

**§ 16.235**

**14 CFR Ch. I (1–1–18 Edition)**

**§ 16.235 Argument before the hearing officer.**

(a) *Argument during the hearing.* During the hearing, the hearing officer shall give the parties reasonable opportunity to present oral argument on the record supporting or opposing motions, objections, and rulings if the parties request an opportunity for argument. The hearing officer may direct written argument during the hearing if the hearing officer finds that submission of written arguments would not delay the hearing.

(b) *Posthearing briefs.* The hearing officer may request or permit the parties to submit posthearing briefs. The hearing officer may provide for the filing of simultaneous reply briefs as well, if such filing will not unduly delay the issuance of the hearing officer's initial decision. Posthearing briefs shall include proposed findings of fact and conclusions of law; exceptions to rulings of the hearing officer; references to the record in support of the findings of fact; and supporting arguments for the proposed findings, proposed conclusions, and exceptions.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996, as amended at Amdt. 16–1, 78 FR 56147, Sept. 12, 2013]

**§ 16.237 Waiver of procedures.**

(a) The hearing officer shall waive such procedural steps as all parties to the hearing agree to waive before issuance of an initial decision.

(b) Consent to a waiver of any procedural step bars the raising of this issue on appeal.

(c) The parties may not by consent waive the obligation of the hearing officer to enter an initial decision on the record.

**§ 16.241 Initial decisions, order, and appeals.**

(a) The hearing officer shall issue an initial decision based on the record developed during the proceeding and shall send the initial decision to the parties not later than 110 days after the Director's Determination unless otherwise provided in the hearing order.

(b) Each party adversely affected by the hearing officer's initial decision may file an appeal with the Associate Administrator within 15 days of the

date the initial decision is issued. Each party may file a reply to an appeal within 10 days after it is served on the party. Filing and service of appeals and replies shall be by personal delivery.

(c) If an appeal is filed, the Associate Administrator reviews the entire record and issues a final agency decision and order within 60 days of the due date of the reply. If no appeal is filed, the Associate Administrator may take review of the case on his or her own motion. If the Associate Administrator finds that the respondent is not in compliance with any Act or any regulation, agreement, or document of conveyance issued or made under such Act, the final agency order includes, in accordance with § 16.245(d), a statement of corrective action, if appropriate, and identifies sanctions for continued non-compliance.

(d) If no appeal is filed, and the Associate Administrator does not take review of the initial decision on the Associate Administrator's own motion, the initial decision shall take effect as the final agency decision and order on the sixteenth day after the actual date the initial decision is issued.

(e) The failure to file an appeal is deemed a waiver of any rights to seek judicial review of an initial decision that becomes a final agency decision by operation of paragraph (d) of this section.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996, as amended at Amdt. 16–1, 78 FR 56147, Sept. 12, 2013]

**§ 16.243 Consent orders.**

(a) The agency attorney and the respondents may agree at any time before the issuance of a final decision and order to dispose of the case by issuance of a consent order. Good faith efforts to resolve a complaint through issuance of a consent order may continue throughout the administrative process. Except as provided in § 16.209, such efforts may not serve as the basis for extensions of the times set forth in this part.

(b) A proposal for a consent order, specified in paragraph (a) of this section, shall include:

- (1) A proposed consent order;
- (2) An admission of all jurisdictional facts;