

terms of the site redress plan. If a use not envisaged in the redress plan is found for the site or parts thereof before redress is complete, the applicant shall carry out the redress plan to the greatest extent possible consistent with the alternate use.

#### **§ 52.225 Exemptions and variances.**

(a) Applicants for a combined license under this subpart, or any amendment to a combined license, may include in the application a request, under 10 CFR 50.12, for an exemption from one or more of the Commission's regulations, including any part of a design certification rule. The Commission may grant such a request if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a) or 52.127(b)(1) if the exemption includes any part of the design certification rule.

(b) An applicant for a combined license, or any amendment to a combined license, who has filed an application referencing an early site permit issued under this subpart may include in the application a request for a variance from one or more elements of the permit. In determining whether to grant the variance, the Commission shall apply the same technically relevant criteria as were applicable to the application for the original or renewed site permit. Issuance of the variance is subject to litigation during the combined license proceeding in the same manner as other issues material to that proceeding.

#### **§ 52.227 Issuance of combined licenses.**

(a)(1) The Commission shall issue a combined license for a nuclear power facility upon finding that the applicable requirements of 10 CFR 50.40, 50.42, 50.43, 50.47, and 50.50 have been met, and that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's rules and regulations.

(2) The Commission may also find, at the time it issues the combined license, that certain acceptance criteria in one or more of the inspections, tests, analyses, and acceptance criteria (ITAAC) in the combined license have been met. Such a finding will preclude any required finding under § 52.231(g) with respect to that ITAAC.

(b)(1) The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be

operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations.

(2) Any modification to, addition to, or deletion from the terms of a combined license, including any modification to, addition to, or deletion from the inspections, tests, analyses, or related acceptance criteria contained in the license is a proposed amendment to the license. There must be an opportunity for a hearing on these amendments.

(3) The Commission may issue and make immediately effective any amendment to a combined license upon a determination by the Commission that the amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. The amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. The amendment will be processed in accordance with the procedures specified in 10 CFR 50.91.

(c) If the combined license does not reference a certified design, then a licensee may make changes in the facility as described in the final safety analysis report (as updated), make changes in the procedures as described in the final safety analysis report (as updated), and conduct tests or experiments not described in the final safety analysis report (as updated) under the applicable change processes in 10 CFR part 50 (e.g., § 50.54, § 50.59, or § 50.90).

(d) If the combined license references a certified design, then—

(1) Changes to or departures from information within the scope of the referenced design certification rule are subject to the applicable change processes in that rule; and

(2) Changes that are not within the scope of the referenced design certification rule are subject to the applicable change processes in 10 CFR part 50 unless they involve changes to or non-compliance with information within the scope of the referenced design certification rule, in which case the applicable provisions of this section and/or the design certification rule apply.

(e) A combined license is issued for a specified period not to exceed 40 years from the date on which the Commission makes the finding required under § 52.231(g).

#### **§ 52.229 Inspection during construction.**

(a) Holders of combined licenses shall comply with the provisions of 10 CFR 50.70 and 50.71.

(b) With respect to activities subject to an ITAAC, an applicant for a combined license may proceed at its own risk with design and procurement activities, and a licensee may proceed at its own risk with design, procurement, construction, and pre-operational activities, even though the NRC may not have found that any particular ITAAC has been satisfied.

(c) The licensee shall notify the NRC that the inspections, tests, or analyses in the ITAAC have been successfully completed and that the corresponding acceptance criteria have been met.

(d) In the event that an activity is subject to an ITAAC and the licensee has not demonstrated that the ITAAC has been satisfied, the licensee may take corrective actions to successfully complete that ITAAC, request an exemption from the ITAAC in accordance with the applicable change process in the referenced design certification rule, or request a license amendment under § 52.227(b), as applicable.

(e) The NRC staff shall ensure that the required inspections, tests, and analyses in the ITAAC are performed. At appropriate intervals during construction, the NRC shall publish notices in the **Federal Register** of the successful completion of inspections, tests, and analyses.

#### **§ 52.231 Operation under a combined license.**

(a) Not less than one hundred and eighty days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined license under Subpart G of this part, the Commission shall publish notice of intended operation in the **Federal Register**. That document must provide that any person whose interest may be affected by operation of the plant may, within 60 days, request that the Commission hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the ITAAC in the combined license, except for those ITAAC that the Commission found were met under § 52.227(a)(2).

(b) A request for hearing under paragraph (a) of this section must show, *prima facie*, that—

(1) One or more of the acceptance criteria of the ITAAC in the combined license have not been, or will not be met; and

(2) The specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate