

## Nuclear Regulatory Commission

## § 110.84

(h) If a hearing is held, the hearing record and decision;

(i) A statement of staff conclusions; and

(j) The license, requests for license amendments and amendments.

[43 FR 21641, May 19, 1978, as amended at 60 FR 37565, July 21, 1995; 64 FR 48955, Sept. 9, 1999]

### § 110.73 Availability of NRC records.

(a) Commission records under this part will be made available to the public only in accordance with part 9 of this chapter.

(b) Proprietary information provided under this part may be protected under part 9 and § 2.790 (b), (c), and (d) of this chapter.

## Subpart H—Public Participation Procedures Concerning License Applications

### § 110.80 Basis for hearings.

The procedures in this part will constitute the exclusive basis for hearings on export license applications.

### § 110.81 Written comments.

(a) The Commission encourages written comments from the public regarding export and import license applications. The Commission will consider and, if appropriate, respond to these comments.

(b) If possible, these comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

(c) The Commission will provide the applicant with a copy of the comments and, if appropriate, a reasonable opportunity for response.

[43 FR 21641, May 19, 1978, as amended at 62 FR 27495, May 20, 1997]

### § 110.82 Hearing request or intervention petition.

(a) A person may request a hearing or petition for leave to intervene on a license application for an import or export requiring a specific license.

(b) Hearing requests and intervention petitions must:

(1) State the name, address and telephone number of the requestor or petitioner;

(2) Set forth the issues sought to be raised;

(3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the Commission in making the determinations required by § 110.45.

(4) Specify, when a person asserts that his interest may be affected, both the facts pertaining to his interest and how it may be affected, with particular reference to the factors in § 110.84.

(c) Hearing requests and intervention petitions will be considered timely only if filed not later than:

(1) 30 days after notice of receipt in the FEDERAL REGISTER, for those applications published in the FEDERAL REGISTER;

(2) 30 days after notice of receipt in the Public Document Room, for all other applications; or

(3) Such other time as may be provided by the Commission.

[43 FR 21641, May 19, 1978, as amended at 49 FR 47202, Dec. 3, 1984; 60 FR 37565, July 21, 1995; 60 FR 55183, Oct. 30, 1995; 65 FR 70291, Nov. 22, 2000]

### § 110.83 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been served.

(b) Unless otherwise specified by the Commission, a reply to an answer may be filed within 10 days after all timely answers have been filed.

(c) Answers and replies should address the factors in § 110.84.

[43 FR 21641, May 19, 1978, as amended at 49 FR 47203, Dec. 3, 1984]

### § 110.84 Commission action on a hearing request or intervention petition.

(a) In an export licensing proceeding, or in an import licensing proceeding in which a hearing request or intervention petition does not assert or establish an interest which may be affected, the Commission will consider:

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(1) Whether a hearing would be in the public interest; and

(2) Whether a hearing would assist the Commission in making the statutory determinations required by the Atomic Energy Act.

(b) If a hearing request or intervention petition asserts an interest which may be affected, the Commission will consider:

(1) The nature of the alleged interest;

(2) How that interest relates to issuance or denial; and

(3) The possible effect of any order on that interest, including whether the relief requested is within the Commission's authority, and, if so, whether granting relief would redress the alleged injury.

(c) Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing untimely requests or petitions, the Commission will also consider:

(1) The availability of other means by which the requestor's or petitioner's interest, if any, will be protected or represented by other participants in a hearing; and

(2) The extent to which the issues will be broadened or action on the application delayed.

(d) Before granting or denying a hearing request or intervention petition, the Commission will review the Executive Branch's views on the license application and may request further information from the petitioner, requester, the Commission staff, the Executive Branch or others.

(e) The Commission will deny a request or petition that pertains solely to matters outside its jurisdiction.

(f) If an issue has been adequately explored in a previous licensing hearing conducted pursuant to this part, a request for a new hearing in connection with that issue will be denied unless:

(1) A hearing request or intervention petition establishes that an interest may be affected; or

(2) The Commission determines that changed circumstances or new information warrant a new hearing.

