

April 2, 2026

Subject: BTI Comment on Proposed Rule; Streamlining Contested Adjudications in Licensing Proceedings [Docket ID NRC-2025-1501].

The Breakthrough Institute (BTI) appreciates the opportunity to comment on the proposed rule, *Streamlining Contested Adjudications in Licensing Proceedings*.¹ BTI is an independent 501(c)(3) global research center that advocates for appropriate regulation and oversight of nuclear reactors to enable the new and continued use of safe and clean nuclear energy. BTI acts in the public interest and does not receive funding from industry.

BTI generally supports the NRC's effort to modernize contested adjudications and better align hearing procedures with the timeliness objectives reflected in the ADVANCE Act and Executive Order 14300.² The NRC is justified in examining whether existing hearing procedures contain unnecessary formalities, obsolete discovery mechanisms, or scheduling practices that no longer reflect the realities of modern licensing records and electronic access to information. A hearing process that extends far beyond the time needed to identify and resolve genuinely material disputes can impose substantial costs without corresponding gains in safety, environmental review, or decision quality.

At the same time, the final rule will be stronger if there is clearer coordination with related rulemakings, clarification of definitions, and adoption of a "learning by doing" approach to revisit after implementation. As drafted, several provisions appear to accelerate adjudications partly by moving burdens earlier, narrowing later access points, and tying significant procedural consequences to assumed schedules rather than actual record development. Those choices may improve timeliness in some settings, but they also risk creating new disputes over timing, burden shifting, and record sufficiency.

¹ Nuclear Regulatory Commission, *Streamlining Contested Adjudications in Licensing Proceedings, Proposed Rule*, Docket ID NRC-2025-1501, posted Mar. 3, 2026.

² Executive Order 14300, *Ordering the Reform of the Nuclear Regulatory Commission*, May 23, 2025.

BTI's core recommendations for the proposed rule are:

1. Consider cross-rule interaction and include explicit coordination language, recognizing that this rule will operate alongside related NRC rulemakings and external processes.
2. Revise proposed § 2.309(k) so that fuller merits disclosures occur after admissibility has been decided and after discovery has been ordered. The NRC should preserve the existing contention-and-standing framework and the contention-based process.
3. Treat the Standard Record Closure Date as a rebuttable scheduling benchmark, not an automatic closure trigger, and provide clearer limits on related timing terms such as "highly expedited proceeding" and "as soon as practicable."
4. Retain the proposed attorney-only representation rule for non-individuals in § 2.314(b) in the final rule, while recognizing it as part of a broader move toward clearer and more disciplined adjudicatory practice.
5. Finalize this rule with an expectation of post-implementation review, rather than assuming that all important procedural consequences can be identified before the revised framework is tested in actual proceedings.

Properly tailored, the rule can support earlier and more disciplined resolution of contested issues while remaining procedurally fair and more durable on judicial review.

EO 14300 AND CROSS-RULE COORDINATION

The Executive Order 14300 wholesale rulemaking process staggers 28 rules within several months.³ All of which work toward enabling the deployment of new nuclear energy by reforming the Nuclear Regulatory Commission. BTI anticipates that cross-rule integration will become a major issue across the rulemaking effort.

As the FRN explains, the proposed rule is being advanced in response to EO 14300. The proposed *Streamlining Contested Adjudications in Licensing Proceedings* is intended to reduce procedural burden, accelerate adjudications, and support shorter licensing timelines. The FRN itself states that proceedings under 10 CFR 52.103 and the NRC's mandatory hearing process may be

³ U.S. Nuclear Regulatory Commission, "Wholesale Revision of Regulations Under Executive Order 14300," <https://www.nrc.gov/about-nrc/governing-laws/advance-act/wholesale-revision-regs>

addressed separately, and that a separate NEPA rulemaking could change which issues remain adjudicable in contested hearings. However, simply recognizing that related issues will be handled separately is not enough.

During the NRC public meeting on March 19, 2026,⁴ the NRC staff stated that they did not assume any cross-rule coordination issues when they drafted the proposed rule. Furthermore, the NRC staff argued that if there are any impacts to this rule based on other ongoing rulemaking (such as Part 51), it would only be streamlining and shortening the contested hearing timeframe. But if this rule takes effect before related revisions are fully resolved, the NRC may lock in a regulatory mechanism before it has finalized the procedural or substantive assumptions that are supposed to justify that mechanism. In that circumstance, the final rule may rest on a provisional model that is itself still changing.

