contained in Table 2–2 and Appendix C of the PRMPA/FEIS.

Dated: March 29, 2007.

Sally Wisely,

State Director, Colorado.

[FR Doc. E7–10964 Filed 6–8–07; 8:45 am]

BILLING CODE 4310–JB–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3098-MLA; ASLBP No. 07–856–02–MLA–BD01]

Shaw Areva Mox Services; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board is being established to preside over the following proceeding:

Shaw Areva Mox Services; Mixed Oxide Fuel Fabrication Facility (License Application for Possession and Use of Byproduct, Source, and Special Nuclear Materials)

This Board is being established in response to a request for hearing that was filed pursuant to a March 7, 2007 Notice of Opportunity for Hearing (72 FR 12,204 (Mar. 15, 2007)), regarding the request of Shaw AREVA MOX Services for a license application for possession and use of byproduct, source, and special nuclear materials for the mixed oxide fuel fabrication facility in Aiken, South Carolina. MOX Services submitted a license application on September 27, 2006, and after an NRC Staff review, it was determined that modifications were required. On November 16, 2006, a revised license application was submitted by MOX Services and was accepted for docketing via a letter dated December 20, 2006. This proceeding concerns the Petition for Intervention and Request for Hearing submitted by (1) Blue Ridge Environmental Defense League (BREDL), (2) Nuclear Watch South (NWS), and (3) Nuclear Information and Resource Service (NIRS), which was docketed on May 15, 2007.

The Board is comprised of the following administrative judges:

Michael C. Farrar, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Nicholas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. William M. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.302.

Issued at Rockville, Maryland, this 5th day of June 2007.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. E7–11196 Filed 6–8–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Statement of Policy on Conduct of New Reactor Licensing Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of draft policy statement and notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC or the Commission) is considering adopting a statement of policy concerning the conduct of new reactor licensing adjudicatory proceedings in view of the anticipated receipt of a number of applications for combined licenses for nuclear power reactors expected to be filed within the next two years. This draft policy statement is being issued for public comment.

DATES: Comments on this draft policy statement should be submitted by August 10, 2007, and will be considered by the Commission before publishing the final policy statement. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include *Draft Statement of Policy on Conduct of New Reactor Licensing Proceedings* in the subject line of your comments. Comments on this draft policy statement submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.* Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415–1966)

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this draft policy statement may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Robert M. Weisman, Senior Attorney, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1696, e-mail *rmw@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Draft Statement of Policy on Conduct of New Reactor Licensing Proceedings; CLI–07

I. Introduction

Because the Commission anticipates that the first several applications for combined licenses (COLs) for nuclear power reactors will be filed within the next two years, the Commission has re-examined its procedures for conducting adjudicatory proceedings involving power reactor licensing. Such examination is particularly appropriate since the Commission will be considering these COL applications at the same time it expects to be reviewing various design certification and early site permit (ESP) applications, and the COL applications will likely reference design certification rules and ESPs, or design certification and ESP applications. Hearings related to the COL and ESP applications will be conducted within the framework of our Rules of Practice in 10 CFR Part 2, as revised in 2004, and the existing policies applicable to adjudications. The Commission has, therefore, considered the differences between the licensing and construction of the first generation of nuclear plants, which involved developing technology, and the currently anticipated plants, which may be much more standardized than previous plants.

We believe that the 10 CFR Part 2 procedures, as applied to the 10 CFR Part 52 licensing process, will provide a fair and efficient framework for litigation of disputed issues arising under the Atomic Energy Act of 1954, as amended (Act) and the National Environmental Policy Act of 1969, as amended (NEPA), that are material to applications. Nonetheless, we also believe that additional improvements can be made to our process. In particular, the guidance stated in this policy statement is intended to implement our goal of avoiding duplicative litigation through consolidation to the extent possible.

