§ 304.23 Disclosure and challenge procedures.

(a) A person appointed as an Arbitrator under §304.22 of this part shall, within five days of receipt of his or her notice of appointment, disclose to the Association any circumstances likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration, or any past or present relationship with the parties or their counsel, or any past or present relationship with any PRP to which the claim may relate.

(b) Upon receipt of such information from an appointed Arbitrator or other source, the Association shall, within two days of receipt, communicate such information to the parties. Such communication may be made orally or in writing, but if made orally, shall be confirmed in writing.

(c) If any party wishes to request disqualification of an Arbitrator, such party shall notify the Association and the other parties of such request and the basis therefor within seven days of receipt of the information on which such request is based.

(d) The Association shall make a determination on any request for disqualification of an Arbitrator within seven days after the Association receives any such request, and shall notify the parties in writing of such determination. This determination shall be within the sole discretion of the Association, and its decision shall be final.

§ 304.24 Intervention and withdrawal.

(a)(1) No later than thirty days prior to the pre-hearing conference (see §304.31 of this part), any PRP associated with the facility which is the subject of the referred claim may move to intervene in the arbitral proceeding for the purpose of having one or more issues relating to his or her responsibility for payment of the referred claim resolved.

(2) If the Arbitrator has been appointed, a motion to intervene shall be filed with the Arbitrator and a copy shall be served upon all parties. If the Arbitrator has not yet been appointed, a motion to intervene shall be submitted to the Association and a copy shall be served upon all parties.

(3) Any such motion to intervene may be granted only upon the written approval of the Arbitrator and all of the parties in the form of a modification to the joint request for arbitration pursuant to §304.21(c) of this part.
signing such a modification, the intervening party consents to be bound by the terms of the joint request for arbitration submitted pursuant to §304.21(b) of this part and any modifications previously made thereto pursuant to §304.21(c) of this part, and consents to be bound by such revisions to the time limits for the filing of pleadings as the Arbitrator may make to prevent delaying the pre-hearing conference.

(b) Any party may move to withdraw from the arbitral proceeding within thirty days after receipt of the notice of appointment of the Arbitrator (see §304.22 of this part). The Arbitrator may approve such withdrawal, without prejudice to the moving party, and shall assess such administrative fees and expenses (see §304.41 of this part) against the withdrawing party as the Arbitrator deems appropriate. No party may withdraw from the arbitral proceedings after this thirty-day period, except that EPA may withdraw from the proceeding in accordance with §304.20(b)(3) or §304.33(e) of this part.

§304.30 Filing of pleadings.

(a) Discovery shall be in accordance with this section and §304.31 of this part.

(b) Within thirty days after receipt of the notice of appointment of the Arbitrator (see §304.22 of this part), EPA shall submit to the Arbitrator two copies of a written statement and shall serve a copy of the written statement upon all other parties. The written statement shall in all cases include the information requested in paragraphs (b)(1), (b)(6), and (b)(7) of this section, shall include the information requested in paragraph (b)(2) of this section if the issue of liability of any participating PRP has been submitted for resolution, shall include the information requested in paragraph (b)(3) of this section if any issue concerning the adequacy of EPA's response action has been submitted for resolution or may arise during the Arbitrator's determination of the dollar amount of response costs recoverable by EPA, shall include the information requested in paragraph (b)(4) of this section if the issue of the dollar amount of response costs recoverable by EPA has been submitted for resolution, and shall include the information requested in paragraph (b)(5) of this section if any issue concerning allocation of liability for payment of EPA's award has been submitted for resolution.

(1) A statement of facts, including a description of the facility, the EPA response action taken at the facility, the response costs incurred and to be incurred by the United States in connection with the response action taken at the facility, and the parties;

(2) A description of the evidence in support of the following four elements of liability of the participating PRP(s) whose liability pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), is