

LII > Electronic Code of Federal Regulations (e-CFR)
> Title 15—Commerce and Foreign Trade
> Subtitle B—Regulations Relating to Commerce and Foreign Trade
> CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
DEPARTMENT OF COMMERCE
> SUBCHAPTER A—GENERAL REGULATIONS
> PART 906—NATIONAL APPEALS OFFICE RULES OF PROCEDURE
> **§ 906.3 Requesting an appeal and agency record.**

15 CFR § 906.3 - Requesting an appeal and agency record.

CFR

§ 906.3 Requesting an appeal and agency record.

(a) *Who may file.* Any person who is the named recipient of an initial administrative determination.

(b) *Petition to appeal.*

(1) To request an appeal, a person shall submit a written petition of appeal to NAO.

(2) The petition shall include a copy of the initial administrative determination the person wishes to appeal.

(3) In the petition, the person shall state how the initial administrative determination directly and adversely affects him or her, why he or she believes the initial administrative determination is inconsistent with the law and regulations governing

the initial administrative determination, and whether he or she requests a hearing or prefers that an appellate officer make a decision based on the NAO case record and without a hearing.

(i) Arguments not raised by the person in his or her petition to appeal will be deemed waived unless NAO permits amendments to the petition based on good cause for not raising the arguments in the original petition.

(ii) The petition may include additional documentation in support of the appeal.

(4) If a person requests a hearing, the written request must include a concise statement raising genuine and substantial issues of a material fact or law that cannot be resolved based on the documentary evidence.

(5) In the petition, a person shall state whether the person has a representative, and if so, the name, address, and telephone number for the representative.

(c) Address of record. In the petition, the person shall identify the address of record. Documents directed to the appellant will be mailed to the address of record, unless the appellant provides NAO and other parties with any changes to his or her address in writing.

(1) The address of record may include a representative's address.

(2) NAO bears no responsibility if the appellant or his or her representative does not receive documents because appellant or his or her representative changed his or her address and did not notify NAO.

(3) NAO bears no responsibility if the appellant or his or her representative fails to retrieve documents upon notification from the United States Postal Service or commercial carrier.

(4) NAO will presume that documents addressed to an address of record and properly mailed or given to a commercial carrier for delivery are received.

(d) Place of filing. The petition must be transmitted via facsimile. The facsimile number is: 301-713-2384. If the person filing the petition does not have access to a fax machine, he or she may file the petition by mail or commercial carrier addressed to Chief, National Appeals Office, 1315 East-West Hwy., Silver Spring, MD 20910.

(e) Time limitations.

(1) A petition must be filed within 45 days after the date the initial administrative determination is issued unless a shorter or longer filing timeframe is explicitly specified in the regulations governing the initial administrative determination.

(2) A person may not request an extension of time to file a petition to appeal.

(f) Agency record.

(1) Within 20 days of receipt of the copy of the petition to appeal, the office that issued the initial administrative determination that is the subject of the appeal shall transmit the agency record to NAO.

(2) The office that issued the initial administrative determination shall organize the documents of the agency record in chronological order. Pages attached to a primary submission shall remain with the primary submission.

(g) *Agency participation in appeal.* Within 20 days of receipt of the copy of the petition to appeal, the office that issued the initial administrative determination that is the subject of the appeal may provide written notice to NAO that it will be a party to the appeal. An office issuing the initial administrative determination is not required to be a party.



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