The differences between the new generation of designs and the old, including the degree of standardization, as well as the differences between the 10 CFR Part 50 and 10 CFR Part 52 licensing processes, have led the Commission to review its procedures for treatment of a number of matters. Given the anticipated degree of plant standardization, the Commission has most closely considered the potential benefits of the staff's conducting its safety reviews using a ''design-centered'' approach, in which multiple applicants would apply for COLs for plants of identical design at different sites, and of consolidation of issues common to such applications before a single Atomic Safety and Licensing Board (licensing board or ASLB). The Commission has also considered its treatment of Limited Work Authorization requests; the timing of litigation of safety and environmental issues; and the order of procedure for hearings on inspections, tests, analyses, and acceptance criteria (ITAAC), which are completed before fuel loading. In considering these matters, the Commission sought to identify procedural measures within the existing Rules of Practice to ensure that particular issues are considered in the agency proceeding that is the most appropriate forum for resolving them, and to reduce unnecessary burdens for all participants.

The new Commission policy builds on the guidance in its current policies, issued in 1981 and 1998, on the conduct of adjudicatory proceedings, which the Commission endorses. *Statement of Policy on Conduct of Adjudicatory Proceedings,* CLI–98–12, 48 NRC 18 (July 28, 1998), 63 FR 41872 (Aug. 5, 1998); *Statement of Policy on Conduct of Licensing Proceedings,* CLI–81–8,13 NRC 452 (May 20, 1981), 46 FR 28533 (May 27, 1981). The 1981 and 1998 policy statements provided guidance to licensing boards on the use of tools, such as the establishment of and adherence to reasonable schedules, intended to reduce the time for completing licensing proceedings while ensuring that hearings were fair and produced adequate records. Since the Commission issued its previous statements, the Rules of Practice in 10 CFR Part 2 have been revised, and licensing proceedings are now usually conducted under the procedures of Subpart L, rather than Subpart G. *See* ''Changes to Adjudicatory Process,'' Final Rule, 69 FR 2182 (Jan. 14, 2004). In addition, we have recently amended our licensing regulations in 10 CFR Parts 2, 50, 51 and 52 to clarify and improve the 10 CFR Part 52 licensing process. This statement of policy thus supplements the 1981 and 1998 statements.

With both the recent revisions to 10 CFR Part 2 and this guidance, the Commission's objectives remain unchanged. As always, the Commission aims to provide a fair hearing process, to avoid unnecessary delays in its review and hearing processes, and to enable the development of an informed adjudicatory record that supports agency decision making on matters related to the NRC's responsibilities for protecting public health and safety, the common defense and security, and the environment. In the context of new reactor licensing under 10 CFR Part 52, members of the public should be afforded an opportunity for hearing on each genuine issue in dispute that is material to the particular agency action subject to adjudication. By the same token, however, applicants for a license should not have to litigate each such issue more than once.

The Commission emphasizes its expectation that the licensing boards will enforce adherence to the hearing procedures set forth in the Commission's Rules of Practice in 10 CFR Part 2, as interpreted by the Commission. In addition, the Commission has identified certain specific approaches for its licensing boards to consider implementing in individual proceedings, if appropriate, to reduce the time for completing new licensing proceedings. The measures suggested in this policy statement can be accomplished within the framework of the Commission's existing Rules of Practice. The Commission may consider further changes to the Rules of Practice as appropriate to enable additional improvements to the adjudicatory process.

II. Specific Guidance

Current adjudicatory procedures and policies provide the latitude to the Commission, its licensing boards and presiding officers to instill discipline in the hearing process and ensure a prompt yet fair resolution of contested issues in adjudicatory proceedings. In the 1981 and 1998 policy statements, the Commission encouraged licensing boards to use a number of techniques for effective case management in contested proceedings. Licensing boards and presiding officers should continue to use these techniques, but should do so with regard for the new licensing processes in 10 CFR Part 52 and the anticipated high degree of new plant standardization, which may afford significant efficiencies.

The Commission's approach to standardization through design certification has the potential for resolving design-specific issues in a rule, which subsequently cannot be challenged through application-specific litigation. *See* § 52.63 (2006). Matters common to a particular design, however, may not have been resolved even for a certified design. For example, matters not treated as part of the design, such as operational programs, may remain unresolved for any particular application referencing a particular certified design. Further, site-specific design matters and satisfaction of ITAAC will not be resolved during

design certification. The timing and manner in which associated design certification and COL applications are docketed may affect the resolution of these matters in proceedings on those applications, e.g., with respect to what forum is appropriate for resolving an issue. As discussed further below, a design-centered review approach for treating such matters in adjudication may yield significant efficiencies in Commission proceedings.

