding the other provisions of this paragraph, no application for an operating license for a nuclear power reactor(s) that has been manufactured under a Commission license issued pursuant to this appendix M will be docketed until the application for an amendment to the relevant manufacturing license required by paragraph 7 has been docketed.

12. In making the findings required by this part for the issuance of a construction permit or an operating license for a nuclear power reactor(s) that has been manufactured under a Commission license issued pursuant to this appendix, or an amendment to such a manufacturing license, construction permit, or operating license, the Commission will treat as resolved those matters which have been resolved at an earlier stage of the licensing process, unless there exists significant new information that substantially affects the conclusion(s) reached at the earlier stage or other good cause.

APPENDIX N TO PART 52—STANDARDIZATION OF NUCLEAR POWER PLANT DESIGNS: LICENSES TO CONSTRUCT AND OPERATE NUCLEAR POWER REACTORS OF DUPLICATE DESIGN AT MULTIPLE SITES

Section 101 of the Atomic Energy Act of 1954, as amended, and §50.10 of this chapter require a Commission license to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import or export any production or utilization facility. The regulations in part 50 require the issuance of a construction permit by the Commission before commencement of construction of a production or utilization facility, except as provided in §50.10(e) of this chapter, and the issuance of an operating license before the operation of the facility.

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 (§2.761a, appendix A, section I(c)), and for the consolidation of adjudicatory proceedings and of the presentations of parties in adjudicatory proceedings such as licensing proceedings (§§2.715a, 2.716).

This appendix sets out the particular requirements and provisions applicable to situations in which applications are filed by one or more applicants for licenses to construct and operate nuclear power reactors of essentially the same design to be located at different sites.¹

1. Except as otherwise specified in this appendix or as the context otherwise indicates, the provisions of part 50, applicable to construction permits and operating licenses, including the requirement in §50.58 of this chapter for review of the application by the Advisory Committee on Reactor Safeguards and the holding of public hearings, apply to construction permits and operating license subject to this appendix N.

2. Applications for construction permits submitted pursuant to this appendix must include the information required by §§50.33, 50.33a, 50.34(a) and 50.34a (a) and (b) of this chapter, and be submitted as specified in §50.4 of this chapter. The applicant shall also submit the information required by §51.50 of this chapter.

For the technical information required by §§50.34(a) (1) through (5) and (8) and 50.34a (a) and (b) of this chapter, reference may be made to a single preliminary safety analysis of the design² which, for the purposes of §50.34(a)(1) includes one set of site parameters postulated for the design of the reactors, and an analysis and evaluation of the reactors in terms of such postulated site parameters. Such single preliminary safety analysis shall also include information pertaining to design features of the proposed reactors that affect plans for coping with emergencies in the operation of the reactors, and shall describe the quality assurance program with respect to aspects of design, fabrication, procurement and construction that are common to all of the reactors.

¹If 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.

²As 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.

3. Applications for operating licenses submitted pursuant to this appendix N shall include the information required by §§50.33, 50.34 (b) and (c), and 50.34a(c) of this chapter. The applicant shall also submit the information required by §51.53 of this chapter. For the technical information required by §§50.34(b) (2) through (5) and 50.34a(c), reference may be made to a single final safety analysis of the design.

APPENDIX O TO PART 52—STANDARDIZATION OF DESIGN: STAFF REVIEW OF STANDARD DESIGNS

This appendix sets out procedures for the filing, staff review and referral to the Advisory Committee on Reactor Safeguards of standard designs for a nuclear power reactor of the type described in §50.22 of this chapter or major portions thereof.

1. Any person may submit a proposed preliminary or final standard design for a nuclear power reactor of the type described in §50.22 to the regulatory staff for its review. Such a submittal may consist of either the preliminary or final design for the entire reactor facility or the preliminary or final design of major portions thereof.

2. The submittal for review of the standard design must be made in the same manner and in the same number of copies as provided in §§50.4 and 50.30 of this chapter for license applications.

3. The submittal for review of the standard design shall include the information described in §§50.33 (a) through (d) of this chapter and the applicable technical information required by §§50.34 (a) and (b), as appropriate, and 50.34a of this chapter (other than that required by §§50.34(a) (6) and (10), 50.34(b)(1), (6) (i), (ii), (iv), and (v) and 50.34(b) (7) and (8)). The submittal shall also include a description, analysis and evaluation of the interfaces between the submitted design and the balance of the nuclear power plant. With respect to the requirements of §§50.34(a)(1) of this chapter, the submittal for review of a standard design shall include the site parameters postulated for the design, and an analysis and evaluation of the design in terms of such postulated site parameters. The information submitted pursuant to §50.34(a)(7) of this chapter, shall be limited to the quality assurance program to be applied to the design, procurement and fabrication of the structures, systems, and components for which design review has been requested and the information submitted pursuant to §50.34(a)(9) of this chapter shall be limited to the qualifications of the person submitting the standard design to design the reactor or major portion thereof. The submittal shall

also include information pertaining to design features that affect plans for coping with emergencies in the operation of the reactor or major portion thereof.

