

§ 1303.34 Request for hearing or appearance; waiver.

(a) Any applicant or registrant who desires a hearing on the issuance, adjustment, suspension, or denial of his procurement and/or individual manufacturing quota shall, within 30 days after the date of receipt of the issuance, adjustment, suspension, or denial of such quota, file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter. Any interested person who desires a hearing on the determination of an aggregate production quota shall, within the time prescribed in § 1303.11(c), file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter, including in the request a statement of the grounds for a hearing.

(b) Any interested person who desires to participate in a hearing on the determination or adjustment of an aggregate production quota, which hearing is ordered by the Administrator pursuant to § 1303.11(c) or § 1303.13(c) may do so by filing with the Administrator, within 30 days of the date of publication of notice of the hearing in the FEDERAL REGISTER, a written notice of his intention to participate in such hearing in the form prescribed in § 1316.48 of this chapter.

(c) Any person entitled to a hearing or to participate in a hearing pursuant to paragraph (b) of this section, may, within the period permitted for filing a request for a hearing of notice of appearance, file with the Administrator a waiver of an opportunity for a hearing or to participate in a hearing, together with a written statement regarding his position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(d) If any person entitled to a hearing or to participate in a hearing pursuant to paragraph (b) of this section, fails to file a request for a hearing or notice of appearance, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing or to participate in the

hearing, unless he shows good cause for such failure.

(e) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant to § 1303.37 without a hearing.

[36 FR 7786, Apr. 24, 1971, as amended at 36 FR 18731, Sept. 21, 1971; 37 FR 15920, Aug. 8, 1972. Redesignated at 38 FR 26609, Sept. 24, 1973]

§ 1303.35 Burden of proof.

(a) At any hearing regarding the determination or adjustment of an aggregate production quota, each interested person participating in the hearing shall have the burden of proving any propositions of fact or law asserted by him in the hearing.

(b) At any hearing regarding the issuance, adjustment, suspension, or denial of a procurement or individual manufacturing quota, the Administration shall have the burden of proving that the requirements of this part for such issuance, adjustment, suspension, or denial are satisfied.

[36 FR 7786, Apr. 24, 1971, as amended at 37 FR 15920, Aug. 8, 1972. Redesignated at 38 FR 26609, Sept. 24, 1973, as amended at 62 FR 13958, Mar. 24, 1997]

§ 1303.36 Time and place of hearing.

(a) If any applicant or registrant requests a hearing on the issuance, adjustment, suspension, or denial of his procurement and/or individual manufacturing quota pursuant to § 1303.34, the Administrator shall hold such hearing. Notice of the hearing shall be given to the applicant or registrant of the time and place at least 30 days prior to the hearing, unless the applicant or registrant waives such notice and requests the hearing be held at an earlier time, in which case the Administrator shall fix a date for such hearing as early as reasonably possible.

(b) The hearing will commence at the place and time designated in the notice given pursuant to paragraph (a) of this section or in the notice of hearing published in the FEDERAL REGISTER pursuant to § 1303.11(c) or § 1303.13 (c), but