As set forth below, the Commission has identified other approaches, as applied in the context of the current Rules of Practice in 10 CFR Part 2, as well as variations in procedure permitted under the current Rules of Practice that licensing boards should apply to proceedings. The Commission also intends to exercise its inherent supervisory authority, including its power to assume part or all of the functions of the presiding officer in a given adjudication, as appropriate in the context of a particular proceeding. *See,* e.g., *Public Service Co. of New Hampshire* (Seabrook Station, Units 1 and 2), CLI–90–3, 31 NRC 219, 229 (1990). The Commission intends to promptly respond to adjudicatory matters placed before it, and such matters should ordinarily take priority over other actions before the Commissioners. We begin with the docketing of applications.

A. Initial Matters

1. Docketing of Applications

The rules in Part 52 are designed to accommodate a COL applicant's particular circumstances, such that an applicant may reference a design certification rule, an ESP, both, or neither. *See* § 52.79. The rules also allow a COL applicant to reference a design certification or ESP application that has been docketed but not yet granted. *See* §§ 52.27(c) and 52.55(c). Further, we have changed the procedures in § 2.101 to address ESP, design certification, and COL applications, in addition to construction permit and operating license applications. Accordingly, a COL applicant may submit the safety information required of an applicant by §§ 52.79 and 52.80(a) and (b) apart from the environmental information required by § 52.80(c), as is now permitted by § 2.101(a)(5). In addition, we have lengthened the time allowed between submission of parts of an application under § 2.101(a)(5) from six to eighteen months.

Notwithstanding these procedures, the Commission can envision a situation in which an applicant might want to present a particular ESP or COL application for docketing in a manner not currently authorized. For example, an applicant might wish to apply for a COL for a plant identical to those of other applicants under the design-centered approach, and request application of the provisions of 10 CFR Part 52, Appendix N and Part 2, Subpart D, before it has prepared the site-or plant-specific portion of the application. Such an applicant might not be prepared to submit its application as required by the rules, even considering the flexibility afforded by § 2.101(a)(5).

Under such circumstances, the Commission would be favorably disposed to the NRC staff's entertaining a request for an exemption from the requirements of § 2.101. Such an exemption request could be granted if it is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Moreover, because this is a procedural rule established for the effective and efficient processing of applications, the Commission can exercise its inherent authority to approve such exemptions based on similar considerations of effectiveness and efficiency. The Commission strongly discourages piecemeal submission of portions of an application pursuant to an exemption unless such a procedure is likely to afford significant advantages to the design-centered review approach described in more detail below. The Commission intends to monitor requests for exemptions from the requirements of § 2.101, and to issue a case-specific order governing such matters if warranted. Whether a COL application is submitted pursuant to § 2.101 or an exemption, the first part of an application submitted should be complete before the staff accepts that part of the application for docketing. Similarly, the staff should not docket any subsequently submitted portion of the application unless it is complete.

2. Notice of Hearing

As required by § 2.104(a), a Notice of Hearing on an application is to be issued as soon as practicable after the application is docketed. A Notice of Hearing for a complete COL application should normally be issued within about thirty (30) days of the staff's docketing of the application. Section 2.101(a)(5), which provides for submitting applications in two parts, does not specify when the Notice of Hearing should be issued, nor is it clear when a Notice of Hearing would be issued for an application filed in parts under an exemption from § 2.101. With two exceptions, the Commission believes it most efficient to issue a Notice of Hearing only when the entire application has been docketed. The first exception is a construction permit application submitted in accordance with § 2.101(a–1), which results in a decision on early site review. The second exception involves circumstances in which: (1) A complete application is submitted; (2) one or more other applications that identify a design identical to that described in the complete application are submitted; and (3) another application is incomplete with respect to matters other than those common to the complete application. Under such circumstances, the Commission may give notice of the hearing on the complete application, and give notice of the hearing on the other application with respect to the matters common to the complete application. The Commission determination in this regard will consider the extent to which any notice is consistent with the timely completion of staff reviews using the design-centered approach and with the efficient conduct of any required hearing, with due regard for the rights of all parties. Upon submission of information completing the other application, the Commission would give notice of a hearing with respect to that information. Under all other circumstances, the Commission will issue a Notice of Hearing only when a complete application has been docketed in order to avoid piecemeal litigation.

