

PART 305—COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) ADMINISTRATIVE HEARING PROCEDURES FOR CLAIMS AGAINST THE SUPERFUND

Subpart A—General

- Sec.
 305.1 Scope.
 305.2 Use of number and gender.
 305.3 Definitions.
 305.4 Powers and duties of the Review Officer and the Presiding Officer; disqualification.
 305.5 Filing, service, and form of pleadings and documents.
 305.6 Computation and extension of time.
 305.7 *Ex parte* discussion of proceeding.
 305.8 Examination of documents filed.

Subpart B—Parties and Appearances

- 305.10 Appearances.
 305.11 Consolidation and severance.

Subpart C—Prehearing Procedures

- 305.20 Request for a hearing; contents.
 305.21 Amendment of request for a hearing; withdrawal.
 305.22 Answer to the request for a hearing.
 305.23 Motions.
 305.24 Default order.
 305.25 Informal settlement; voluntary agreement.
 305.26 Prehearing conference.
 305.27 Accelerated order, order to dismiss.

Subpart D—Hearing Procedure

- 305.30 Scheduling the hearing.
 305.31 Evidence.
 305.32 Objections and offers of proof.
 305.33 Burden of presentation; burden of persuasion.
 305.34 Filing the transcript.
 305.35 Proposed findings, conclusions, and order.
 305.36 Final order; costs.

AUTHORITY: 42 U.S.C. 9601 *et seq.*; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p. 193.

SOURCE: 58 FR 7706, Feb. 8, 1993, unless otherwise noted.

Subpart A—General

§ 305.1 Scope.

(a)(1) This part governs all administrative proceedings for the total or partial denial of response claims asserted

against the Hazardous Substance Superfund (the Fund) pursuant to sections 111(a)(2) and 122(b)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9601 *et seq.*

(2) Sections 111(a)(2) and 122(b)(1) of CERCLA authorize EPA, among other things, to use the Fund to reimburse certain persons who file claims for eligible response costs incurred in carrying out the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. In the event that the Claims Official declines to pay all or part of a claim, a claimant may request an administrative hearing pursuant to § 305.4(a) within 30 days after receiving notice of the Claims Official's decision. The procedures governing such a proceeding are set forth in this part.

(b) Procedural questions arising at any stage of the proceeding which are not addressed in this part shall be resolved at the discretion of the Claims Official, the Review Officer, or the Presiding Officer, as appropriate.

§ 305.2 Use of number and gender.

As used in this part, words in the singular also include the plural and words in the masculine gender also include the feminine, as the case may require.

§ 305.3 Definitions.

(a) The following definitions apply to this part:

Administrative Law Judge means an Administrative Law Judge appointed under 5 U.S.C. 3105.

Agency or *EPA* means the United States Environmental Protection Agency.

CERCLA or *the Act* means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9601 *et seq.*

Claim means a demand in writing for a sum certain, which is presented to the Fund in accordance with CERCLA sections 111 and 112.