This proposed rule should be understood as one component of a broader NRC effort to revise related aspects of the licensing and regulatory framework. It should not be finalized as though it can be cleanly separated from those adjacent reforms. As a practical matter, public comment periods for interrelated rulemaking dockets may close sequentially, making it difficult for stakeholders to assess cross-rule interactions once an earlier docket has already closed.

Recommendation: The NRC should treat cross-rule coordination as a serious issue in this rulemaking, not merely acknowledge it and defer it to later rulemaking dockets. A broad revision of the regulatory framework should not proceed through piecemeal changes that may need to be reworked once the surrounding system is in place. At minimum, the NRC should ensure that any final rule is expressly coordinated with related rulemakings so that the resulting system is administratively coherent rather than incrementally layered. Otherwise, it creates a genuine risk that the final framework will rest on outdated or incomplete assumptions about process, scope, timing, and implementation.

The final rule should include a more thorough analysis of cross-rule interactions and explicit coordination language, recognizing that this rule operates alongside other NRC rulemakings and external processes that may affect when issues arise, how they mature, and what information is available to the agency and other participants at relevant decision points. Where the rule relies

⁴ Nuclear Regulatory Commission, *Public Meeting Schedule: Meeting Details—Proposed Rule: Streamlining Contested Adjudications in Licensing Proceedings* (Meeting Code 20260218), Mar. 19, 2026, 1:00–3:00 p.m. ET, <https://www.nrc.gov/pmns/mtg?do=details&Code=20260218>

on assumed schedules, closure points, procedural categories, or other implementation conditions that may be altered by adjacent regulatory changes, the NRC should preserve adequate flexibility and cross-docket coordination rather than hardening those assumptions too early. More broadly, the NRC should approach this broader set of reforms as an integrated process rather than a series of isolated dockets, and it should remain open to revisiting the framework after implementation if the combined effect of those changes proves misaligned.

Potential Issues Specific to the Proposed Rule

Part 51

The clearest example is the Part 51 rulemaking on NEPA implementation. The NRC's categorical-exclusions final rule has already materially revised the structure of the environmental-review framework by updating § 51.21, republishing § 51.22, and revising § 51.25. The proposed contested hearing rule is proceeding against a backdrop of multiple foundational ongoing rulemakings, including the NR GEIS final rule, the mandatory hearing process reform, the Modernizing Reactor Licensing, Safety Oversight, and Siting Practices proposed rule, and the consolidated NEPA implementation rulemaking directed by the Commission's July 2025 SRM (NRC-2025-0478). The proposed Standard Record Closure Date (SRCD) framework, Part 51 conforming amendments, and adjudicatory deadlines are being locked in before the substantive environmental review landscape they are supposed to operate within has been defined.

That sequencing creates a concrete adjudicatory risk. Under § 2.309(f)(2), environmental contentions may be filed after the initial deadline based on the draft or final environmental impact statement, which the NRC issues on its own schedule. In complex proceedings, those NEPA documents may not be available until well after the ordinary filing window, and related Part 51 standards may still be evolving. If this rule changes Part 2 before Part 51 changes are settled, a Licensing Board could be forced to adjudicate environmental contentions under older, broader materiality assumptions while operating under a newer, more rigid SRCD framework. For instance, a genuinely important issue can mature too late for ordinary treatment.

The NRC requires that later contentions must be based on "new, materially different information" in the proposed rule, and once the SRCD passes, they also have to satisfy reopening standards. If the environmental issue only becomes clear after a later-issued staff NEPA document or a later

change in Part 51's materiality framework, the Board could be forced to treat a real merits issue as a late-filed procedural problem rather than as part of the ordinary hearing record.

Recommendation: The NRC should add language in the final rule expressly recognizing the cross-rule coordination issue between this proceeding and ongoing Part 51 revisions; clarify whether references to related Part 51 provisions update with ongoing rulemaking; and preserve flexibility for later-maturing environmental issues where the governing NEPA record or Part 51 framework develops after the ordinary filing period. Otherwise, the NRC risks codifying outdated paragraph references or procedural assumptions about when environmental review is required.

