

**§ 148.255**

**33 CFR Ch. I (7-1-03 Edition)**

**§ 148.255 Jurisdiction of the administrative law judge.**

(a) The jurisdiction of the administrative law judge over a proceeding begins when he is assigned. His jurisdiction ends 20 days after the transcript of the formal hearing is docketed or when he issues notice of withdrawal from the proceeding.

(b) The Commandant exercises the authority of an administrative law judge in a proceeding when no administrative law judge has jurisdiction.

**§ 148.257 Authority of the administrative law judge.**

The administrative law judge assigned to a formal hearing may:

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas;
- (c) Adopt procedures for the submission of evidence in written form;
- (d) Rule on offers of proof and receive relevant evidence;
- (e) Examine witnesses at the formal hearing;
- (f) Dispose of procedural requests or similar matters;
- (g) Convene, recess, reconvene, adjourn, and otherwise regulate the course of the formal hearing;
- (h) Certify questions to the Commandant;
- (i) If a party to a formal hearing fails to appear at a session of the hearing, proceed with the session without further notice to the party;
- (j) Extend or shorten a time prescribed by this subpart to the extent consistent with the 240 days time limit prescribed in section 5(g) of the Act for completing public hearings in a proceeding;
- (k) Prescribe a time for doing an act if the time is not prescribed in this subpart; and
- (l) Take any other action authorized by or consistent with this subpart, the Act, or 5 U.S.C. 551-559.

**§ 148.259 Ex parte communications.**

If two or more applications have been filed in a proceeding, or if a person opposing an application has intervened in the proceeding, the administrative law judge may not consult any party on a fact in issue except on notice and opportunity for all parties to participate.

The administrative law judge must prepare a summary of and have docketed each ex parte communication in the proceeding.

**§ 148.261 Parties.**

The parties to a formal hearing are the application staff, the applicants, and intervenors in the proceeding.

**§ 148.263 Intervention.**

(a) Any person may file a petition to intervene in a formal hearing, and any adjacent coastal state may intervene by filing a notice of intervention. The petition must be addressed to the administrative law judge, must identify the specific matters in the hearing on which he seeks to intervene and his interest in those matters, and must designate the name and address of a person upon whom service may be made if the petition is granted. A party to the formal hearing may file an answer to a petition within five days after the petition is filed.

(b) A petition to intervene must be filed within ten days after notice of formal hearing is issued.

(c) Intervention may be limited to particular matters or to particular times in the hearing if necessary to prevent repetitious evidence and argument or to control the course of the formal hearing.

(d) If the administrative law judge denies a petition in whole or part, the petitioner may appeal to the Commandant by filing notice of appeal within seven days after the denial is issued. A brief may be filed with the notice of appeal. A party may file a brief in support of or in opposition to the appeal within seven days after the notice of appeal is filed.

**§ 148.265 A person not a party.**

(a) At any time before a formal hearing, any person who is not a party may submit to the administrative law judge a petition to present evidence at the formal hearing. The petition must be sent to the administrative law judge or to the clerk who will forward it to the administrative law judge. The petition must contain a statement describing in detail the evidence to be presented and must show its relevancy to factual