

partial decision has been concluded,³ unless the Commission or Atomic Safety and Licensing Board, upon its own initiative or upon motion by a party to the proceeding, finds that there exists significant new information that substantially affects the earlier conclusions and reopens the hearing record on site suitability issues. Upon good cause shown, the Commission may extend the five year period during which a partial decision shall remain in effect for a reasonable period of time not to exceed one year.

[42 FR 22885, May 5, 1977, as amended at 49 FR 9401, Mar. 12, 1984]

Subpart G—Rules of General Applicability

§ 2.700 Scope of subpart.

The general rules in this subpart govern procedure in all adjudications initiated by the issuance of an order pursuant to § 2.202, an order pursuant to § 2.205(e), a notice of hearing, a notice of proposed action issued pursuant to § 2.105, or a notice issued pursuant to § 2.102(d)(3). The procedures applicable to the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area are set forth in subpart J.

[56 FR 40685, Aug. 15, 1991]

§ 2.700a Exceptions.

(a) 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 there is involved the conduct of military or foreign affairs functions.

(b) This rule shall apply to proceedings in progress where hearings have already been requested or ordered as well as to future proceedings.

[47 FR 4493, Feb. 1, 1982]

³The partial decision on site suitability issues shall be incorporated in the decision regarding issuance of a construction permit to the extent that it serves as a basis for the decision on a specific site issue(s).

§ 2.701 Filing of documents.

(a) Documents shall be filed with the Commission in adjudications subject to this part either:

(1) By delivery to the NRC Public Document Room at 2120 L Street, NW., Washington, DC, or

(2) By mail or addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

(b) All documents offered for filing shall be accompanied by proof of service upon all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission. The staff of the Commission shall be deemed to be a party.

(c) Filing by mail, telegram, or facsimile will be deemed to be complete as of the time of deposit in the mail or with a telegraph company or upon facsimile transmission.

[27 FR 377, Jan. 13, 1962, as amended at 29 FR 12830, Sept. 11, 1964; 33 FR 6708, May 2, 1968; 39 FR 35332, Oct. 1, 1974; 53 FR 43419, Oct. 27, 1988; 62 FR 27495, May 20, 1997; 64 FR 48948, Sept. 9, 1999]

§ 2.702 Docket.

The Secretary shall maintain a docket for each proceeding subject to this part, commencing with the issuance of the initial notice of hearing, notice of consideration of issuance of facility operating license or other proposed action specified in § 2.105, or order. The Secretary shall maintain all files and records, including the transcripts of testimony and exhibits and all papers, correspondence, decisions and orders filed or issued.

[57 FR 4153, Feb. 4, 1992]

§ 2.703 Notice of hearing.

(a) In a proceeding in which the terms of a notice of hearing are not otherwise prescribed by this part, the order or notice of hearing will state:

(1) The nature of the hearing, and its time and place, or a statement that the time and place will be fixed by subsequent order;

(2) The legal authority and jurisdiction under which the hearing is to be held;

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(3) The matters of fact and law asserted or to be considered; and

(4) The time within which an answer shall be filed.

(b) The time and place of hearing will be fixed with due regard for the convenience of the parties or their representatives, the nature of the proceeding, and the public interest.

§2.704 Designation of presiding officer, disqualification, unavailability.

(a) The Commission may provide in the notice of hearing that one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the matter, shall preside. If the Commission does not so provide, the Chairman of the Atomic Safety and Licensing Board Panel will issue an order designating an atomic safety and licensing board appointed pursuant to section 191 of the Atomic Energy Act of 1954, as amended, or, if the Commission has not provided for the hearing to be conducted by an atomic safety and licensing board, the Chief Administrative Law Judge will issue an order designating an administrative law judge appointed pursuant to section 3105 of title 5 of the United States Code.

(b) If a designated presiding officer or a designated member of an atomic safety and licensing board deems himself disqualified to preside or to participate as a board member in the hearing, he shall withdraw by notice on the record and shall notify the Commission or the Chairman of the Atomic Safety and Licensing Board Panel, as appropriate, of his withdrawal.

(c) If a party deems the presiding officer or a designated member of an atomic safety and licensing board to be disqualified, he may move that the presiding officer or the board member disqualify himself. The motion shall be supported by affidavits setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the board member does not disqualify himself, the motion shall be referred to the Commission which will determine the sufficiency of the grounds alleged.

(d) If a presiding officer or a designated member of an atomic safety

and licensing board becomes unavailable during the course of a hearing, the Commission or the Chairman of the Atomic Safety and Licensing Board Panel, as appropriate, will designate another presiding officer or atomic safety and licensing board member. If he becomes unavailable after the hearing has been concluded:

(1)(i) The Commission may designate another presiding officer to make the decision; or

(ii) The Chairman of the Atomic Safety and Licensing Board Panel or the Commission, as appropriate, may designate another atomic safety and licensing board member to participate in the decision;

(2) The Commission may direct that the record be certified to it for decision; or

(3) The Commission may designate another presiding officer.

(e) In the event of substitution of a presiding officer or a designated member of an atomic safety and licensing board for the one originally designated, any motion predicated upon the substitution shall be made within five (5) days thereafter.

[27 FR 377, Jan. 13, 1962, as amended at 31 FR 16310, Dec. 21, 1966; 35 FR 11459, July 17, 1970; 35 FR 12649, Aug. 8, 1970; 40 FR 51996, Nov. 7, 1975; 40 FR 53379, Nov. 18, 1975; 56 FR 29408, June 27, 1991]

§2.705 Answer.

(a) Within twenty (20) days after service of the notice of hearing, or such other time as may be specified in the notice of hearing, a party may file an answer which shall concisely state:

(1) The nature of his defense or other position;

(2) The items of the specification of issues he controverts and those he does not controvert; and

(3) Whether he proposes to appear and present evidence.

(b) If facts are alleged in the specification of issues, the answer shall admit or deny specifically each material allegation of fact; or, where the party has no knowledge or information sufficient to form a belief, the answer may so state and the statement shall have the effect of a denial. Material allegations of fact not denied shall be deemed to be admitted. Matters alleged