

Environmental Protection Agency

§ 304.30

receipt of the information on which such request is based.

(d) The Association shall make a determination on any request for disqualification of an Arbitrator within seven days after the Association receives any such request, and shall notify the parties in writing of such determination. This determination shall be within the sole discretion of the Association, and its decision shall be final.

§ 304.24 Intervention and withdrawal.

(a)(1) No later than thirty days prior to the pre-hearing conference (*see* § 304.31 of this part), any PRP associated with the facility which is the subject of the referred claim may move to intervene in the arbitral proceeding for the purpose of having one or more issues relating to his or her responsibility for payment of the referred claim resolved.

(2) If the Arbitrator has been appointed, a motion to intervene shall be filed with the Arbitrator and a copy shall be served upon all parties. If the Arbitrator has not yet been appointed, a motion to intervene shall be submitted to the Association and a copy shall be served upon all parties.

(3) Any such motion to intervene may be granted only upon the written approval of the Arbitrator and all of the parties in the form of a modification to the joint request for arbitration pursuant to § 304.21(c) of this part, by signing such a modification, the intervening party consents to be bound by the terms of the joint request for arbitration submitted pursuant to § 304.21(b) of this part and any modifications previously made thereto pursuant to § 304.21(c) of this part, and consents to be bound by such revisions to the time limits for the filing of pleadings as the Arbitrator may make to prevent delaying the pre-hearing conference.

(b) Any party may move to withdraw from the arbitral proceeding within thirty days after receipt of the notice of appointment of the Arbitrator (*see* § 304.22 of this part). The Arbitrator may approve such withdrawal, without prejudice to the moving party, and shall assess such administrative fees and expenses (*see* § 304.41 of this part) against the withdrawing party as the

Arbitrator deems appropriate. No party may withdraw from the arbitral proceedings after this thirty-day period, except that EPA may withdraw from the proceeding in accordance with § 304.20(b)(3) or § 304.33(e) of this part.

§ 304.25 Ex parte communication.

(a) No interested person shall make or knowingly cause to be made to the Arbitrator an *ex parte* communication.

(b) The Arbitrator shall not make or knowingly cause to be made to any interested person an *ex parte* communication.

(c) The Association may remove the Arbitrator in any proceeding in which it is demonstrated to the Association's satisfaction that the Arbitrator has engaged in prohibited *ex parte* communication to the prejudice of any party. If the Arbitrator is removed, the procedures in § 304.22(d) of this part shall apply.

(d) Whenever an *ex parte* communication in violation of this section is received by or made known to the Arbitrator, the Arbitrator shall immediately notify in writing all parties to the proceeding of the circumstances and substance of the communication and may require the party who made the communication or caused the communication to be made, or the party whose representative made the communication or caused the communication to be made, to show cause why that party's arguments or claim should not be denied, disregarded, or otherwise adversely affected on account of such violation.

(e) The prohibitions of this section apply upon appointment of the Arbitrator and terminate on the date of the final decision.

Subpart C—Hearings Before the Arbitrator

§ 304.30 Filing of pleadings.

(a) Discovery shall be in accordance with this section and § 304.31 of this part.

(b) Within thirty days after receipt of the notice of appointment of the Arbitrator (*see* § 304.22 of this part), EPA shall submit to the Arbitrator two copies of a written statement and shall serve a copy of the written statement