3. Limited Work Authorizations

The Commission has redefined the term ''construction'' in § 50.10, as well as the provisions governing limited work authorizations. Section 50.10 still contains provisions for limited work authorizations to govern certain structures and associated preparatory work. Accordingly, we are providing additional guidance regarding limited work authorizations.

In all proceedings, the licensing boards should formulate hearing schedules to accommodate any limited work authorization request. Specifically, if an applicant requests a limited work authorization as part of an application, the licensing board should generally schedule the hearings so as to first resolve those issues prerequisite to issuing a limited work authorization. This may lead to hearings on environmental matters and the portions of the Safety Evaluation Report relevant to such findings before commencement of hearings on other issues. Such considerations should be incorporated into the milestones set for each

proceeding in accordance with 10 CFR Part 2, Appendix B.

B. Treatment of Generic Issues

1. Consolidation of Issues Common to Multiple Applications

The Commission believes that generic consideration of issues common to several applications may well yield benefits, both in terms of effective consideration of issues and efficiency. Such benefits would accrue not only to the staff review process, but also to litigation of such matters before the licensing board. We acknowledge that consideration of generic matters common to several applications may be possible in several contexts. For example, an applicant might seek staff review of a corporate program such as quality assurance or security that is common to several of its applications. If contentions on such a program are admitted with respect to more than one application, consolidation of such contentions before a single licensing board may result in more efficient decision making, as well as conserving the parties' resources. Licensing boards should consider consolidating proceedings involving such matters, pursuant to an applicant's motion or pursuant to their own initiative under § 2.317(b). In addition, different applicants may seek COLs for plants of identical design at multiple sites, as in the design-centered review approach, and may therefore seek to implement the provisions of 10 CFR Part 2, Subpart D. In this regard, we have amended Subpart D and Appendix N to 10 CFR Part 52 to provide explicit treatment of COL applications for identical plants at multiple sites.

Because we believe that the design-centered approach is the chief example of circumstances in which generic consideration of issues common to several applications may yield benefits, we discuss that approach in detail below. While much has changed since we first promulgated Subpart D in 1975, we believe many of the concepts originally underpinning Subpart D still apply today, and we presume that Subpart D procedures, as well as other applicable Rules of Practice in 10 CFR Part 2, will be applied to applications employing a design-centered review approach. Our vision for the implementation of a ''design-centered'' approach under the procedures of Subpart D is set forth below.

As indicated above, issues, such as those involving operational programs or design acceptance criteria, common to several applications referencing a design certification rule or design certification application may be most effectively and efficiently treated with a single review in a ''design-centered'' approach and, subsequently, in a single hearing. In order to achieve such benefits, however, applicants who intend to apply for licenses for plants of identical design and request the staff to employ the design-centered review approach should submit their applications simultaneously. Subpart D nonetheless affords the licensing board discretion to consolidate applications filed close in time, if this will be more efficient and otherwise provide for a fair hearing. While not required, we believe applicants for COLs for plants of identical design should consolidate the portions of their applications containing common information into a joint submission. In doing so, each applicant would also submit the information required by §§ 50.33(a) through (e) and 50.37 and would identify the location of its proposed facility, if this information has not already been submitted to the Commission.

Appendix N requires that the design of those structures, systems, and components important to radiological health and safety and the common defense and security described in separate applications be identical in order for the Commission to treat the applications under Appendix N and Subpart D. The Commission believes that any variances or exemptions requested from a design certification in this context should be common to all applications. In addition, while not required, the Commission encourages applicants to standardize the balance of their plants insofar as is practicable.