Part 53

Similarly, there is a coordination issue between the Part 53 risk-informed, technology-inclusive licensing framework and the proposed contested hearing rule. The Part 53 final rule was issued⁵ during the comment period for this proposed contested-hearing rule, and both rulemakings revise the definition of "contested proceeding" in § 2.4. Part 53 appears to adopt the earlier, narrower formulation, under which a proceeding is contested when a petition for leave to intervene has been granted or is pending before the Commission. The proposed contested hearing rule, by contrast, would broaden that same definition to include hearing requests, contentions, and certain late-filed matters submitted with motions for leave. Unless the NRC reconciles those overlapping revisions, the two rules may create internal inconsistency and uncertainty about when a proceeding is considered contested and which Part 2 framework governs in early Part 53 cases.

Recommendation: The final contested hearing rule should expressly recognize the Part 53 cross-linking issue. At minimum, the NRC should clarify that any Part 2 procedures incorporated into Part 53 refer to the version in effect at the time of issuance, reconcile any affected cross-references before finalizing this rule, and preserve procedural flexibility for early Part 53 proceedings if the two rulemakings do not become effective on the same timeline. That would reduce avoidable uncertainty for advanced-reactor applicants and intervenors without delaying the NRC's broader hearing reforms.

⁵ Nuclear Regulatory Commission, Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors, Final Rule, [ML26084A489](#).

Other Issues

Part 51 and Part 53 are not unique cases. Similar issues can arise in other contexts as well, including but not limited to the following:

First, safety and environmental materials are submitted and finalized on different timelines. The NRC staff issues a Safety Evaluation Report and an Environmental Impact Statement separately, often months apart. A contention challenging the EIS may not be formable until the final EIS issues, which can occur well after the SRCD has already been set based on the SER timeline. The proposed rule applies a single SRCD to the entire proceeding without distinguishing between these two tracks.

Second, an applicant relying on a Standard Design Approval rather than a Design Certification faces a different finality landscape. Unlike a Design Certification, which is codified by rulemaking and carries clear issue finality, a Standard Design Approval under Part 53 is a staff approval whose scope of settled versus open issues in a subsequent proceeding is genuinely uncertain. A Board cannot accurately set the SRCD when the boundary between what is foreclosed and what remains contestable has not been established.

Third, ESA Section 7 and NHPA Section 106 consultation runs on their own federally mandated timelines. A contention based on inadequate consultation cannot be formulated until that process has advanced far enough, which often occurs well into or after the NRC staff's own review.

The more important risk is that related rulemakings may change when an issue becomes sufficiently developed for adjudication, which document becomes the operative focus of the dispute, and what standard governs the issue once it reaches a hearing.

FRONT-LOADED MERITS MOVE THE BURDEN EARLIER

BTI acknowledges that the contention admissibility standard itself is not being changed, and that well-resourced organizations with fully developed arguments will often be able to satisfy § 2.309(k)'s requirements at the initial filing stage. The concern is not with the standard *per se*, but with the information asymmetry created by requiring expert-supported merits material *before* the applicant's full case is on the record, before NRC staff has completed its technical review, and

before any discovery has been ordered. For petitioners who depend on the record to develop their technical case, that timing is the problem.

Proposed § 2.309(k) would require, in most licensing proceedings, substantially greater merits development at the initial filing stage. Petitioners would be expected to support their contentions with affidavits reflecting factual knowledge or disciplinary expertise appropriate to the issues raised. Applicants and the NRC staff would then address the merits in their answers, and petitioners could reply with further supporting material. The NRC presents this structure as a way to accelerate hearing preparation by moving evidentiary development into the initial round of filings and reducing the intermediate period between admissibility and hearing commencement.

The efficiency objective is understandable. However, the central problem is that the proposal does not materially change the underlying merits burden; it shifts that burden to an earlier stage, when petitioners have the least access to the information needed to satisfy it. Under the proposed framework, petitioners may be required to submit expert-supported merits material before the applicant's full case is meaningfully developed on the record, before the NRC staff has completed its technical review, and before any discovery has been ordered. In some proceedings, that may simply move work forward in time. In others, it may make meaningful participation substantially more difficult without producing a corresponding gain in adjudicatory efficiency.

