(e) In any arbitration conducted prior to the selection of the Association (*see* § 304.21(e) of this part), all fees and expenses of the arbitral proceeding, including the Arbitrator's fee, shall be divided equally among all parties, except that expenses of witnesses shall be borne by the party producing such witnesses, expenses of an interpreter shall be borne by the party requesting such interpreter, and the expense of the stenographic record and all transcripts thereof shall be prorated equally among all parties ordering copies.

§ 304.42 Miscellaneous provisions.

(a) Any party who proceeds with the arbitration knowing that any provision or requirement of this part has not been complied with, and who fails to object thereto either orally or in writing in a timely manner, shall be deemed to have waived the right to object.

(b) The original of any joint request for arbitration, modification to any joint request for arbitration, pleading, letter, or other document filed in the proceeding (except for exhibits and other documentary evidence) shall be signed by the filing party or by his or her attorney.

(c) All papers associated with the proceeding that are served by a party to an opposing party shall be served by personal service, or by United States first class mail, or by United States certified mail, return receipt requested, addressed to the party's attorney, or if the party is not represented by an attorney or the attorney cannot be located, to the last known address of the party. All papers associated with the proceeding that are served by the Arbitrator or by the Association shall be served by personal service or by United States certified mail, return receipt requested, addressed to the party's attorney, or if the party is not represented by an attorney or the attorney cannot be located, to the last known address of the party.

(d) If any provision of this part, or the application of any provision of this part to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances and the remainder of this part shall not be affected thereby.

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

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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.

Claimant means any person who presents a claim to the Fund for reimbursement under CERCLA section 112(b)(1).

Claims Official means the Assistant Administrator or the Regional Administrator or his delegatee who makes the initial decision awarding or denying a claim in whole or in part.

Confidential business information or *CBI* means business information for which a person has made a ''business confidentiality claim'' as defined in 40 CFR 2.201(h) and in accordance with all applicable provisions in 40 CFR part 2, subpart B, except insofar as the Administrator has denied the claim pursuant to the procedures in 40 CFR part 2, subpart B.

Final order means the decision of the Review Officer which has become final in accordance with § 305.4(a), or of the Presiding Officer, or in the case of a voluntary agreement (see § 305.25) of the parties, disposing of all legal and factual matters presented in the Request for a Hearing. A final order made by the Review Officer or the Presiding Officer shall contain findings of fact, conclusions of law, as well as the reasons therefore, and an order for an award of a sum certain, or an explanation of why no award is granted. The final order may consist of one or more of the following documents: the findings of fact, conclusions of law, and order of the Review Officer or the Presiding Officer; a voluntary agreement; an accelerated order; or a default order, if the default order provides for dismissal of the Request for a Hearing with prejudice. A final order is the final administrative decision of the Agency and (with the exception of a voluntary agreement) is appealable to the Federal district court for the district where the release or threat of release took place.

Fund or *Superfund* means the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986.

Hearing means a hearing on the record open to the public and conducted under this part.

Hearing Clerk means the Hearing Clerk, A-110, United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.