

## Nuclear Regulatory Commission

## § 2.321

order related to the subject matter of the pending proceeding may be modified by the presiding officer as appropriate for the purpose of the proceeding.

### § 2.319 Power of the presiding officer.

A presiding officer has the duty to conduct a fair and impartial hearing according to law, to take appropriate action to control the prehearing and hearing process, to avoid delay and to maintain order. The presiding officer has all the powers necessary to those ends, including the powers to:

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas authorized by law, including subpoenas requested by a participant for the attendance and testimony of witnesses or the production of evidence upon the requestor's showing of general relevance and reasonable scope of the evidence sought;
- (c) Consolidate parties and proceedings in accordance with §§ 2.316 and 2.317 and/or direct that common interests be represented by a single spokesperson;
- (d) Rule on offers of proof and receive evidence. In proceedings under this part, strict rules of evidence do not apply to written submissions. However, the presiding officer may, on motion or on the presiding officer's own initiative, strike any portion of a written presentation or a response to a written question that is irrelevant, immaterial, unreliable, duplicative or cumulative.
- (e) Restrict irrelevant, immaterial, unreliable, duplicative or cumulative evidence and/or arguments;
- (f) Order depositions to be taken as appropriate;
- (g) Regulate the course of the hearing and the conduct of participants;
- (h) Dispose of procedural requests or similar matters;
- (i) Examine witnesses;
- (j) Hold conferences before or during the hearing for settlement, simplification of contentions, or any other proper purpose;
- (k) Set reasonable schedules for the conduct of the proceeding and take actions reasonably calculated to maintain overall schedules;
- (l) Certify questions to the Commission for its determination, either in the

presiding officer's discretion, or on motion of a party or on direction of the Commission;

- (m) Reopen a proceeding for the receipt of further evidence at any time before the initial decision;
- (n) Appoint special assistants from the Atomic Safety and Licensing Board Panel under § 2.322;
- (o) Issue initial decisions as provided in this part;
- (p) Dispose of motions by written order or by oral ruling during the course of a hearing or prehearing conference. The presiding officer should ensure that parties not present for the oral ruling are notified promptly of the ruling;
- (q) Issue orders necessary to carry out the presiding officer's duties and responsibilities under this part; and
- (r) Take any other action consistent with the Act, this chapter, and 5 U.S.C. 551-558.

### § 2.320 Default.

If a party fails to file an answer or pleading within the time prescribed in this part or as specified in the notice of hearing or pleading, to appear at a hearing or prehearing conference, to comply with any prehearing order entered by the presiding officer, or to comply with any discovery order entered by the presiding officer, the Commission or the presiding officer may make any orders in regard to the failure that are just, including, among others, the following:

- (a) Without further notice, find the facts as to the matters regarding which the order was made in accordance with the claim of the party obtaining the order, and enter the order as appropriate; or
- (b) Proceed without further notice to take proof on the issues specified.

### § 2.321 Atomic Safety and Licensing Boards.

(a) The Commission or the Chief Administrative Judge may establish one or more Atomic Safety and Licensing Boards, each comprised of three members, one of whom will be qualified in the conduct of administrative proceedings and two of whom have such technical or other qualifications as the