That problem is especially significant because the existing § 2.309(f) standard already requires a demanding initial showing. Petitioners must provide the specific factual and legal bases for each contention, identify supporting references, and explain why the cited material fails to satisfy applicable requirements. In practice, that showing is often already supported by expert declarations where the subject matter warrants it. Proposed § 2.309(k), by layering fuller merits affidavits on top of that threshold requirement, risks becoming duplicative where sufficient information is already available and materially more burdensome where it is not. The NRC's own regulatory analysis acknowledges that the proposal increases the initial filing burden for petitioners.⁶ But the analysis does not appear to assess how that increased burden interacts with information asymmetry, resource constraints, or practical barriers to participation.

⁶ Nuclear Regulatory Commission, *Streamlining Contested Adjudications in Licensing Proceedings*, Proposed Rule, Docket ID NRC-2025-1501, posted Mar. 3, 2026.

Revise § 2.309(k)

The NRC should revise proposed § 2.309(k) to establish a two-stage merits disclosure framework. At the initial contention-filing stage, the existing § 2.309(f) standard should continue to apply without an additional requirement for full merits affidavits. Fuller merits disclosures, including witness affidavits, where appropriate, should instead be exchanged at a defined pre-hearing conference 30 days after the Board has ruled on admissibility. (See Fig. 1)

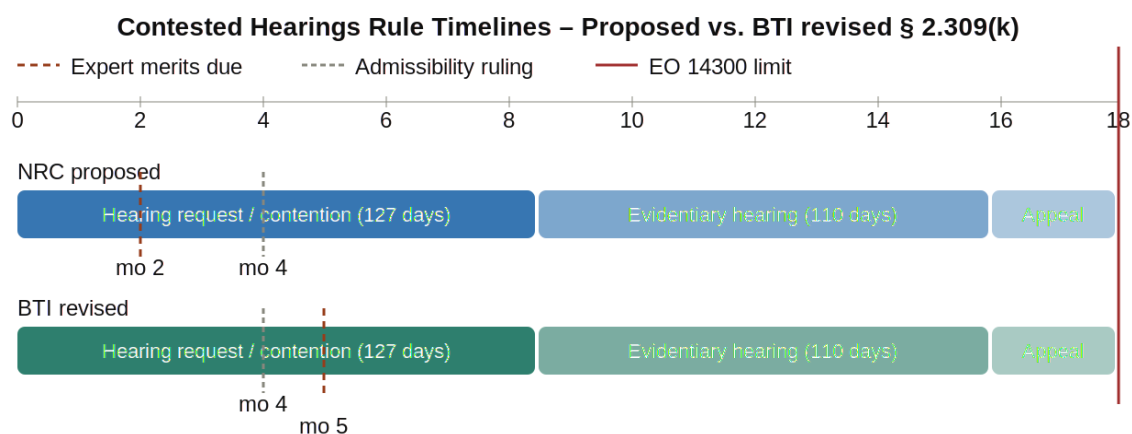


Figure 1. Contested Hearings Rule Timelines: NRC Proposed Rule vs. BTI Revised § 2.309(k)

That approach would preserve the rule’s efficiency objective by focusing fuller merits development on disputes that have already cleared the admissibility threshold, while ensuring that parties have access to the materials needed to support meaningful expert submissions before they are required to make them.

If not revised, proposed § 2.309(k) risks functioning as a heightened merits screen at the admissibility stage rather than as a case-management device for admitted disputes. To the extent that it excludes contentions not because they lack a genuine dispute, but because petitioners lack early access to the information needed to present a fuller merits case, the provision may raise serious concerns under AEA § 189(a). The Commission has the authority to structure hearings and limit unnecessary procedures. It should not use that authority in a way that effectively narrows hearing rights by imposing merits demands at a stage where the factual basis for satisfying them is not yet reasonably available.

