

and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) *Payment of fees.* You must pay witness fees for current OGE employees and any records certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former OGE employees, you must pay applicable fees directly to the former employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(d) *Certification (authentication) of copies of records.* The Office of Government Ethics may certify that records are true copies in order to facilitate their use as evidence. If you seek certification, you must request certified copies from OGE at least 45 days before the date they will be needed. The request should be sent to the General Counsel. You will be charged a certification fee of \$15.00 for each document certified.

(e) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(f) *De minimis fees.* Fees will not be assessed if the total charge would be \$10.00 or less.

## Subpart D—Penalties

### § 2608.401 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by OGE or as ordered by a Federal court after OGE has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former OGE employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current OGE employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action.

[FR Doc. 01-23771 Filed 9-21-01; 8:45 am]

BILLING CODE 6345-01-U

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 2, 50, 51, and 52

[Docket No. PRM-52-2]

### Nuclear Energy Institute; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated July 18, 2001, which was filed with the Commission by the Nuclear Energy Institute (NEI). The petition was docketed by the NRC on July 24, 2001, and has been assigned Docket No. PRM-52-2. The petition requests that the NRC eliminate the requirement that an early site permit applicant evaluate, and that the NRC review, alternative sites, and remove provisions regarding the siting, construction, and operation of nuclear power plants which require applicants and licensees to analyze, and the NRC to evaluate, alternative sites, alternative energy sources, and the need for power. **DATES:** Submit comments by November 8, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date.

**ADDRESSES:** Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

You may also provide comments via the NRC's interactive rulemaking website at <http://ruleforum.nlnl.gov>. This site allows you to upload comments as files in any format, if your web browser supports the function. The petition and any public comments received are available on the site. For information about the interactive rulemaking website, contact Carol Gallagher at (301) 415-5905 or via e-mail at [cag@nrc.gov](mailto:cag@nrc.gov).

The petition and copies of comments received may be inspected, and copied

for a fee, at the NRC Public Document Room, (first floor) 11555 Rockville Pike, Rockville, Maryland.

### FOR FURTHER INFORMATION CONTACT:

Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: 301-415-7163 or Toll-free: 1-800-368-5642. E-mail: [MTL@NRC.GOV](mailto:MTL@NRC.GOV).

### SUPPLEMENTARY INFORMATION:

#### Background

The Nuclear Regulatory Commission received a petition for rulemaking dated July 18, 2001, submitted by the Nuclear Energy Institute (the petitioner). The petition was docketed by the NRC on July 24, 2001, and has been assigned Docket No. PRM-52-2.

#### The Petitioner

The petitioner (the Nuclear Energy Institute or NEI) claims representational responsibility for coordinating the combined efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues and regulatory aspects of generic operational and technical issues affecting the nuclear power industry.

#### The Petitioner's Request

The petitioner believes that the NRC, in implementing the National Environmental Policy Act of 1969 (NEPA), has imposed requirements on the content of environmental impact reviews that are unnecessary under the statute, unduly burdensome to both industry and the NRC, and outside the scope of the agency's mission. Specifically, the petitioner requests that the NRC amend part 52, subpart A, *Early Site Permits*, §§ 52.17(a)(2) and 52.18, to remove provisions that the petitioner believes are more appropriately dealt with through the application of 10 CFR part 51, *National Environmental Policy Act—Regulations Implementing Sec. 102(2)*. The petitioner further requests that the NRC amend 10 CFR part 51 and revise associated NRC regulations and guidance regarding the siting, construction, operation, and license renewal of nuclear power plants (e.g., 10 CFR part 51, appendix A to subpart A) to remove the requirement for applicants and licensees to conduct an analysis of and for the NRC to evaluate alternative sites, alternative sources of energy, and the need for power. The petitioner emphasizes that its proposed amendments would not affect any other required reviews of matters pertinent to

the NRC's responsibilities (e.g., seismology, hydrology, meteorology, endangered species, water use, thermal discharges).

