



The Atomic Safety and Licensing Board Panel

U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

THE ATOMIC SAFETY AND LICENSING BOARD PANEL

Through the Atomic Energy Act, Congress made it possible for the public to receive a full and fair hearing on civilian nuclear matters.* Individuals who are directly affected by any licensing action involving a facility producing or utilizing nuclear materials can participate in a hearing before independent judges of the U.S. Nuclear Regulatory Commission (NRC) Atomic Safety and Licensing Board Panel (ASLBP or the Panel).

Hearings often involve difficult, interdisciplinary questions at the cutting edge of science and technology. In addition, U.S. Nuclear Regulatory Commission (NRC) hearings air local concerns about the consequences of severe accidents and continue the national debate over the role nuclear power should play in meeting the Nation's energy needs.

A group of three judges or a single administrative law judge drawn from the Panel conduct contested hearings at the NRC. The three-judge Atomic Safety and Licensing Boards normally consist of one lawyer judge and two nonlawyer technical judges with expertise in the scientific subject matter at issue in the case. Hearings before these judges are among the most complex, lengthy, and controversial administrative proceedings conducted by the Federal Government.

The Panel considers issues that arise from the operation of over 100 U.S. commercial nuclear power plants, dozens of research and test operation reactors, and programs related to several thousand nuclear materials licensees. In recent years, hearings have addressed reactor life extensions, decommissioning, enforcement actions, reactor and materials license amendments, and spent fuel storage.

Increasingly, however, the hearings have focused on early site permits and combined operating licenses for proposed nuclear reactors, and the licensing of a high-level radioactive waste repository at Yucca Mountain, Nevada. The latter proceeding will involve novel and complex scientific issues.

Types of Hearings

*The NRC's regulations provide the opportunity for numerous hearings in the regulatory process:

COMMISSION-ORDERED PROCEEDINGS. The Commission can direct that hearings be conducted for any nuclear-related matter. For example, although

hearings are not required for rulemaking, the NRC's regulations offer the opportunity for a hearing to contest proposed rules that would certify designs for new reactors.

ENFORCEMENT PROCEEDINGS. Hearings are available to individuals, employees, licensees, contractors, subcontractors, and vendors to contest penalties such as monetary fines, facility shutdown, or license revocation for infractions of NRC regulations.

REACTOR LICENSING. The Atomic Energy Act requires that a hearing be held on every application for a license to build and operate a nuclear facility that produces electric power. The combined construction permit and operating license hearing gives affected individuals and organizations a chance to raise health and safety issues. The Panel can hold separate hearings on applications for construction permits or for operating licenses for a nuclear power plant or related facility if a combined license is not requested.

LICENSE AMENDMENTS. Affected parties can challenge proposed license amendments that seek to change the operating functions or the physical configuration of nuclear reactors. If the public health and safety warrants, hearings will be required before the license amendment is authorized.

MATERIALS LICENSES. The Panel can conduct hearings for contested NRC actions licensing the commercial use of nuclear materials. These licenses involve the mining, manufacturing, treatment, disposal, or storage of radioactive materials and their commercial use in fields such as nuclear medicine and radiography.

PERSONNEL MATTERS. Hearings are also available for employee grievances or agency personnel actions, differing professional opinions, and appeals from sanctions for fraudulent claims.

How Does the Public Participate?

The public can participate in NRC hearings by

1. submitting written statements for consideration,
2. making oral presentations at limited appearance sessions, or
3. becoming interveners in hearings with full participatory rights as parties.

Parties to NRC hearings can appeal adverse Commission decisions to the U.S. Courts of Appeals and ultimately to the Supreme Court of the United States.

Formality of Hearings

Hearings may be either formal or informal. The Commission's rules of practice spell out the formal hearing procedures, which conform to the Administrative Procedure Act. Formal proceedings employ the traditional procedures used in nonjury Federal court cases, such as pretrial discovery between the parties and formal trial procedures at the evidentiary hearing, including witness cross-examination by the parties. Formal procedures are used in (1) enforcement proceedings brought by the agency against individuals and licensees, (2) licensing of uranium enrichment facilities, (3) high-level waste repository licensing (Yucca Mountain), and (4) nuclear power reactor licensing where special circumstances exist.

Most other cases follow informal hearing procedures, also outlined in the agency's procedural rules. While the deliberative process for judges remains the same under either type of hearing, informal hearings grant the parties significantly fewer procedural rights for developing the record on which decisions must be based. For instance, informal hearings limit pretrial discovery to mandatory document disclosures by the parties and restrict witness questioning during evidentiary hearings to Panel judges.

