

Nuclear Regulatory Commission

§ 2.302

Director of the NRC office with responsibility for the subject matter of the request for appropriate action in accordance with paragraph (b) of this section.

(b) Within a reasonable time after a request pursuant to paragraph (a) of this section has been received, the Director of the NRC office with responsibility for the subject matter of the request shall either institute the requested proceeding in accordance with this subpart or shall advise the person who made the request in writing that no proceeding will be instituted in whole or in part, with respect to the request, and the reasons for the decision.

(c)(1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty-five (25) days after the date of the Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the staff on a formal or informal basis regarding institution of proceedings under this section.

(2) No petition or other request for Commission review of a Director's decision under this section will be entertained by the Commission.

(3) The Secretary is authorized to extend the time for Commission review on its own motion of a Director's denial under paragraph (c) of this section.

[39 FR 12353, Apr. 5, 1974, as amended at 42 FR 36240, July 14, 1977; 45 FR 73466, Nov. 5, 1980; 52 FR 31608, Aug. 21, 1987; 53 FR 43419, Oct. 27, 1988; 64 FR 48948, Sept. 9, 1999; 68 FR 58799, Oct. 10, 2003; 69 FR 2236, Jan. 14, 2004; 69 FR 41749, July 12, 2004; 74 FR 62679, Dec. 1, 2009; 80 FR 74978, Dec. 1, 2015]

Subpart C—Rules of General Applicability: Hearing Requests, Petitions To Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings

SOURCE: 69 FR 2236, Jan. 14, 2004, unless otherwise noted.

§ 2.300 Scope of subpart C.

The provisions of this subpart apply to all adjudications conducted under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and 10 CFR Part 2, unless specifically stated otherwise in this subpart.

§ 2.301 Exceptions.

Consistent with 5 U.S.C. 554(a)(4) of the Administrative Procedure Act, the Commission may provide alternative procedures in adjudications to the extent that the conduct of military or foreign affairs functions is involved.

§ 2.302 Filing of documents.

(a) Documents filed in Commission adjudicatory proceedings subject to this part shall be electronically transmitted through the E-Filing system, unless the Commission or presiding officer grants an exemption permitting an alternative filing method or unless the filing falls within the scope of paragraph (g)(1) of this section.

(b) Upon an order from the Commission or presiding officer permitting alternative filing methods, or as otherwise set forth in Guidance for Electronic Submissions to the NRC, documents may be filed by:

(1) First-class mail: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff; or

(2) Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff.

(c) All documents offered for filing must be accompanied by a certificate of service stating the names and addresses of the persons served as well as the manner and date of service.

(d) Filing is considered complete:

(1) By electronic transmission when the filer performs the last act that it must perform to transmit a document, in its entirety, electronically;

(2) By first-class mail as of the time of deposit in the mail;

(3) By courier, express mail, or expedited delivery service upon depositing the document with the provider of the service; or

(4) If a filing must be submitted by two or more methods, such as a filing that the Guidance for Electronic Submission to the NRC indicates should be transmitted electronically as well as physically delivered or mailed on optical storage media, the filing is complete when all methods of filing have been completed.

(e) For filings by electronic transmission, the filer must make a good faith effort to successfully transmit the entire filing. Notwithstanding paragraph (d) of this section, a filing will not be considered complete if the filer knows or has reason to know that the entire filing has not been successfully transmitted.

(f) *Digital ID Certificates.* (1) Through digital ID certificates, the NRC permits participants in the proceeding to access the E-Filing system to file documents, serve other participants, and retrieve documents in the proceeding.

(2) Any participant or participant representative that does not have a digital ID certificate shall request one from the NRC before that participant or representative intends to make its first electronic filing to the E-Filing system. A participant or representative may apply for a digital ID certificate on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

(3) *Group ID Certificate.* A participant wishing to obtain a digital ID certificate valid for several persons may obtain a group digital ID certificate. A Group ID cannot be used to file documents. The Group ID provides access to the E-Filing system for the individuals specifically identified in the group's application to retrieve documents re-

cently received by the system. The Group ID also enables a group of people, all of whom may not have individual digital ID certificates, to be notified when a filing has been made in a particular proceeding.