The petitioner contends that although NEPA requires consideration of "alternatives" to proposed actions, it does not specifically require alternative site reviews. The petitioner cites several NRC regulations that specify that an alternative site review must be conducted, including 10 CFR 2.101(a)(3)(ii), 2.101(a-1)(1), 2.603(b)(1), 2.605(b)(1), 52.17(a)(2), and 52.18; 10 CFR Part 50, Appendix Q.2 and 7; 10 CFR Part 52, Appendix Q.2 and 7. Similarly, the petitioner claims that NEPA does not specifically require an analysis of alternative sources of energy or of the need for power. However, the NRC's implementing regulations in 10 CFR part 51 currently require that those matters be addressed. General guidance on how environmental reviews are to be conducted is provided in Regulatory Guide 4.2, "Preparation of Environmental Reports for Nuclear Power Plants" (July 1976), and in NUREG-1555, "Environmental Standard Review Plan" (March 2000), which, the petitioner notes, also call for a review of alternative sites, alternative energy sources, and need for power.

The petitioner contends that the NRC has the statutory authority to revise its regulations to eliminate the NRC's review of such issues. The petitioner also cites a February 28, 2001, letter from NRC Chairman Meserve to Senator Domenici, Chairman of the U.S. Senate Committee on Appropriations Subcommittee on Energy and Water Development, which states that the evaluation of alternative sites, alternative sources of power, and the need for generating capacity are matters "that are distant from NRC's mission." The petitioner argues that the Commission can and should conclude that, because of the fundamental changes that have occurred in the electricity market, these reviews are no longer required in the NRC's implementation of NEPA.

### Justification for the Petition

#### NEPA Requirements

The petitioner begins by reviewing the provisions of NEPA and their application in NRC proceedings concerning the siting, construction, and operation of nuclear power plants. The petitioner notes that Section 102(2)(C) of NEPA requires Federal agencies, as part of the decision-making process, to prepare an analysis weighing the environmental costs and benefits of all "major Federal actions significantly

affecting the quality of the human environment." The "detailed statement" that the agency is required to prepare and publicly disclose must evaluate: the environmental impacts of the proposed action; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity; and any irreversible and irretrievable commitments of resources that would be involved if the proposed action were to be implemented.

The petitioner further notes that the environmental report submitted with an application requesting NRC action serves as the basis for the NRC's evaluation of the environmental impacts of major agency decisions—e.g., to issue or deny a permit or license as applied for, or to impose terms or conditions upon a permit or license in light of the NEPA review.

#### The Role of State and Local Governments

The petitioner then addresses the relative jurisdictions of the NRC and State and local governments with respect to the location, construction, and operation of electric power plants. The petitioner points out that the NRC's licensing process does not change the division of authority between the Federal Government and the States over the siting of electric generating facilities. The petitioner argues that an NRC license or permit constitutes approval of a site or plant only under the Federal statutes and regulations administered by the NRC, not under other applicable laws. By way of example, the petitioner notes that individual State laws may require a State determination of the need for power and an evaluation of alternative energy sources, or may require the issuance of a certificate of public convenience and necessity, as well as various environmental permits. The petitioner further notes that local zoning laws may control how a potential site is used.

*Legal and Regulatory Basis of State Primacy.* The petitioner claims that Section 271 of the Atomic Energy Act explicitly preserves State authority over the generation, sale, and transmission of electric power produced by nuclear plants (42 U.S.C. sec. 2018). The petitioner says that, based on this provision and clear Congressional intent, the Supreme Court has held that States have jurisdiction over "the need for additional generating capacity, the type of generating capacity to be

licensed, land use, ratemaking, and the like" (*Pacific Gas & Electric Co. v. State Energy Resources Conservation and Development Comm.*, 461 U.S. 190, 1983).

According to the petitioner, the NRC itself explicitly recognized the limited extent of its authority in the evaluation of alternatives in Footnote 4 to 10 CFR 51.71(e), *Preliminary Recommendation*, which reads: "The consideration of reasonable alternatives to a proposed action involving nuclear power reactors (e.g., alternative energy sources) is intended to assist the NRC in meeting its NEPA obligations and does not preclude any State authority from making separate determinations with respect to these alternatives and in no way preempts, displaces, or affects the authority of States or other Federal agencies to address these issues."

*Persistent State Concerns about the License Renewal Process.* The petitioner claims that many States nonetheless expressed concern that the NRC's findings in license renewal proceedings, even though not legally dispositive, would establish an official Federal position that would be difficult to rebut in State proceedings. Specifically, the States expressed concern that the NRC's consideration of the need for power and alternative energy sources in the license renewal Generic Environmental Impact Statement (NUREG 1437, Chapters 8 and 9), and associated proposed amendments to part 51, would infringe on State jurisdiction over economic regulation of electric utilities.