High-Level Waste

The Panel is designated to make the initial decision in a formal hearing on whether the Department of Energy's (DOE's) high-level waste (HLW) repository at Yucca Mountain, Nevada, satisfies applicable safety and environmental requirements before granting DOE authority to construct the facility. The Panel will conduct the construction authorization proceeding, which is expected to last up to 4 years, primarily in Las Vegas, Nevada, in a special hearing room equipped with advanced technology and designed and constructed specifically for an electronic hearing. Subsequently, the Panel would conduct any hearing regarding DOE authorization to operate the facility.



Hearing Room, Las Vegas, Nevada

The Panel is also responsible for developing and operating the Licensing Support Network (LSN), an Internet-based document management system that provides

electronic access to millions of documents relevant to the HLW repository licensing proceeding. Through the LSN, these documents are available to the public, as well as to the parties to the proceeding.

Other Panel Responsibilities

ADVISORY OPINIONS. The Panel monitors all proposed rules, final rules, and legislation affecting the NRC’s hearing process and advises the Commission when potential problems exist. The Panel may comment on rules and regulations proposed by the NRC’s Office of the General Counsel.

ALTERNATIVE DISPUTE RESOLUTION. Panel members are trained in alternative dispute resolution techniques. This resource is available to the agency for mediation and facilitation services.

MANAGING COURT REPORTING SERVICES. The Panel manages court reporting services for itself and the rest of the NRC. These services cover proceedings, meetings, depositions, public hearings, oral arguments, and investigative interviews held in the United States, Canada, and Mexico.

Integrated Technologies and The Paperless Courtroom

NRC HEARING ROOMS

In addition to its Las Vegas facility, the Panel has an integrated technology hearing room in the agency’s Two White Flint North Building in Rockville, Maryland. The well of the hearing room has a circular design to afford all hearing participants an unobstructed view.



Hearing Room, Rockville, Maryland

DIGITAL SYSTEMS AND DATA MANAGEMENT

To handle large, complex proceedings efficiently and effectively, the Panel uses the Digital Data Management System (DDMS) that combines audio, video, and computer technology. Using DDMS, participants and Panel judges can locate and

view electronic text and images of record materials and perform legal research on the Internet, while the hearing clerk can electronically mark exhibits presented as evidence. Audio/video capabilities include a voice-activated digital video recording system with cameras and monitors and a video/teleconferencing system to allow parties and witnesses to participate from multiple remote locations. A video record, which can be captioned using real-time court reporting, may be available to the public via live webstreaming and to the parties via the Internet immediately after the day's testimony.

ELECTRONIC DOCKETING AND FILING

The Panel has worked with other NRC offices to consolidate and computerize the NRC's adjudicatory dockets into the Electronic Hearing Docket, which provides electronic document storage and access in administrative hearings.

The Panel also has been involved in implementing the E-Filing System for electronic filing in administrative proceedings. The system makes it possible for the parties' computers to send documents to the NRC via the Internet, which will then make electronic copies available to the parties via an e-mail notice. This system, which is being used in the Yucca Mountain licensing proceeding and other Panel cases, should save considerable time and resources for both litigants and the Panel.

Publication of Decisions

The agency publishes all significant Panel decisions in the NRC Issuances legal reporter, along with other Commission decisions dating back to 1956. The decisions are also available in the NRC's Public Document Room, at 11555 Rockville Pike, Rockville, Maryland, telephone 800-397-4209, e-mail pdrc@nrc.gov.

Recent decisions can be found in the NRC's Agencywide Documents Access and Management System (ADAMS). The public can access ADAMS through the NRC's Internet Web site Public Electronic Reading Room link at www.nrc.gov/reading-rm/adams.html.

Panel Members

The Panel's judges include lawyers, physicists, engineers, and environmental scientists. They are employees of the NRC whose decisions are subject to Commission review, but the Administrative Procedure Act, as well as longstanding agency policy, grants them independence from the Commission. Thus, the ex parte and separation of functions rules dictate that the Panel and its members remain at arms length to avoid the appearance of a conflict of interest.

Additional information about the Atomic Safety and Licensing Board Panel and its adjudicatory responsibilities can be found at: www.nrc.gov/about-nrc/regulatory/adjudicatory/aslbp-respons.html or by calling 301-415-7550.

Office of Public Affairs
U.S. Nuclear Regulatory Commission
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NUREG/BR-0249, Rev. 3
March 2009