

**§2.704**

(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