*The NRC's Response to State Concerns.* The petitioner states that the NRC issued a supplement to its proposed license renewal rule in order to address the States' concerns and respond to questions raised by the U.S. Environmental Protection Agency and the Council for Environmental Quality. The petitioner says that this supplement addressed whether, under NEPA, the NRC could and should remove from its consideration issues over which States have primary jurisdiction. The petitioner claims that in the supplement the NRC, having reconsidered its NEPA responsibilities with respect to license renewal, correctly (1) recognized the primacy of State regulatory decisions regarding future energy options, (2) acknowledged that the choice of energy options will be made by the electricity generating company, and (3) stated that the purpose of the major Federal action in license renewal proceedings is " \* \* \* to preserve the option of continued operation of the nuclear power plant for State regulatory and utility officials in their future energy planning decisions."

*The Major Federal Action in License Renewal Proceedings.* The petitioner emphasizes that the NRC concluded in this supplement that the proposed major Federal action in license renewal proceedings does not involve deciding whether the plant seeking license renewal is at the best possible site or whether there is or will be a need for the power generated by the plant. The petitioner says that the NRC's definition of the proposed Federal action in the supplement accurately reflects what is really at issue in license renewal proceedings, namely, the establishment of a stable and predictable regulatory approach to determining whether the option of nuclear power as a source of generating capacity at a given site can be considered in future State energy planning decisions. The petitioner concludes that the NRC can reasonably consider only two basic alternatives in such proceedings: the agency may either renew the license and preserve the nuclear option at that particular site, or decline to renew the license (59 FR 37725; July 25, 1994).

The petitioner concedes that the NRC decided to examine alternative sources of future generating capacity as part of its NEPA review in the license renewal context. The petitioner believes that the NRC should reconsider that decision on the grounds that it is fundamentally inconsistent with related NRC decisions.

*Application of NEPA to the Siting, Construction, and Operation of Nuclear Power Plants*

The petitioner believes that future plants will be licensed under Part 52, but stresses that the elimination of NRC requirements concerning need for power, alternative sources and alternative sites is appropriate regardless of whether plants are licensed under Part 52 or Part 50, and asks that its analysis be read accordingly.

*The Role of Early Site Permits.* The provisions of Subpart A of 10 CFR part 52 apply to applicants seeking an early site permit (ESP) separate from an application for a construction permit or a combined license for a nuclear power plant. According to the petitioner, the basic purpose of Subpart A, consistent with all of Part 52, is to resolve all site suitability issues in a licensing proceeding as early as possible, before large commitments of resources are made. The petitioner states that the importance of raising and resolving all environmental issues as part of the ESP proceeding is recognized in 10 CFR 52.39(a)(2), *Finality of early site permit determinations*, which reads in part: "In

making the findings required for the issuance of a construction permit, operating license, or combined license, or the findings required by § 52.103 of this part, if the application for the construction permit, operating license, or combined license references an early site permit, *the Commission shall treat as resolved those matters resolved in a proceeding on the application for issuance or renewal of an early site permit* \* \* \* (emphasis added by the petitioner).

*NEPA Review in 10 CFR Part 52.* The petitioner states that, at the time Part 52 was promulgated, the NRC staff felt it was necessary to include language that further refined its interpretation of the scope of the agency's NEPA review. The petitioner says that the first change clarified that a need-for-power analysis need not be included in the environmental report that is part of the early site permit (ESP) application, but could be deferred until the combined license (COL) stage. The second change related to performing an alternative site analysis. According to the petitioner, because early site permitting is a siting decision, the NRC revised Part 52 to state explicitly that an alternative site analysis was necessary at the ESP stage to determine if there is an "obviously superior" (§ 52.18) alternative to the site proposed. As a result, 10 CFR 52.17(a)(2) and 52.18 provide that the environmental report for an ESP need not include an assessment of the need for power, but must include an evaluation of alternative sites.

The petitioner contends that the provisions of Part 52 relative to alternative site reviews are based on an interpretation of NEPA that is neither necessary, nor desirable, nor reflective of the evolving electricity marketplace.