4. Once the regulatory staff has initiated a technical review of a submittal under this appendix, the submittal will be referred to the Advisory Committee on Reactor Safeguards (ACRS) for a review and report.

5. Upon completion of their review of a submittal under this appendix, the regulatory staff shall publish in the FEDERAL REGISTER a determination as to whether or not the preliminary or final design is acceptable, subject to such conditions as may be appropriate, and make available in the Public Document Room an analysis of the design in the form of a report. An approved design shall be utilized by and relied upon by the regulatory staff and the ACRS in their review of any individual facility license application which incorporates by reference a design approved in accordance with this paragraph unless there exists significant new information which substantially affects the earlier determination or other good cause.

6. The determination and report by the regulatory staff shall not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Panel, Atomic Safety and Licensing Board Panel, and other presiding officers in any proceeding under subpart G of part 2 of this chapter.

7. Information requests to the approval holder regarding an approved design shall be evaluated prior to issuance to ensure that the burden to be imposed on respondents is justified in view of the potential safety significance of the issue to be addressed in the requested information. Each such evaluation performed by the NRC staff shall be in accordance with 10 CFR 50.54(f) and shall be approved by the Executive Director for Operations or his or her designee prior to issuance of the request.

[54 FR 15386, Apr. 18, 1989, as amended at 61 FR 9902, Mar. 12, 1996]

APPENDIX P TO PART 52 [RESERVED]

APPENDIX Q TO PART 52—PRE-APPLICATION EARLY REVIEW OF SITE SUITABILITY ISSUES

This appendix sets out procedures for the filing, Staff review, and referral to the Advisory Committee on Reactor Safeguards (ACRS) of requests for early review of one or more site suitability issues relating to the construction and operation of certain utilization facilities separately from and prior to the submittal of applications for construction permits for the facilities. The appendix also sets out procedures for the preparation

and issuance of Staff Site Reports and for their incorporation by reference in applications for the construction and operation of certain utilization facilities. The utilization facilities are those which are subject to §51.20(b) of this chapter and are of the type specified in §50.21(b) (2) or (3) or §50.22 of this chapter or are testing facilities. This appendix does not apply to proceedings conducted pursuant to subpart F or part 2 of this chapter.

1. Any person may submit information regarding one or more site suitability issues to the Commission's Staff for its review separately from and prior to an application for a construction permit for a facility. Such a submittal shall be accompanied by any fee required by part 170 of this chapter and shall consist of the portion of the information required of applicants for construction permits by §§50.33 (a)-(c) and (e) of this chapter, and, insofar as it relates to the issue(s) of site suitability for which early review is sought, by §§50.34(a)(1) and 50.30(f) of this chapter, except that information with respect to operation of the facility at the projected initial power level need not be supplied.

2. The submittal for early review of site suitability issue(s) must be made in the same manner and in the same number of copies as provided in §§50.4 and 50.30 of this chapter for license applications. The submittal must include sufficient information concerning range of postulated facility design and operation parameters to enable the Staff to perform the requested review of site suitability issues. The submittal must contain suggested conclusions on the issues of site suitability submitted for review and must be accompanied by a statement of the bases or the reasons for those conclusions. The submittal must also list, to the extent possible, any long-range objectives for ultimate development of the site, state whether any site selection process was used in preparing the submittal, describe any site selection process used, and explain what consideration, if any, was given to alternative sites.

3. The staff shall publish a note of docketing of the submittal in the FEDERAL REGISTER, and shall send a copy of the notice of docketing to the Governor or other appropriate official of the State in which the site is located. This notice shall identify the location of the site, briefly describe the site suitability issue(s) under review, and invite comments from Federal, State, and local agencies and interested persons within 120 days of publication or such other time as may be specified, for consideration by the staff in connection with the initiation or outcome of the review and, if appropriate by the ACRS, in connection with the outcome of their review. The person requesting review shall serve a copy of the submittal on the Governor or other appropriate official of the State in which the site is located, and on the

chief executive of the municipality in which the site is located or, if the site is not located in a municipality, on the chief executive of the county. The portion of the submittal containing information requested of applicants for construction permits by §§50.33 (a)-(c) and (e) and 50.34(a)(1) of this chapter will be referred to the ACRS for a review and report. There will be no referral to the ACRS unless early review of the site safety issues under §50.34(a)(1) is requested.

