

United States Nuclear Regulatory Commission
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COMMISSION ADOPTS POLICY STATEMENT TO IMPROVE
CONDUCT OF HEARINGS

The Nuclear Regulatory Commission has adopted a new policy statement outlining steps for more efficient conduct of legal proceedings by NRC administrative judges and licensing boards.

The Commission has taken this action after critically reassessing its adjudicatory practices and procedures, within the framework of its existing Rules of Practice. It also has considered the potentially significant number of hearings in the next few years because of license renewal requests, license amendments caused by electrical industry restructuring, and the licensing of radioactive waste storage facilities.

During its review, the Commission considered existing policies and rules, recent experience with and criticism of agency proceedings, and some innovative techniques that have been used by Federal courts, hearing boards and presiding officers to make the process more efficient.

The Commission has further reiterated its commitment to fair, expeditious hearings that produce an adequate record for decision.

The NRC is seeking public comment on the document, which was published in the Aug. 5 edition of the Federal Register and which will be published shortly in Nuclear Regulatory Commission Issuances, the official record of Commission legal decisions.

Specific approaches discussed in the policy statement can be accomplished within current regulations. Some of the highlights:

- The Commission continues to endorse its 1981 "Statement of Policy on Conduct of Licensing Proceedings." In accordance with that statement, licensing boards and presiding officers should continue to make timely rulings on pre-hearing matters, encourage negotiation and settlements, consolidate

hearing parties, and issue initial decisions as soon as practicable.

- The Commission, when appropriate, will use its inherent supervisory authority over licensing boards, including its power to assume part or all of the functions of the presiding officer in a particular proceeding.
- Adjudicatory matters referred to the Commission will be handled promptly.
- Licensing boards are encouraged to consider using new technologies, such as electronic filings, to expedite proceedings, and--when practicable--to utilize their authority to shorten the filing and response times set forth in the Commission's Rules of Practice.
- The Chief Administrative Judge of the Atomic Safety and Licensing Board Panel should consider--but only in appropriate circumstances where the proceeding will be expedited without undue burden on the parties--the appointment of additional presiding officers or licensing boards to handle individually distinct issues simultaneously in a proceeding.
- The Commission or licensing boards should establish schedules in individual proceedings. The licensing boards must promptly inform the Commission in writing if any Commission-set milestone in a proceeding could be missed by more than 30 days.
- Licensing boards are expected to enforce parties' compliance with time frames for filings specified in the Rules of Practice.
- A licensing board should consider matters not raised by the parties only when a serious issue of safety, environmental threat, or common defense and security exists. When a board so acts, it must notify both the Commission and the NRC General Counsel in writing, and receive the Commission's approval to consider such issues.
- In nuclear power plant license renewal cases, licensing boards are encouraged to refer questions about novel issues to the Commission for resolution early in the proceeding.
- To reduce the time spent in pre-hearing phases, licensing boards should set reasonable bounds and schedules for the discovery process by which parties make documentary evidence available to each other.

The policy statement was effective on the date of publication in the Federal Register. Comments are due no later than Oct. 5.

Written comments should be sent to The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Rulemakings and Adjudications Staff. They may be hand-delivered to 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

The policy statement also will be posted on the NRC's Internet web page at: <http://www.ruleforum.llnl.gov/cgi-bin/rulemake>.

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