*Definition of the Major Federal Action in ESP and COL Proceedings.* The petitioner notes that, in the context of an ESP, the proposed "major Federal action" is the granting of a permit for a site for one or more nuclear power plants. To actually build and operate one or more nuclear plants on that site, an applicant must also obtain a combined license (COL). In a COL proceeding, the petitioner says, the proposed "major Federal action" is the approval to build and subsequently operate a particular nuclear plant at a specified site. If the COL references an ESP, the site approval is already established, and the site suitability issue reduces to whether the proposed nuclear power plant(s) fit within the ESP's environmental envelope. The petitioner claims that, if the COL applicant does not reference an ESP, the "major Federal action" with respect to

approving the specified site is the same as for an ESP. The petitioner emphasizes that in *none* of these cases (i.e., ESP or COL with or without a referenced ESP) is the proposed action a matter of deciding whether there is a need for power, whether an applicant should select a different site, or which of various possible sources of electric generating capacity best meets the State's or the region's needs, provides the most economic electricity to ratepayers, or is environmentally most benign.

*The Applicant's Goal.* The petitioner contends that its proposal to eliminate consideration of such alternatives by the NRC is based on a fundamental principle of NEPA law, namely, that an agency need only consider alternatives that will accomplish the applicant's goal. The petitioner says that the ESP applicant's goal is to determine whether the proposed site satisfies statutory and NRC regulatory requirements as a suitable location for a nuclear power plant. Similarly, the petitioner says, the goal of a COL applicant is to determine whether the proposed plant satisfies applicable safety and environmental requirements, including the criteria established in any referenced ESP. The petitioner therefore concludes that the only site suitability issue before the NRC in either an ESP or COL proceeding is whether that site is suitable for one or more nuclear facilities. Thus, alternative sites are not "reasonable alternatives" under NEPA and need not be addressed in ESP and COL applications.

Under NEPA, the NRC must consider the no-action alternative and any actions that could mitigate the environmental impact of the proposed plant. The petitioner argues that, beyond this, the NRC must consider only those alternatives that serve the purpose for which an applicant is seeking approval, and, according to the petitioner, there are none. ESP and COL applicants, the petitioner reiterates, seek to obtain a determination on whether the proposed site and facilities meet all applicable NRC requirements, not a decision as to whether one or more nuclear facilities should, or will, be built, nor how or how much or where electricity should be generated in the future. In the petitioner's view it is unnecessary and inappropriate both for the NRC to require applicants to conduct a NEPA analysis of such issues, and for the agency to expend its own limited resources to evaluate possible alternative sources of electricity, alternative sites, or the need for power.

*Agency Discretion under NEPA.* The petitioner maintains that each Federal

agency considering a major proposed action is charged with determining what alternatives are reasonable and should be considered under NEPA. According to the petitioner, the fact that the NRC modified the scope of its NEPA review in license renewal proceedings is evidence that the agency also has the authority to determine what matters are pertinent to NEPA evaluation of applications to site and build new nuclear power plants.

*Limits of NRC's Authority.* The petitioner further claims that, if the NRC were to deny an application for reasons related to alternative sites or alternative energy sources, the applicant would not be required to use either the alternative site or the alternative energy source recommended by the agency. In fact, the petitioner says, the applicant would be free to develop a different alternative energy source at another site, which might result in a greater environmental impact than the nuclear power plant originally proposed. In such a case, the petitioner argues, the NRC's denial of the permit or license would, in the name of protecting the environment, actually defeat the purpose of NEPA review.

*Summary.* In summary, the petitioner maintains that the NRC, as part of its NEPA analysis, is not legally obligated, and thus should not attempt, to reach any conclusions related to alternative sites, alternative sources of power, or the need for power. The petitioner believes that the NRC demonstrated the proper use of its discretion when it altered its understanding of the "major Federal action" in the license renewal context, with a consequent, appropriate change in NRC's requirements for NEPA analyses. The petitioner argues that the NRC should similarly exercise that discretion to circumscribe its NEPA analysis requirements in Parts 50 and 52.

#### *Changes in the Electricity Marketplace Since the 1970's*

The petitioner maintains that, while NEPA has never required these analyses, the electric utility structure in the 1970's was such that a typical environmental review associated with the siting, construction and operation of a nuclear power plant included an evaluation of the need for additional generating capacity, alternative sites, and alternative sources of energy. The petitioner notes that, in the 1970's, the typical applicant for a nuclear power plant was an electric utility that was regulated by a State public utility commission. As a regulated electric utility, the applicant also had the legal authority to exercise the power of

eminent domain to build generating facilities and any necessary supporting infrastructure. In the petitioner's view, many licensing decisions and judicial determinations based on the NRC's interpretation of its responsibilities under NEPA, and corresponding NRC regulations and practices, were adopted in response to this particular historical context.

