

**§ 110.9**

**7 CFR Ch. I (1-1-00 Edition)**

such period shall be extended to include the next following business day.

(n) *Ex parte communications.* (1) At no stage of the proceeding between its institution and the issuance of the final decision shall the Presiding Officer or Administrator discuss *ex parte* the merits of the proceeding with any person who is connected with the proceeding in an advocative or in an investigative capacity, or with any representative of such person: *Provided*, That the Presiding Officer or Administrator may discuss the merits of the case with such a person if all parties to the proceeding, or their attorneys have been given notice and an opportunity to participate. A memorandum of such discussion shall be included in the record.

(2) No interested person shall make or knowingly cause to be made to the Presiding Officer or Administrator an *ex parte* communication relevant to the merits of the proceeding.

(3) If the Presiding Officer of the Administrator receives an *ex parte* communication in violation of this paragraph (n), the individual who receives

the communication shall place in the public record of the proceeding:

- (i) Any such written communication;
- (ii) Memoranda stating the substance of such oral communication; and
- (iii) Any written response, and memoranda stating the substance of any oral response to the *ex parte* communication.

(4) For purposes of this section *ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or the proceeding.

**§ 110.9 Miscellaneous.**

In accordance with Section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the recordkeeping provisions in this rule have been approved by the Office of Management and Budget (OMB) and there are no new requirements. The assigned OMB control number is 0581-AA39.

**PARTS 111-159 [RESERVED]**