4. Upon completion of review by the staff and, if appropriate by the ACRS, of a submittal under this appendix, the staff shall prepare a Staff Site Report which shall identify the location of the site, state the site suitability issues reviewed, explain the nature and scope of the review, state the conclusions of the staff regarding the issues reviewed and state the reasons for those conclusions. Upon issuance of a Staff Site Report, the staff shall publish a notice of the availability of the report in the FEDERAL REGISTER and shall place copies of the report in the Commission's Public Document at 2120 L Street NW., Lower Level (Room LL-6), Washington, DC 20037, and in a Local Public Document Room(s) located near the site identified in the Staff Site Report. The staff shall also send a copy of the report to the Governor or other appropriate official of the State in which the site is located, and to the chief executive of the municipality in which the site is located or, if the site is not located in a municipality, to the chief executive of the county.

5. Any Staff Site Report prepared and issued in accordance with this appendix may be incorporated by reference, as appropriate, in an application for a construction permit for a utilization facility which is subject to §51.20(b) of this chapter and is of the type specific in §50.21(b) (2) or (3) or §50.22 of this chapter or is a testing facility. The conclusions of the Staff Site Report will be reexamined by the staff where five years or more have elapsed between the issuance of the Staff Site Report and its incorporation by reference in a construction permit application.

6. Issuance of a Staff Site Report shall not constitute a commitment to issue a permit or license, to permit on-site work under §50.10(e) of this chapter, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Panel, Atomic Safety and Licensing Board Panel, and other presiding officers in any proceeding under subpart F and/or G of part 2 of this chapter.

7. The staff will not conduct more than one review of site suitability issues with regard to a particular site prior to the full construction permit review required by subpart A of part 51 of this chapter. The staff may decline to prepare and issue a Staff Site Report in response to a submittal under this appendix where it appears that, (a) in cases where no

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review of the relative merits of the submitted site and alternative sites under subpart A of part 51 of this chapter is requested, there is a reasonable likelihood that further staff review would identify one or more preferable alternative sites and the staff review of one or more site suitability issues would lead to an irreversible and irretrievable commitment of resources prior to the submittal of the analysis of alternative sites in the Environmental Report that would prejudice the later review and decision on alternative sites under subpart F and/or G of part 2 and subpart A of part 51 of this chapter; or (b) in cases where, in the judgment of the staff, early review of any site suitability issue or issues would not be in the public interest, considering (1) the degree of likelihood that any early findings on those issues would retain their validity in later reviews, (2) the objections, if any, of cognizant state or local government agencies to the conduct of an early review on those issues, and (3) the possible effect on the public interest of having an early, if not necessarily conclusive, resolution of those issues.

PART 53 [RESERVED]

PART 54—REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

GENERAL PROVISIONS

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- 54.33 Continuation of CLB and conditions of renewed license.

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- 54.35 Requirements during term of renewed license.
- 54.37 Additional records and recordkeeping requirements.
- 54.41 Violations.
- 54.43 Criminal penalties.

AUTHORITY: Secs. 102, 103, 104, 161, 181, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, as amended (42 U.S.C. 5841, 5842).

SOURCE: 60 FR 22491, May 8, 1995, unless otherwise noted.

GENERAL PROVISIONS

§ 54.1 Purpose.

This part governs the issuance of renewed operating licenses for nuclear power plants licensed pursuant to Sections 103 or 104b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242).

§ 54.3 Definitions.

- (a) As used in this part,
Current licensing basis (CLB) is the set of NRC requirements applicable to a specific plant and a licensee's written commitments for ensuring compliance with and operation within applicable NRC requirements and the plant-specific design basis (including all modifications and additions to such commitments over the life of the license) that are docketed and in effect. The CLB includes the NRC regulations contained in 10 CFR Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, 100 and appendices thereto; orders; license conditions; exemptions; and technical specifications. It also includes the plant-specific design-basis information defined in 10 CFR 50.2 as documented in the most recent final safety analysis report (FSAR) as required by 10 CFR 50.71 and the licensee's commitments remaining in effect that were made in docketed licensing correspondence such as licensee responses to NRC bulletins, generic letters, and enforcement actions, as well as licensee commitments documented in NRC safety evaluations or licensee event reports.
Integrated plant assessment (IPA) is a licensee assessment that demonstrates that a nuclear power plant facility's