*Effects of Deregulation.* The petitioner notes that dramatic changes have occurred in the electric power industry over the past thirty years, most notably resulting from the passage of the Energy Policy Act of 1992 and resultant actions by the Federal Energy Regulatory Commission imposing open access transmission requirements on electricity transmission providers. Today, the petitioner contends, any new nuclear power plant is likely to be constructed and operated by an unregulated merchant generator operating in a competitive marketplace. The petitioner believes that a merchant generator will not build and operate a plant unless there is a need for the proposed additional generating capacity or the proposed facility will generate electricity at a lower cost than its competitors. The petitioner contends that a merchant generator will not build and operate a nuclear power plant if there is a superior alternative source of energy. According to the petitioner, in States where utilities are still subject to regulation, the situation described relative to license renewal will be directly applicable. The petitioner argues that, given all of these factors, it is not reasonable to believe that a nuclear power plant will be built in today's environment absent a need for power or some other benefit.

The petitioner further maintains that it is not reasonable to assume that the NRC would be able to identify an alternative site or alternative energy source that is both feasible and preferable to the choices made by a merchant generator. Because the consideration of alternatives under NEPA is subject to a rule of reason, the petitioner believes that NEPA does not compel the NRC to consider these factors in today's environment. The petitioner maintains that deregulation at the State level has fundamentally altered both the marketplace for electricity and the makeup of electricity generating companies, and argues that the NRC's regulatory framework for implementing NEPA should be revised accordingly.

#### **The Petitioner's Conclusion**

The petitioner concludes that, given the dramatic effect of State deregulation

on electricity markets and generators, the NRC should reevaluate its implementation of NEPA. The petitioner maintains that the "major Federal action" in NRC proceedings should be described solely in terms of evaluating the suitability of siting, constructing or operating one or more nuclear power plants at a proposed site in accordance with the NRC's responsibilities under the Atomic Energy Act. The "reasonable alternatives" that must be considered under NEPA should, in turn, be defined by reference to this circumscribed understanding of the major Federal action at issue. The petitioner further argues that limited NRC, industry and other stakeholder resources should not be expended on matters that are more appropriately and effectively dealt with by State and local regulators. Given the dictates of NEPA as they apply to the decisions to be made under 10 CFR parts 50 and 52, the petitioner believes that the NRC need not, and therefore as a matter of policy should not, conduct any evaluation of alternative sites, alternative energy sources, or need for power.

The petitioner contends that the foregoing reasons support its request to eliminate the Part 52 requirements for applicants to submit, and for NRC to review, information on alternative sites. The petitioner maintains that 10 CFR parts 2, 50 and 51 should be similarly modified to eliminate provisions which require applicants requesting NRC approval to site, build and operate nuclear power plants to submit, and the NRC to review, information concerning the need for power, alternative sources and alternative sites.

The petitioner sets out a detailed series of proposed amendments. These amendments are presented verbatim in appendix A to this notice of receipt.

Dated at Rockville, Maryland, this 18th day of September, 2001.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,  
Secretary of the Commission.

#### **Appendix A to This Notice of Receipt— The Nuclear Energy Institute's Proposed Amendments to 10 CFR Part 52 and 10 CFR Parts 2, 50, and 51**

##### **Proposed Modifications to 10 CFR Part 52**

1. *10 CFR 52.17(a)(2) should be amended as follows:* A complete environmental report as required by 10 CFR 51.45 and 51.50 must be included in the application, provided, however, that such environmental report must focus on the environmental effects of construction and operation of a reactor.

2. *10 CFR 52.18 should be amended as follows:* Applications filed under this subpart will be reviewed according to the applicable standards set out in 10 CFR part 50 and its appendices and part 100 as they apply to applications for construction permits for nuclear power plants. In particular, the Commission shall prepare an environmental impact statement during a review of the application, in accordance with applicable provisions of 10 CFR part 51, provided, however, that the draft and final environmental impact statements prepared by the Commission focus on the environmental effects of construction and operation of a reactor, or reactors, which have characteristics that fall within the postulated site parameters. The Commission shall determine, after consultation with the Federal Emergency Management Agency, whether the information required of the applicant by § 52.17(b)(1) shows that there is no significant impediment to the development of emergency plans, whether any major features of emergency plan submitted by the applicant under § 52.17(b)(2)(i) are acceptable, and whether any emergency plans submitted by the applicant under Section 52.17(b)(2)(ii) provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