Subpart D provides flexibility in the hearing process. Each application will necessarily involve a separate proceeding to consider site-specific matters, and the required hearings may, as appropriate, be comprised of two (or more) phases, the sequence of which depends on the circumstances. For any of the phases, the hearings may be consolidated to consider common issues relating to all or some of the applications involved.

An applicant requesting treatment of its application under the design-centered approach may seek to submit separate portions of the application at different times, pursuant to § 2.101(a)(5) or an exemption from § 2.101, as discussed above. Under such circumstances, the Commission intends to issue a Notice of Hearing for the portion of the application to be reviewed under the design-centered approach, and a second notice limited to the portion of the application not treated under the design-centered review approach upon submission of the complete application. Such a procedure would not affect any prospective intervenor's substantive rights; i.e., members of the public will still have a right to petition for intervention on every issue material to the Commission's decision on each individual application.

The staff would review the common information in the applications, or in the joint submission, for sufficiency for docketing and, if acceptable, would docket this information as a portion of each application. Each application would be assigned a docket number in connection with the first portion of the application docketed, which could be the common submission. The applicants should designate one applicant to be the single point of contact for the staff review of this common information, and to represent the applicants before the licensing board.

Consistent with our guidance set forth above, we would expect to issue a Notice of Hearing only upon the docketing of at least one complete application that includes the common information. The Notice of Hearing will not only provide an opportunity to petition to intervene in the proceeding on the complete individual application, but will also provide such an opportunity with respect to the information common to all the applications, which would be docketed separately. Accordingly, upon issuance of such a notice, the Chief Judge of the Atomic Safety and Licensing Board Panel (ASLBP or Panel) should, as is the normal practice, designate a licensing board to preside over the application-specific proceeding, and should also designate a licensing board to preside over the consolidated portions of the applications. Initially, these two licensing boards could be the same.

A person having standing with respect to one of the facilities proposed in the applications partially consolidated would be entitled to petition for intervention in the proceeding on the common information. Such a petitioner would be required to satisfy the other applicable provisions of § 2.309 with respect to the application being contested to be admitted as a party to the proceeding on the common information. Petitioners admitted as parties to such a proceeding with respect to a proposed facility for which the application remains incomplete at the time of the initial Notice of Hearing would have an opportunity to propose contentions with respect to the rest of the application upon the docketing of a complete application, but would not need to demonstrate standing a second

time. Those persons granted intervention are required to designate a lead for common contentions, as required by § 2.309(f)(3); as stated above, applicants submitting common information under the design-centered approach would likewise designate a representative to appear before the licensing board. In addition, the presiding officer may require consolidation of parties in accordance with § 2.316.

The Commission is willing to consider other methods of managing proceedings involving consideration of information common to several applications. For example, the Commission does not intend to foreclose the Chief Judge of the Panel from designating a licensing board to preside over common portions of applications on the motion of the applicants, even if separate proceedings have already been convened on one or more of the applications involved. In such a case, however, the applicants should jointly identify the common portions of their respective applications when requesting the Chief Judge to take such action. Petitioners admitted as parties to any affected proceeding would of course have the right to answer such a motion.

As stated above, upon issuance of a Notice of Hearing for a complete plant-specific application that includes information on ''common issues,'' the Chief Judge of the Panel should designate a licensing board to preside over the plant-specific portion of each application that is then complete. Each licensing board, whether designated to consider the common issues or a specific application, should manage its respective portion of the proceedings with due regard for our 1981 and 1998 policy statements. We emphasize that the Chief Judge of the Panel should not designate another licensing board to consider specific aspects of a proceeding unless the standards we enunciated in *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI–98–7, 47 NRC 307, 310–11 (1998) for doing so are met. These standards are that the proceeding involve discrete and separable issues; that multiple licensing boards can handle these issues more expeditiously than a single licensing board; and that the proceeding can be conducted without undue burden on the parties. *Id.*

An initial decision by the licensing board presiding over a proceeding on a joint submission containing information common to more than one plant-specific application will be a partial initial decision for which a party may request review under § 2.341 (as is also provided in Subpart D) and which we may review on our own motion. Such a decision would become part of each initial decision in the individual application proceedings, which will become final in accordance with the regulation that applies depending on which subpart of our Rules of Practice has been applied in a proceeding on a particular application (*e.g.,* § 2.713 under Subpart G; § 2.1210 under Subpart L). Accordingly, a decision on common issues would become final agency action only in the context of final Commission action with respect to an individual application.