Standing and Contention Admissibility Should Not Be Bifurcated

Consistent with that principle, BTI does not support the bifurcation of standing and contention admissibility. Under the current rules, an applicant only needs to submit a single filing that addresses the legal standing and contention admissibility. However, under the proposed rule, for 'most complex' and 'other' proceedings, contentions are due at day 60 and day 45, respectively, yet the standing ruling does not come until day 67 in both cases.⁷ It would be a waste of time for both the NRC and the petitioner to spend efforts on expert-supported merits when contention is due and later find out that standing is denied.

What's more, the NRC has not yet shown that separating those determinations will reduce overall burden rather than shift it into new disputes over sequencing, gatekeeping, and interlocutory review. Maintaining the current unified approach—where standing and contentions are addressed in a single filing—would also directly mitigate the frontloading burden raised by proposed § 2.309(k), since petitioners would be able to develop both issues on the same timeline, with access to the same record, rather than racing to file contentions on a compressed schedule after a separate standing determination. If the NRC retains bifurcation, it should clarify what is decided at the standing stage, what is reserved to contention admissibility, and how the two tracks interact so the rule does not create avoidable threshold litigation of its own.

Maintain the Current Contention-based Process

For similar reasons, BTI does not support replacing the contention-based process across the board with a notice-and-comment model. In contested hearings, contention-based adjudication serves an important gatekeeping function by requiring issues to be material, specific, and legally supported before the NRC and the Board devote adjudicatory resources to them. In that way, the contention-based process helps ensure that material issues are identified and fully considered.

Section 2.309(f)(1) requires contentions to be stated with particularity and to show a genuine dispute on a material issue of law or fact, including by identifying the legal requirement at issue and clearly indicating whether the contention challenges adequacy, omission, or both. The NRC should not replace that framework with a notice-and-comment model under which petitioners

⁷ Pillsbury Winthrop Shaw Pittman LLP, *NRC Proposed Rule Seeks to Streamline and Accelerate Adjudicatory Proceedings*, <https://www.pillsburylaw.com/en/news-and-insights/nrc-proposed-rule-adjudicatory-proceedings.html>

establish standing, submit comments, and receive an agency response without satisfying the contention admissibility standards in § 2.309(f)(1). Those standards ensure that applicant and agency resources are directed toward resolving concrete disputes over issues material to the NRC's statutory and regulatory responsibilities.

By contrast, a notice-and-comment model would likely invite broader, less specific submissions, increasing uncertainty about which issues warrant adjudicatory attention and resource expenditure. Maintaining the contention-based framework is therefore essential to efficient and predictable adjudications and to focusing agency and applicant resources on issues material to the NRC's regulatory responsibilities.

THE PROPOSED CLOSURE AND REOPENING FRAMEWORK IS TOO HEAVILY DRIVEN BY ASSUMED SCHEDULES

The NRC should revise the proposed closure and reopening framework so that assumed schedules do not automatically trigger heightened legal consequences. In particular, the SRCD should function as a rebuttable scheduling benchmark rather than an automatic closure trigger, and the final rule should better bound the related timing terms “highly expedited proceeding” and “as soon as practicable.”

Rigid Definition of SRCD is Flawed

The proposal defines the Standard Record Closure Date as the date on which an initial decision would be scheduled to issue in the hypothetical circumstance where a contention is timely filed, timely admitted, and then immediately proceeds into the evidentiary phase. Proposed section 2.1207 assigns fixed SRCD values by proceeding type, while proposed section 2.326(e) would close the record on that date for proceedings subject to section 2.1207. Proposed section 2.309(c) would also tighten the treatment of later-filed hearing requests, intervention petitions, and new or amended contentions by requiring a motion for leave and by providing that such filings are not considered pending unless leave is granted.

The SRCD is hypothetical by design. It assumes that NRC staff completes its technical review on the standard schedule, that the applicant does not amend its safety analysis, and that no force majeure event or litigation emergency affects the proceeding's timeline. In practice, none of these

assumptions reliably holds. NRC staff reviews for complex license applications routinely diverge from estimated schedules; applicants frequently amend safety analysis reports in response to staff requests for additional information; and contested proceedings involve the unexpected by definition. When reality diverges from the SRCD's assumptions, the rule provides no mechanism to recalibrate the date. Instead, parties must seek extensions under the § 2.307 "unavoidable and extreme circumstances" standard against a baseline that no longer reflects the actual proceeding. Applying it in this context will produce extensive motion practice over what constitutes "unavoidable and extreme" relative to a fictional date.

