

## § 2.403

specifying the place of this consolidated hearing, due regard will be given to the convenience and necessity of the parties, petitioners for leave to intervene, or the attorneys or representatives of such persons, and the public interest.

[40 FR 2976, Jan. 17, 1975, as amended at 43 FR 17801, Apr. 26, 1978; 54 FR 15398, Apr. 18, 1989; 69 FR 2256, Jan. 14, 2004; 70 FR 61887, Oct. 27, 2005]

### **§ 2.403 Notice of proposed action on applications for operating licenses pursuant to appendix N of part 52.**

In the case of applications pursuant to appendix N of part 52 of this chapter for operating licenses for nuclear power reactors, if the Commission has not found that a hearing is in the public interest, the Director of Nuclear Reactor Regulation will, prior to acting thereon, cause to be published in the FEDERAL REGISTER, pursuant to § 2.105, a notice of proposed action with respect to each application as soon as practicable after the applications have been docketed.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

### **§ 2.404 Hearings on applications for operating licenses pursuant to appendix N of part 52.**

If a request for a hearing and/or petition for leave to intervene is filed within the time prescribed in the notice of proposed action on an application for an operating license pursuant to appendix N of part 52 of this chapter with respect to a specific reactor(s) at a specific site and the Commission or an atomic safety and licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel has issued a notice of hearing or other appropriate order, the Commission or the atomic safety and licensing board may order separate hearings on particular phases of the proceeding and/or consolidate for hearing two or more proceedings in the manner described in § 2.402.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

## 10 CFR Ch. I (1-1-06 Edition)

### **§ 2.405 Initial decisions in consolidated hearings.**

At the conclusion of any hearing held under this subpart, the presiding officer will render a partial initial decision that may be appealed under § 2.341. No construction permit or full power operating license will be issued until an initial decision has been issued on all phases of the hearing and all issues under the Act and the National Environmental Policy Act of 1969 appropriate to the proceeding have been resolved.

[69 FR 2256, Jan. 14, 2004]

### **§ 2.406 Finality of decisions on separate issues.**

Notwithstanding any other provision of this chapter, in a proceeding conducted pursuant to this subpart and appendix N of part 52 of this chapter, no matter which has been reserved for consideration in one phase of the hearing shall be considered at another phase of the hearing except on the basis of significant new information that substantially affects the conclusion(s) reached at the other phase or other good cause.

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

### **§ 2.407 Applicability of other sections.**

The provisions of subparts A and G relating to construction permits and operating licenses apply, respectively, to construction permits and operating licenses subject to this subpart, except as qualified by the provisions of this subpart.

### **Subpart E—Additional Procedures Applicable to Proceedings for the Issuance of Licenses To Manufacture Nuclear Power Reactors To Be Operated at Sites Not Identified in the License Application and Related Licensing Proceedings**

SOURCE: 38 FR 30252, Nov. 2, 1973, unless otherwise noted.

### **§ 2.500 Scope of subpart.**

This subpart prescribes procedures applicable to licensing proceedings

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which involve the consideration in separate hearings of an application for a license to manufacture nuclear power reactors pursuant to appendix M of part 52 of this chapter, and applications for construction permits and operating licenses for nuclear power reactors which have been the subject of such an application for a license to manufacture such facilities (manufacturing license).

[40 FR 2976, Jan. 17, 1975, as amended at 54 FR 15398, Apr. 18, 1989]

### **§2.501 Notice of hearing on application pursuant to appendix M of part 52 for a license to manufacture nuclear power reactors.**

(a) In the case of an application pursuant to appendix M of part 52 of this chapter for a license to manufacture nuclear power reactors of the type described in §50.22 of this chapter to be operated at sites not identified in the license application, the Secretary will issue a notice of hearing to be published in the FEDERAL REGISTER at least thirty (30) days prior to the date set for hearing in the notice.<sup>1</sup> The notice shall be issued as soon as practicable after the application has been docketed. The notice will state:

(1) The time, place, and nature of the hearing and/or the prehearing conference;

(2) The authority within which the hearing is to be held;

(3) The matters of fact and law to be considered; and

(4) The time within which answers to the notice shall be filed.

(b) The issues stated in the notice of hearing pursuant to paragraph (a) of this section will not involve consideration of the particular sites at which any of the nuclear power reactors to be manufactured will be located and operated. Except as the Commission determines otherwise, the notice of hearing will state:

(1) That, if the proceeding is a contested proceeding, the presiding officer will consider the following issues:<sup>2</sup>

(i) Whether 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 or components incorporated therein for the protection of the health and safety of the public;

(ii) Whether 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;

(iii) Whether 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 or components;

(iv) Whether on the basis of the foregoing, there is reasonable assurance that (A) such safety questions will be satisfactorily resolved before any of the proposed nuclear power reactors are removed from the manufacturing site, and (B) 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;

(v) Whether the applicant is technically and financially qualified to design and manufacture the proposed reactor(s);

(vi) Whether the issuance of a license for manufacture of the reactor(s) will be inimical to the common defense and security or to the health and safety of the public; and

(vii) Whether, in accordance with the requirements of subpart A of part 51

<sup>1</sup>The thirty (30) day requirement of this paragraph is not applicable to a notice of the time and place of hearing published by the presiding officer after the notice of hearing described in this section has been published.

<sup>2</sup>Issues (i) and (vi) are the issues pursuant to the Atomic Energy Act of 1954, as amended. Issue (vii) is the issue pursuant to the National Environmental Policy Act of 1969.