Revisions of specific applications during the review process could result in formerly common issues being referred to the licensing board presiding over a specific portion of one or more applications. These issues would be resolved in the normal course of adjudication, but may well result in delay in final determination of the individual application.

2. COL Applications Referencing Design Certification Applications

With respect to a design for which certification has been requested but not yet granted, the Commission intends to follow its longstanding precedent that ''licensing boards should not accept in individual license proceedings contentions which are (or are about to become) the subject of general rule making by the Commission.'' *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, and 3), CLI–99–11, 49 NRC 328, 345 (1999), *quoting Potomac Elec. Power Co.* (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB–218, 8 AEC 79, 85 (1974). In accordance with these decisions, a licensing board should treat the NRC's docketing of a design certification application as the Commission's determination that the design is the subject of a general rule making. We believe that a contention that raises an issue on a design matter addressed in the design certification application should be resolved in the design certification rule making proceeding, and not the COL proceeding. Accordingly, in a COL proceeding in which the application references a docketed design certification application, the licensing board should refer such a contention to the staff for consideration in the design certification rule making, and hold that contention in abeyance, if it is otherwise admissible. Upon adoption of a final design certification rule, such a contention should be denied.

An individual applicant, nonetheless, may choose to request that the application be treated as a ''custom'' design, and thereby resolve any specific technical matter in the context of its individual application. An applicant might choose such a course if, for example, the referenced design certification application were denied, or the rule making delayed. The application-specific licensing board would then consider contentions on design issues, which otherwise would have been treated in the design certification proceeding. Similarly, a COL applicant referencing a design certification application may request an exemption from one or more elements of the requested design certification, as provided in § 52.63(b) and Section VIII of each appendix to 10 CFR Part 52 that certifies a design. As set forth in those provisions, such a request is subject to litigation in the same manner as other issues in a COL proceeding. Since the underlying element of the design may change after the exemption request is submitted, such an exemption may ultimately become unnecessary or may need to be reconsidered or conformed to the final design certification rule. Such matters would be considered by an application-specific licensing board. A licensing board considering a COL application referencing a design certification application might conclude the proceeding and determine that the COL application is otherwise acceptable before the design certification rule becomes final. In such circumstances, the license may not issue until the design certification rule is final, unless the applicant requests that the entire application be treated as a ''custom'' design.

COL applicants should coordinate with vendors applying for certified designs to ensure that decisions on design certification applications do not impede decisions on COL applications. If design certification is delayed, a licensing board considering common technical issues may likewise be delayed.

3. Subsequent Applications Referencing a Design Certification Rule

If initial COL applicants referencing a particular design certification rule succeed in obtaining COLs, the Commission fully expects subsequent COL applicants to reference that design certification rule. In this event, the Commission would expect to develop additional processes to facilitate coordination of proceedings on such applications. We observe, however, that an issue associated with such matters as operational programs or design

acceptance criteria may be resolved through the design-centered review approach for initial applications containing common information, but we do not intend to impose any resolution so obtained on subsequent COL applicants. While there is no requirement to adopt a previously-approved resolution of an issue, and subsequent applicants are free to use the most recent state-of-the-art methods to resolve such issues, we nevertheless urge such applicants to consider adopting previous resolutions in order to maximize plant standardization. If a COL applicant adopts an approach to a technical issue previously found acceptable, no further staff review of the adequacy of the approach is necessary. Rather, the staff review should be limited to verification that the applicant has indeed adopted the previously approved approach and will properly implement it.