#### **Proposed Modifications to 10 CFR Parts 2, 50 and 51**

1. *10 CFR 2.101(a-1)(1) should be amended as follows:* Part one shall include or be accompanied by any information required by §§ 50.34(a)(1) and 50.30(f) of this chapter which relates to the issue(s) of site suitability for which an early review, hearing and partial decision are sought, except that information with respect to operation of the facility at the projected initial power level need not be supplied, and shall include the information required by §§ 50.33 (a) through (e) and 50.37 of this chapter. The information submitted shall also include: (i) Proposed findings on the issues of site suitability on which the applicant has requested review and a statement of the bases or the reasons for those findings, and (ii) a range of postulated facility design and operation parameters that is sufficient to enable the Commission to perform the requested review of site suitability issues under the applicable provisions of parts 50, 51 and 100.

2. *10 CFR 2.603(b)(1) should be amended as follows:* The Director of Nuclear Reactor Regulation will accept for docketing an application for a

construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 or is a testing facility where part one of the application as described in § 2.101(a-1) is complete. Part one of any application will not be considered complete unless it contains proposed findings as required by § 2.101(a-1)(1)(i). Upon assignment of a docket number, the procedures in § 2.101(a)(3) and (4) relating to formal docketing and the submission and distribution of additional copies of the application shall be followed.

3. *10 CFR 2.605(b)(1) should be deleted in its entirety.*

4. *10 CFR Part 50, Appendix Q.2 and 10 CFR Part 52, Appendix Q.2 (which are essentially identical) should be amended as follows:* The submittal for early review of site suitability issue(s) must be made in the same manner and in the same number of copies as provided in §§ 50.4 and 50.30 for license applications. The submittal must include sufficient information concerning a range of postulated facility design and operation parameters to enable the Staff to perform the requested review of site suitability issues. The submittal must contain suggested conclusions on the issues of site suitability submitted for review and must be accompanied by a statement of the bases or the reasons for those conclusions.

5. *10 CFR Part 50, Appendix Q.7(a) and 10 CFR Part 52, Appendix Q.7(a) (which are identical) should be deleted in their entirety.*

6. *The following sentence should be added to the end of 10 CFR 51.45(c):* No discussion of need for power, alternative energy sources, or alternative sites for the facility is required in this report.

7. *10 CFR 51.53(c)(2) should be amended as follows:* \* \* \* In addition, the applicant shall discuss in this report the environmental impacts of alternatives and any other matters described in § 51.45. The report is not required to include discussion of alternative sites, alternative energy sources, or need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such costs and benefits are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation \* \* \*.

8. *The following sentence should be added after the first sentence of 10 CFR 51.71(d):* No discussion of need for power, or of alternative energy sources,

or of alternative sites for the facility will be included in the draft environmental impact statement.

9. *10 CFR 51.95(c)(2) should be amended as follows:* The supplemental environmental impact statement for license renewal is not required to include discussion of alternative sites, alternative energy sources, or need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. . . .

10. *10 CFR Part 51, Appendix A.4 should be amended as follows:* Purpose of and need for action. The statement will briefly describe and specify the need for the proposed action. The alternative of no action will be discussed.

11. *The following sentence should be added to the end of 10 CFR part 51, appendix A.5:* The consideration of alternatives will not include an analysis of alternative sites or alternative energy sources.

12. Additionally, conforming changes should be made in 10 CFR 2.101(a)(3)(ii) and 10 CFR 51.71 footnote 4.

13. Finally, NRC Regulatory Guide 4.2 and NUREG-1555 should be modified to reflect the Commission's determination that alternative sites, alternative sources of energy, and need for power are not to be evaluated under 10 CFR part 51 provisions pertaining to the siting, construction and operation of new nuclear power plants.

[FR Doc. 01-23791 Filed 9-21-01; 8:45 am]

BILLING CODE 7590-01-P

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 52**

[Docket No. PRM-52-1]

#### **Nuclear Energy Institute; Receipt of Petition for Rulemaking**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Energy Institute. The petition has been docketed by the NRC and has been assigned Docket No. PRM-52-1. The petitioner is requesting that the NRC