NAVIGATING NUCLEAR: US NUCLEAR REGULATORY COMMISSION ISSUES FINAL RULES OF PRACTICE AND PROCEDURE

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US Policy and Regulatory Alert

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Since May 2025, we have been closely watching the US Nuclear Regulatory Commission's (NRC's) efforts to implement Executive Order 14300, *Ordering the Reform of the Nuclear Regulatory Commission*, which directs the agency to, among other things, complete a "wholesale revision" of its regulations.[1] The NRC completed a significant step in that effort with the approval of the final rule, *Streamlining Contested Adjudications in Licensing Proceedings*, published in the Federal Register on 3 November 2026.[2] The final rule, which represents the most significant changes to the NRC's rules of practice and procedure since 2004, will apply to contested adjudicatory proceedings noticed on or after 3 December 2026.[3]

In the final rule, the NRC refined and retained many elements of its proposed changes, although the agency walked back its proposals to impose limitations on nonlawyer representation and to require litigants to argue the merits of contentions before a ruling on contention admissibility.[4] Notably, the NRC revised its mandatory disclosures to eliminate the NRC staff's hearing file and reduce disclosure burdens on other participants by, for example, codifying the common practice of excluding nonpublic draft documents and certain internal communications.[5] The NRC also adopted clear deadlines for presiding officers to issue initial decisions, along with a streamlined Commission appeals process.[6]

The updated procedures in 10 CFR Part 2 are designed to reach resolution in licensing proceedings as soon as possible, consistent with the NRC-decision deadlines in Executive Order 14300.[7] To this end, the new rules require that evidentiary hearings begin "as soon as practicable" and that the presiding officer follow strict deadlines for the completion of hearings.[8] The major provisions of the final rule drive the NRC towards this goal, with streamlined hearing tracks, strict completion dates, and clarified contention admissibility requirements.[9]

The final rule establishes three tracks of contested proceedings based on the complexity and anticipated review schedule of the underlying application. These tracks do not apply to proceedings involving license transfers, enforcement, denial of an application, high-level waste geological repositories, or proceedings related to the initial operation under a Combined License issued under 10 C.F.R. Part 52 or 53.[10]

STANDARD PROCEEDINGS

Standard Proceedings are the most complex proceedings, usually subject to an 18-month schedule.[11] These proceedings generally include applications for commercial reactor construction permits, operating licenses, and combined licenses that do not reference a design certification, manufacturing licenses, or similar "NRC approval

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providing finality on design matters."[12] They also include certain uranium enrichment, uranium recovery, fuel-cycle, and low-level radioactive waste disposal facility proceedings.[13]

FOCUSED PROCEEDINGS

Focused Proceedings are less complex proceedings, usually those subject to a 12-month schedule or those subject to an 18-month schedule where the NRC strives for a faster review (e.g., a Combined License application that references a certified design).[14] These proceedings generally include license renewals, license amendments, early site permits, limited work authorizations, several types of materials licensing proceedings, and applications for subsequent implementation of previously designed, constructed, and operated reactor technologies.[15]

EXPEDITED PROCEEDINGS

Expedited Proceedings are the simplest proceedings or those with the narrowest scope.[16] These proceedings include measurement uncertainty recapture uprates, stretch power uprates, amendments relying on approved Technical Specifications Task Force travelers, and applications that reference both a categorical exclusion and an NRC approval providing issue finality.[17] The NRC notes there is a possibility that it may expand the scope of expedited proceedings in a future rulemaking.[18]

The NRC expects these tracks to support completion of standard and focused proceedings within approximately 11–13.5 months, with expedited matters completed in under six months.[19]

In each instance the NRC is establishing a "Standard Hearing Completion Date," which identifies "a time after which certain evidentiary hearing schedules are accelerated" and "when proposed contentions raising new issues must meet the standards for reopening the record."[20]

The final rule removes 10 CFR Part 2, Subpart M, which had provided a separate hearing track for license transfer proceedings.[21] These proceedings will now be conducted under Subpart L, with an Atomic Safety and Licensing Board serving as the presiding officer.[22]

The rule also establishes accelerated deadlines for presiding-officer decisions on hearing requests and contentions. Those deadlines may be extended only when extraordinary circumstances prevent a timely decision.

The final rule does not change requirements for standing or raise the basic admissibility standard for contentions. It does, however, refine the contention requirements in two respects: (1) petitioners are now required to identify the legal requirement underlying their contentions, and (2) petitioners must now indicate whether their contention is one of adequacy or omission.[23]

The first NRC proceedings under these new procedures are likely to begin within the next few months. The firm's Policy and Regulatory team is available to counsel and represent applicants, licensees, and other participants in NRC licensing proceedings under the new rules, from developing hearing and contention strategies through discovery, evidentiary hearings, and appeals.

FOOTNOTES

[1] Executive Order 14300, "Ordering the Reform of the Nuclear Regulatory Commission," 90 Fed Reg. 22587 (May

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29, 2025) (EO 14300).

[2] 91 Fed. Reg. 69,446.

[3] *Id*.

[4] *Id*. at 69,452-69,453.

[5] *Id*. at 69,458.

[6] *Id*. at 69,460 and 69,467.

[7] *See* EO 14300.

[8] 91 Fed. Reg. at 69,452.

[9] *See Id.* at 69,446.

[10] 91 Fed. Reg. at 69,451. See 10 C.F.R. 52.103 and 53.1452 (providing an additional limited hearing opportunity prior to the start of reactor operations under a Part 52 or Part 53 combined license).

[11] 91 Fed. Reg. at 69,462.

[12] *Id*. at 69,449-69,450.

[13] *Id*.at 69,450.

[14] *Id*.

[15] *Id*.

[16] *Id*.

[17] *Id*. at 69,450-69,451.

[18] *Id*. at 69,451.

[19] *Id.* at 64,446.

[20] *Id*. at 64,451; *see* 10 C.F.R. § 2.326 (providing criteria to reopen a closed record).

[21] 91 Fed. Reg. at 69,456.

[22] *Id.* at 69,456. The Commission had served as presiding officer for license transfer proceedings conducted under Subpart M.

[23] *Id*. at 69,453.

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