C. ITAAC

In first promulgating 10 CFR Part 52 in 1989, we determined that hearings on whether the acceptance criteria in a COL have been met (ITAAC-compliance hearings) would be held in accordance with the Administrative Procedure Act (APA) provisions applicable to determining applications for initial licenses, but that we would specify the procedures to be followed in the Notice of Hearing. *See* § 52.103(b)(2)(i) (1990); 54 FR 15395. In enacting the Energy Policy Act of 1992, Congress subsequently confirmed our authority to adopt 10 CFR Part 52, and by statute accorded us additional discretion to determine procedures, whether formal or informal, for ITAAC-compliance hearings. *See* Atomic Energy Act section 189a.(1)(B)(iv), 42 U.S.C. 2239(a)(1)(B)(iv). We therefore amended § 52.103(d) to provide that we would determine, in our discretion, ''appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under [§ 52.103(a)].''

While we recognize that specification of procedures for the treatment of requests for hearings on ITAAC would lend some predictability to the ITAAC compliance process, we are not yet in a position to specify such procedures, since we have not approved even one complete set of ITAAC necessary for issuing a COL. Further, ITAAC-compliance hearings are likely several years distant, and we have no experience with the type and number of hearing requests that we might receive with respect to ITAAC compliance. While it may not be necessary to consider the first requests for ITAAC-compliance hearings in order for us to determine the procedures appropriate to govern such hearings, we believe it premature to specify such procedures now. In addition, the staff is now formulating guidance on the times necessary for the staff to consider different categories of completed ITAAC, and this guidance should assist licensees in scheduling and performing ITAAC so as to minimize the critical path for staff consideration of completed ITAAC.

In view of the above considerations, we have identified one measure to lend predictability to the ITAAC compliance process: The Commission itself will serve as the presiding officer with respect to any request for a hearing filed under § 52.103. In acting as the presiding officer under these circumstances, we will make three initial determinations. First, we will decide whether the person requesting the hearing has shown, *prima facie,* that one or more of the acceptance criteria in the COL have not been, or will not be met, and the attendant public health and safety consequences of such non-conformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety. Second, if we decide to grant a request for a hearing on ITAAC compliance, we will decide, pursuant to § 52.103(c), whether there will be reasonable assurance of adequate protection of the public health and safety during a period of interim operation. Third, we will designate the procedures under which the proceeding shall be conducted. We have amended § 52.103 and our Rules of Practice (§§ 2.309, 2.310, and 2.341) to incorporate these changes.

III. Conclusion

The Commission reiterates its long-standing commitment to the expeditious completion of adjudicatory proceedings while still ensuring that hearings are fair and produce an adequate record for decision. The Commission intends to monitor its proceedings to ensure that they are being concluded in a fair and timely fashion. To this end, the Commission will act in individual proceedings, as appropriate, to provide guidance to licensing boards and parties, and to decide issues in the interest of a prompt and effective resolution of the matters set for adjudication.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 4th day of June 2007.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–11264 Filed 6–8–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Audits of States, Local Governments, and Non-Profit Organizations; Circular A–133 Compliance Supplement

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability of the 2007 Circular A–133 Compliance Supplement.

SUMMARY: This notice announces the availability of the 2007 Circular A–133 Compliance Supplement. The notice also offered interested parties an opportunity to comment on the 2007 Circular A–133 Compliance Supplement. The 2007 Supplement adds three programs, as well as, includes seven existing programs combined into two existing clusters. It also deletes two programs, updates for program changes, and makes technical corrections. A list of changes to the 2007 Supplement can be found at Appendix V. Due to its length, the 2007 Supplement is not included in this Notice. See Addresses for information about how to obtain a copy.

DATES: The 2007 Supplement will apply to audits of fiscal years beginning after June 30, 2006 and supersedes the 2006 Supplement. All comments on the 2007 Supplement must be in writing and received by October 31, 2007. Late comments will be considered to the extent practicable.

Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

Electronic mail comments may be submitted to: *Hai_M._Tran@omb.eop.gov*. Please include ''A–133 Compliance Supplement—2007'' in the subject line and the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and E-mail address in the text of the message. Comments may also be submitted via facsimile to 202–395–3952.