This is the back-end counterpart to the proposal's front-end compression. After moving more processes to the beginning of the case, the rule also narrows the space for later-developing issues. That structure may work tolerably well where the record develops exactly as anticipated. But in actual proceedings, consequential issues may arise later because of material application amendments, later NRC documents, evolving staff analysis, or related NRC actions. In those circumstances, a framework tied too closely to assumed schedules risks treating structurally later-developing issues as if they were ordinary late-filed matters.

The final rule should preserve the Standard Record Closure Date as a default scheduling device, but should authorize the presiding officer, on written findings, to adjust that date for a discrete issue or supplement where the relevant information was not reasonably available before the default closure date, and the adjustment would not reopen unrelated matters.

If the final rule continues to rely too heavily on assumed schedules, later-arising issues may be pushed too quickly into reopening, or other heightened gatekeeping standards, even where their timing reflects the development of the record rather than tactical delay. That would make the proposal more rigid than necessary and could generate new disputes over timing, categorization, and closure that undercut the predictability the rule is intended to improve.

“Highly Expedited Proceeding” Should Be More Clearly Bound

The proposed definition of “highly expedited proceeding” should be more tightly bound before it is used to trigger stricter deadlines and other compressed procedures. Although the proposal identifies several specific proceeding categories, it also extends the concept to any other proceeding the NRC later designates as highly expedited. If that category is used to impose

shorter filing and hearing schedules, the final rule should specify the criteria for additional designations rather than leaving the concept open-ended.

The concern is not simply definitional. A category that remains flexible while the consequences attached to it are rigid can create uncertainty about when the most compressed schedule will apply and on what basis. That uncertainty is especially significant in a rule that otherwise relies on fixed schedules, stricter closure effects, and tighter treatment of later-arising issues.

The NRC should therefore specify the standards for future “highly expedited” designations so that the category is bounded at least as clearly as the procedural consequences it triggers.

“As Soon as Practicable” Should Not Carry Rigid Consequences Without Clearer Limits

Likewise, the proposal repeatedly uses “as soon as practicable” at key transition points while imposing more rigid timing consequences elsewhere. “As soon as practicable” is a legitimate promptness standard in the right context, but it is not the right fit where the rule attaches automatic procedural consequences. That combination risks producing the very disputes the rule is meant to reduce. Parties may litigate whether a determination was made “as soon as practicable,” especially where they believe a premature or delayed transition affected their ability to raise issues or preserve ordinary treatment for later-developing information. The result could be a new category of timing disputes layered on top of the rule’s promised simplification.

The better approach is to keep “as soon as practicable” for general case-management directions, but provide either a defined outer time limit or a clear challenge window where heightened consequences depend on the timing of the decision. If the final rule continues to rely too heavily on assumed schedules, later-arising issues may be pushed too quickly into reopening, or other heightened gatekeeping standards, even where their timing reflects the development of the record rather than tactical delay. This could result in extra delays. That would make the proposal more rigid than necessary and could produce disputes over timing and categorization that undercut the predictability the rule seeks to improve.

REVISIT THE RULE AFTER IMPLEMENTATION EXPERIENCE ACCUMULATES

The NRC should not treat this final rule as the last time it considers contested-hearing reform, and it should plan to revisit the framework after implementation experience accumulates. This recommendation is especially appropriate here because the proposal would significantly revise hearing timing, record closure, disclosure practice, and participation rules, yet some of the most important implementation effects will only become visible once Boards, staff, applicants, and petitioners begin using the framework in actual proceedings.

NRC's own Part 52 experience supports that approach. Under Part 52, a combined-license holder has to complete the plant's Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC). Vogtle Unit 3 was the first real project to reach the ITAAC hearing stage, and an actual hearing petition was filed. The NRC addressed these issues through CLI-20-6⁸ and subsequent procedural revisions. NRC says it formed the Vogtle Readiness Group^{9,10} to identify and resolve licensing, inspection, and regulatory challenges that could affect the schedule for completion of Vogtle Units 3 and 4. After that, NRC initiated a formal lessons-learned review¹¹ to identify enhancements to the Part 52 licensing process and improve the efficiency of future licensing reviews. The NRC's proposed rule "Alignment of Licensing Processes and Lessons Learned From New Reactor Licensing,"¹² and the NRC lessons-learned document for the Vogtle ITAAC hearing process says the agency reviewed the experience and discussed whether changes were needed.

