



SECRETARY

**UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001**

July 18, 2024

MEMORANDUM TO: Brooke Poole Clark
General Counsel

FROM: Carrie M. Safford, Secretary

SUBJECT: STAFF REQUIREMENTS – SECY-24-0032 – REVISITING THE
MANDATORY HEARING PROCESS AT THE U.S. NUCLEAR
REGULATORY COMMISSION

The Commission has approved the use of the simplified hearing procedures outlined by the Office of the General Counsel (OGC) as Option 1 (written materials without oral hearing), with the Commission serving as the presiding officer for all proceedings falling under the provisions of 189a. of the Atomic Energy Act of 1954, as amended, regardless of whether the application is considered “first-of-a-kind” and with the following exceptions.

This Commission direction supersedes and replaces existing delegations and Commission policy for mandatory hearings associated with (1) Staff Requirements—SECY-15-0088—Selection of Presiding Officer for Mandatory Hearings Associated with Early Site Permit Applications and Construction Permit Applications for Medical Isotope Production and Utilization Facilities (ML15238B093); and (2) Staff Requirements—SECY-21-0107—Selection of Presiding Officer for Mandatory Hearings Associated with Construction Permit Applications (ML22083A045).

Form of Commission decision

The Commission decision will take the form of a streamlined Commission Legal Issuance (i.e., a memorandum and order in the style of an adjudicatory decision) focused on novel issues and site-specific considerations. The staff should continue to submit an information paper as currently contemplated by the Internal Commission Procedures.

Role of the Office of Commission Appellate Adjudication

The Office of Commission Appellate Adjudication (OCAA) should maintain its role in support of the Commission’s mandatory hearing review, including the provision of adjudicatory technical support, if needed. OCAA should revise its internal processes to update and simplify its support role seeking efficiencies wherever practical.

Proceedings under Atomic Energy Act § 193(b)

For uranium enrichment facility proceedings falling under the 193(b) mandatory hearing provisions, the Atomic Safety and Licensing Board Panel (Panel) will be the presiding officer. The Commission will issue case-specific orders to notify the applicant and the public of the

streamlined procedures that will be applied for each proceeding. OGC, in coordination with the Panel, should develop a template notice of hearing for Commission consideration that can be adapted as a vehicle for case-specific orders. This notice of hearing template should account for the Atomic Energy Act provisions regarding mandatory hearings under 193(b) and address requirements for “on the record” proceedings under the Administrative Procedures Act.

Implementation and Future Actions

These revisions are immediately effective and will be employed for the Hermes 2 mandatory hearing that is anticipated later this year; the notice of mandatory hearing should reflect the revised procedures as approved herein. After completing two mandatory hearings under the procedures as revised herein, OGC, in consultation with the Office of the Secretary and OCAA, should propose limited scope changes to the section on mandatory hearings in Chapter IV of the Commission’s Internal Procedures to implement the approach articulated above for Commission consideration. OGC should conduct a lessons learned review after the completion of two mandatory hearings held under this new process to determine further efficiencies.

OGC should also consider potential rulemaking changes consistent with this direction as part of its regular internal evaluation of Title 10 of the *Code of Federal Regulations* Part 2. Any recommendations associated with provisions that impact the procedures for mandatory hearings should be provided to the Commission for consideration as part of a rulemaking plan.

cc: Chair Hanson
Commissioner Wright
Commissioner Caputo
Commissioner Crowell
EDO
OGC
CFO
OCA
OPA
ODs, RAs, ACRS, ASLBP
PDR