

## § 52.85

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 docketing (§ 2.101) and issuance of a notice of hearing (§ 2.104). All hearings on 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).

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### § 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

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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 construc-

tion 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