That history matters because it shows a recurring pattern: a specialized procedural framework may appear coherent in rule text, yet still require clarification, guidance updates, and process refinement once it is tested in actual projects. A final rule that expressly preserves room for

⁸ Nuclear Regulatory Commission, Southern Nuclear Operating Company, LLC (Vogtle Electric Generating Plant, Units 3 and 4), CLI-20-6, 91 NRC 39 (June 5, 2020).

⁹ U.S. Nuclear Regulatory Commission, Vogtle Readiness Group, <https://www.nrc.gov/reactors/new-reactors/col-holder/vog/vogtle-readiness-group.html>

¹⁰ U.S. Nuclear Regulatory Commission, Construction Reactor Oversight Process—Detailed Description, <https://www.nrc.gov/reactors/new-reactors/how-we-regulate/oversight/crop/detail-description.html>

¹¹ U.S. Nuclear Regulatory Commission, Response to Congressman Whitfield Regarding Part 52 Lessons Learned (Dec. 9, 2013), <https://www.nrc.gov/reading-rm/doc-collections/congress-docs/correspondence/2013/whitfield-12-09-2013.pdf>

¹² U.S. Nuclear Regulatory Commission, Proposed Rule: Alignment of Licensing Processes and Lessons Learned From New Reactor Licensing, SECY-22-0052, June 6, 2022, <https://www.nrc.gov/docs/ML2115/ML21159A057.pdf>

coordination and later improvement is more likely to remain workable than one that assumes all material interactions can be anticipated now. The NRC should therefore finalize this rule with the expectation that it may require revision and improvement after practical experience accumulates.

BTI SUPPORTS ATTORNEY-ONLY REPRESENTATION FOR NON-INDIVIDUALS

BTI supports the proposed rule's revision to 10 CFR § 2.314(b), which would allow only individuals to appear on their own behalf and would require all other persons to be represented by attorneys. The current rule allows certain non-attorney representatives for entities and public bodies; the proposed rule would eliminate that option based on the NRC's view that accelerated schedules and technically complex proceedings demand more legal skill and that non-attorney representation has at times produced procedurally defective filings.¹³

The NRC's concern is legitimate. In a rule that depends heavily on shorter filing windows, tighter extension standards, earlier merits development, and faster movement to hearing, the agency has a plausible interest in reducing avoidable procedural errors. As a federal agency itself, the NRC should seek better alignment with federal-court practice. That alignment is especially appropriate here because the proposed rule would make NRC adjudications more compressed, more legally technical, and more dependent on strict procedural compliance. Nuclear adjudicatory procedures should be harmonized with federal-court standards where practical, and proposed § 2.314 moves the NRC's hearing framework in that direction. At the same time, the rule remains measured because it preserves self-representation for individuals while requiring counsel only for entities and other non-individual participants. In a compressed procedural framework, a clear representation rule may better serve predictability and schedule integrity than a more discretionary competence standard.

¹³ 10 C.F.R. § 2.314.

CONCLUSION

BTI supports the NRC's effort to make contested adjudications faster, more predictable, and better aligned with the licensing timelines contemplated by the ADVANCE Act and Executive Order 14300. The principal refinements recommended here are not intended to slow that effort. They are intended to make the rule more durable by ensuring that procedural acceleration is matched to the actual needs of the dispute, that later-arising issues are not excluded solely through timing architecture, and that parties retain practical access to the information needed to test admitted issues.¹⁴

For that reason, the NRC should finalize this rule with clearer coordination and more tailored timing mechanisms. The NRC should maintain the current contention-based adjudication process rather than replace it with a notice-and-comment model, preserve the unified approach to standing and contention admissibility, clarify important definitions, and consider an open posture toward revision after implementation if experience shows that cross-linking effects or practical use reveal the need for further refinement.

Sincerely,

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¹⁴ Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024, Pub. L. No. 118-67, div. B, § 207(c) (2024).