(g) *Filing Method Requirements—(1) Electronic filing.* Unless otherwise provided by order, all filings must be made as electronic submissions in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

If a filing contains sections of information or electronic formats that may not be transmitted electronically for security or other reasons, the portions not containing those sections will be transmitted electronically to the E-Filing system. In addition, optical storage media (OSM) containing the entire filing must be physically delivered or mailed. In such cases, the submitter does not need to apply to the Commission or presiding officer for an exemption to deviate from the requirements in paragraph (g)(1) of this section.

(2) *Electronic transmission exemption.* Upon a finding of good cause, the Commission or presiding officer can grant an exemption from electronic transmission requirements found in paragraph (g)(1) of this section to a participant who is filing electronic documents. The exempt participant is permitted to file electronic documents by physically delivering or mailing an OSM containing the documents. A participant granted this exemption would still be required to meet the electronic formatting requirement in paragraph (g)(1) of this section.

(3) *Electronic document exemption.* Upon a finding of good cause, the Commission or presiding officer can exempt a participant from both the electronic (computer file) formatting and electronic transmission requirements in paragraph (g)(1) of this section. A participant granted such an exemption can file paper documents either in person or by courier, express mail, some

other expedited delivery service, or first-class mail, as ordered by the Commission or presiding officer.

(4) *Requesting an exemption.* A filer seeking an exemption under paragraphs (g)(2) or (g)(3) of this section must submit the exemption request with its first filing in the proceeding. In the request, a filer must show good cause as to why it cannot file electronically. The filer may not change its formats or delivery methods for filing until a ruling on the exemption request is issued. Exemption requests under paragraphs (g)(2) or (g)(3) of this section sought after the first filing in the proceeding will be granted only if the requestor shows that the interests of fairness so require.

[72 FR 49149, Aug. 28, 2007]

§ 2.303 Docket.

The Secretary shall maintain a docket for each proceeding conducted under this part, commencing with either the initial notice of hearing, notice of proposed action, order, request for hearing or petition for leave to intervene, as appropriate. The Secretary shall maintain all files and records of proceedings, including transcripts and video recordings of testimony, exhibits, and all papers, correspondence, decisions and orders filed or issued. All documents, records, and exhibits filed in any proceeding must be filed with the Secretary as described in §§ 2.302 and 2.304.

§ 2.304 Formal requirements for documents; signatures; acceptance for filing.

(a) *Docket numbers and titles.* Each document filed in an adjudication to which a docket number has been assigned must contain a caption setting forth the docket number and the title of the proceeding and a description of the document (e.g., motion to quash subpoena).

(b) *Paper documents.* In addition to the requirements in this part, paper documents must be stapled or bound on the left side; typewritten, printed, or otherwise reproduced in permanent form on good unglazed paper of standard letterhead size; signed in ink by the participant, its authorized representative, or an attorney having au-

thority with respect to it; and filed with an original and two conforming copies.

(c) *Format.* Each page in a document must begin not less than one inch from the top, with side and bottom margins of not less than one inch. Text must be double-spaced, except that quotations may be single-spaced and indented. The requirements of this paragraph do not apply to original documents, or admissible copies, offered as exhibits, or to specifically prepared exhibits.

(d) *Signatures.* The original of each document must be signed by the participant or its authorized representative, or by an attorney having authority with respect to it. The document must state the capacity of the person signing; his or her address, phone number, and e-mail address; and the date of signature. The signature of a person signing a pleading or other similar document submitted by a participant is a representation that the document has been subscribed in the capacity specified with full authority, that he or she has read it and knows the contents, that to the best of his or her knowledge, information, and belief the statements made in it are true, and that it is not interposed for delay. The signature of a person signing an affidavit or similar document, which should be submitted in accord with the form outlined in 28 U.S.C. 1746, is a representation that, under penalty of perjury, the document is true and correct to the best of that individual's knowledge and belief. If a document is not signed, or is signed with intent to defeat the purpose of this section, it may be struck.

(1) An electronic document must be signed using a participant's or a participant representative's digital ID certificate. Additional signatures can be added to the electronic document, including to any affidavits that accompany the document, by a typed-in designation that indicates the signer understands and acknowledges that he or she is assenting to the representations in paragraph (d) of this section.

(i) When signing an electronic document using a digital ID certificate, the signature page for the electronic document should contain a typed signature block that includes the phrase "Signed