

Department of Energy

§ 205.194

(b) Once a prima facie case has been established, a person who objects to a finding of fact or conclusion of law in the Proposed Remedial Order has the burden of going forward with the evidence. Furthermore, the proponent of additional factual representations has the burden of going forward with the evidence.

(c) Unless otherwise specified by the Director of the Office of Hearings and Appeals or his designee, the proponent of an order or a motion or additional factual representations has the ultimate burden of persuasion.

§ 205.193 Notice of Objection.

(a) Within 15 days after publication of the notice of a Proposed Remedial Order in the FEDERAL REGISTER any aggrieved person may file a Notice of Objection to the Proposed Remedial Order with the Office of Hearings and Appeals. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections. No confidential information shall be included in a Notice of Objection. The DOE shall place one copy of the Notice in the Office of Hearings and Appeals Public Docket Room.

(b) A person who fails to file a timely Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by paragraph (a) of this section, the Proposed Remedial Order may be issued as a final order.

(c) A person who files a Notice of Objection shall on the same day serve a copy of the Notice upon the person to whom the Proposed Remedial Order is directed, the DOE Office that issued the Proposed Remedial Order, and the DOE Assistant General Counsel for Administrative Litigation.

(d) The Notice shall include a certification of compliance with the provisions of this section, the names and addresses of each person served with a copy of the Notice, and the date and manner of service.

(e) If no person files a timely Notice of Objection, ERA may request the Of-

fice of Hearings and Appeals to issue the Proposed Remedial Order as a final Remedial Order.

(f) In order to exhaust administrative remedies with respect to a Remedial Order proceeding, a person must file a timely Notice of Objection and Statement of Objections with the Office of Hearings and Appeals.

§ 205.193A Submission of ERA supplemental information.

Within 20 days after service of a Notice of Objection to a Proposed Remedial Order the ERA may serve, upon the person to whom the Proposed Remedial Order was directed, supplemental information relating to the calculations and determinations which support the findings of fact set forth in the Proposed Remedial Order.

§ 205.194 Participants; official service list.

(a) Upon receipt of a Notice of Objection, the Office of Hearings and Appeals shall publish a notice in the FEDERAL REGISTER which states the person to whom the Proposed Remedial Order is directed, his address and the products, dollar amounts, time period, and geographical area specified in the Proposed Remedial Order. The notice shall state that any person who wishes to participate in the proceeding must file an appropriate request with the Office of Hearings and Appeals.

(b) The Office that issued the Proposed Remedial Order and the person to whom the Order is directed shall be considered participants before the Office of Hearings and Appeals at all stages of an enforcement proceeding. Any other person whose interest may be affected by the proceeding may file a request to participate in the proceeding with the Office of Hearings and Appeals within 20 days after publication of the notice referred to in paragraph (a) of this section. The request shall contain

(1) The person's name, address, and telephone number and similar information concerning his duly authorized representative, if any;

(2) A detailed description of the person's interest in the proceeding;