

CFR part 2 on specific and substantial disputes of fact, necessary for the Commission's decision, that cannot be resolved with sufficient accuracy except in a formal hearing. The NRC staff will be a party in the hearing.

(c) The decision in such a hearing will be based only on information on which all parties have had an opportunity to comment, either in response to the notice of proposed rulemaking or in the informal hearing.

(d) Proprietary information will be protected in the same manner and to the same extent as proprietary information submitted in connection with applications for construction permits and operating licenses under 10 CFR part 50. However, the design certification is published in 10 CFR Chapter I. The provisions of 10 CFR 2.790 do not limit the protection provided under this paragraph.

§ 52.115 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.

§ 52.117 Issuance of standard design certification.

After conducting a rulemaking proceeding under § 52.113 on an application for a standard design certification and receiving the report to be submitted by the Advisory Committee on Reactor Safeguards under § 52.115, and upon determining that the application meets the applicable standards and requirements of the Atomic Energy Act and the Commission's regulations, the Commission shall issue a standard design certification in the form of a rule for the design which is the subject of the application.

§ 52.119 Duration of certification.

(a) Except as provided in paragraph (b) of this section, a standard design certification issued under this subpart is valid for fifteen years from the date of issuance.

(b) A standard design certification continues to be valid beyond the date of expiration in any proceeding on an application for a combined license or an operating license that references the standard design certification and is docketed either before the date of expiration of the certification, or, if a timely application for renewal of the certification has been filed, before the Commission has determined whether to renew the certification. A design certification also continues to be valid

beyond the date of expiration in any hearing held under § 52.231 before operation begins under a combined license that references the design certification.

(c) An applicant for a construction permit or a combined license may, at its own risk, reference in its application a design for which a design certification application has been docketed but not granted.

§ 52.121 Application for renewal.

(a) Not less than twelve nor more than thirty-six months before the expiration of the initial fifteen-year period, or any later renewal period, any person may apply for renewal of the certification. An application for renewal must contain all information necessary to bring up to date the information and data contained in the previous application. The Commission will require, prior to renewal of certification, that information normally contained in certain procurement specifications and construction and installation specifications be completed and available for audit if this information is necessary for the Commission to make its safety determination. Notice and comment procedures must be used for a rulemaking proceeding on the application for renewal. The Commission, in its discretion, may require the use of additional procedures in individual renewal proceedings.

(b) A design certification, either original or renewed, for which a timely application for renewal has been filed remains in effect until the Commission has determined whether to renew the certification. If the certification is not renewed, it continues to be valid in certain proceedings, in accordance with the provisions of § 52.119.

(c) The Commission shall refer a copy of the application for renewal 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 § 52.123.

§ 52.123 Criteria for renewal.

(a) The Commission shall issue a rule granting the renewal if the design, either as originally certified or as modified during the rulemaking on the renewal, complies with the Atomic Energy Act and the Commission's regulations applicable and in effect at the time the certification was issued. The Commission may impose other requirements after it determines that there is a substantial increase in overall protection of the public health and safety or the common defense and

security to be derived from the new requirements and that the direct and indirect costs of implementing those requirements are justified in view of this increased protection. In addition, the applicant for renewal may request an amendment to the design certification. The Commission shall grant the amendment request if it determines that the amendment will comply with the Atomic Energy Act and the Commission's regulations in effect at the time of renewal. If the amendment request entails such an extensive change to the design certification that an essentially new standard design is being proposed, an application for a design certification must be filed in accordance with this subpart.

(b) Denial of renewal does not bar the applicant, or another applicant, from filing a new application for certification of the design, which proposes design changes that correct the deficiencies cited in the denial of the renewal.

§ 52.125 Duration of renewal.

Each renewal of certification for a standard design will be for not less than ten nor more than fifteen years.

§ 52.127 Finality of standard design certifications.

(a)(1) Notwithstanding any provision in 10 CFR 50.109, while a standard design certification rule is in effect under § 52.119 or 52.125, the Commission may not modify, rescind, or impose new requirements on the certification information, whether on its own motion, or in response to a petition from any person, unless the Commission determines in a rulemaking that the change:

(i) Is necessary either to bring the certification information or the referencing plants into compliance with the Commission's regulations applicable and in effect at the time the certification was issued;

(ii) Is necessary to provide adequate protection of the public health and safety or the common defense and security; or

(iii) Reduces unnecessary regulatory burden and maintains protection to public health and safety and the common defense and security.

(2) The rulemaking procedures must provide for notice and comment and an opportunity for the party which applied for the certification to request an informal hearing which uses the procedures described in § 52.113 of this subpart.

(3) Any modification the NRC imposes on a design certification rule under paragraph (a)(1) of this section will be applied to all plants referencing