(g) After consideration of the factors covered by paragraphs (a) through (f), the Commission will issue a notice or order granting or denying a hearing re-

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quest or intervention petition. Upon the affirmative vote of two Commissioners a hearing will be ordered. A notice granting a hearing will be published in the FEDERAL REGISTER and will specify whether the hearing will be oral or consist of written comments. A denial notice will set forth the reasons for denial.

[43 FR 21641, May 19, 1978, as amended at 49 FR 47203, Dec. 3, 1984]

### § 110.85 Notice of hearing consisting of written comments.

(a) A notice of hearing consisting of written comments will:

(1) State the issues to be considered;

(2) Provide the names and addresses of participants;

(3) Specify the time limits for participants and others to submit written views and respond to any written comments; and

(4) State any other instructions the Commission deems appropriate.

(b) The Secretary will give notice of any hearing under this section and § 110.86 to any person who so requests.

### § 110.86 Notice of oral hearing.

(a) A notice of oral hearing will:

(1) State the time, place and issues to be considered;

(2) Provide names and addresses of participants;

(3) Designate the presiding officer;

(4) Specify the time limit for participants and others to indicate whether they wish to present views; and

(5) State any other instructions the Commission deems appropriate.

(b) If the Commission is not the presiding officer, the notice of oral hearing will also state:

(1) When the jurisdiction of the presiding officer commences and terminates;

(2) The powers of the presiding officer; and

(3) Instructions to the presiding officer to certify promptly the completed hearing record to the Commission without preliminary decision or findings, unless the Commission directs otherwise.

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### § 110.87 Conditions in a notice or order.

(a) A notice or order granting a hearing or permitting intervention may restrict irrelevant or duplicative testimony, or require common interests to be represented by a single spokesman.

(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit his participation accordingly.

(c) Unless authorized by the Commission, the granting of participation will not broaden the hearing issues.

### § 110.88 Authority of the Secretary.

The Secretary is authorized to prescribe time schedules and other procedural arrangements, when not covered by this part, and rule on related procedural requests.

### § 110.89 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies and accompanying documents must be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Filing by mail or telegram is complete upon deposit in the mail or with a telegraph company.

(b) All filing and Commission notices and orders must be served upon the applicant; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Executive Secretary, Department of State, Washington, DC 20520; and participants if any. Hearing requests, intervention petitions, and answers and replies must be served by the person filing those pleadings.

(c) Service is completed by:

(1) Delivering the paper to the person; or leaving it in his office with someone in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if he has no office or it is closed, leaving it at his usual place of residence with some occupant of suitable age and discretion;

(2) Depositing it with a telegraph company, properly addressed and with charges prepaid;

(3) Depositing it in the United States mail, properly stamped and addressed; or

(4) Any other manner authorized by law, when service cannot be made as provided in paragraphs (c)(1) through (3) of this section.

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by:

(1) Written acknowledgment of the person served or an authorized representative; or

(2) The certificate or affidavit of the person making the service.

(e) The Commission may make special provisions for service when circumstances warrant.

[43 FR 21641, May 19, 1978, as amended at 49 FR 47203, Dec. 3, 1984; 51 FR 35999, Oct. 8, 1986; 62 FR 27495, May 20, 1997]

### § 110.90 Computation of time.

(a) In computing time, the first day of a designated time period is not included and the last day is included. If the last day is a Saturday, Sunday or legal holiday at the place where the required action is to be accomplished, the time period will end on the next day which is not a Saturday, Sunday or legal holiday.

(b) In time periods of 7 days or less, Saturdays, Sundays and holidays are not counted.

(c) Whenever an action is required within a prescribed period by a paper served pursuant to § 110.89, 3 days shall be added to the prescribed period if service is by mail.

(d) An interpretation of this section is contained in § 8.3 of this chapter.

### § 110.91 Commission consultations.

The Commission may consult at any time on a license application with the staff, the Executive Branch or other persons.

[49 FR 47203, Dec. 3, 1984]

## Subpart I—Hearings

### § 110.100 Public hearings.

Hearings under this part will be public unless the Commission directs otherwise.