facts exist without substantial controversy and what material facts remain controverted in good faith. He shall thereupon file an interlocutory order specifying the facts that appear substantially uncontroverted, and the issues and claims upon which the adjudication will proceed.

§ 820.35 *Ex parte* discussions.

At no time after a respondent has requested an on-the-record adjudication of the assessment of a civil penalty shall a DOE Official, or any person who is likely to advise a DOE Official in the decision on the case, discuss *ex parte* the merits of the proceeding with any interested person outside DOE, with any DOE staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any *ex parte* memorandum or other communication addressed to a DOE Official during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party shall be regarded as argument made in the proceeding and shall be served upon all other parties. Any oral communication shall be set forth in a written memorandum and served on all other parties. The other parties shall be given an opportunity to reply to such memorandum or communication.

§ 820.36 Filing, form, and service of documents.

(a) *Filing in an enforcement proceeding.* The original and three copies of any document in an enforcement proceeding shall be filed with the Docketing Clerk commencing with the filing of a Preliminary Notice of Violation.

(b) *Form of documents in an enforcement proceeding.* (1) Except as provided herein, or by order of the DOE Official, there are no specific requirements as to the form of documents filed in an enforcement proceeding.

(2) The first page of every document shall contain a caption identifying the respondent and the docket number.

(3) The original of any document (other than exhibits) shall be signed by the person filing it or by his counsel or other representative. The signature constitutes a representation by the signer that he has read the pleading, letter or other document, that to the best of his knowledge, information and belief, the statements made therein are true, and that it is not interposed for delay.

(4) The initial document filed by any person shall contain his name, address and telephone number. Any changes in this information shall be communicated promptly to the Docketing Clerk and all participants to the proceeding. A person who fails to furnish such information and any changes thereto shall be deemed to have waived his right to notice and service under this part.

(5) The Docketing Clerk may refuse to file any document that does not comply with this section. Written notice of such refusal, stating the reasons therefor, shall be promptly given to the person submitting the document. Such person may amend and resubmit any document refused for filing.

§ 820.37 Participation in an adjudication.

(a) *Parties.* In an enforcement adjudication, the Director and the respondent shall be the only parties; provided that the Presiding Officer may permit a person to intervene as a party if the person demonstrates it could be liable in the event a civil penalty is assessed.

(b) *Appearances.* Any party to an enforcement adjudication may appear in person or by counsel or other representative. A partner may appear on behalf of a partnership and an officer may appear on behalf of a corporation. Persons who appear as counsel or other representative must conform to the standards of conduct and ethics required of practitioners before the courts of the United States.

(c) *Amicus Curiae.* Persons not parties to an enforcement adjudication who wish to file briefs may so move. The motion shall identify the interest of the person and shall state the reasons why the proposed amicus brief is desirable. If the motion is granted, the Presiding Officer shall issue an order setting the time for filing such brief. An *amicus curiae* is eligible to participate in any briefing after his motion is granted, and shall be served with all