

§ 580.5

(b) Copies of the notice of appeal shall be filed personally or by registered or certified mail, return receipt requested. All subsequent documents shall be served personally, by facsimile, by email to an address designated by a Commission employee, or by first class mail. In matters where a hearing has been requested, all filings shall be made with the Commission until a presiding official is designated and the parties are so notified, after which all filings shall be made with the presiding official.

(c) All documents filed after the notice of appeal shall be served on the Commission and copies concurrently served on all parties, intervenors, or limited participants.

(d) Service of copies of all documents is complete at the time of personal service or, if service is made by mail, facsimile, or email, upon transmittal.

(e) When a representative (including an attorney) has entered an appearance for a party, limited participant, or intervenor in a proceeding initiated under any provision of parts 582 through 585 of this subchapter, service thereafter shall be made upon the representative.

(f) The Commission may extend the time for filing or serving any document, except a notice of appeal.

(1) A request for an extension of time must be filed within the time originally allowed for filing.

(2) For good cause, the Commission may grant an extension of time on its own motion.

(g) Rules governing service of documents by the Chair or Commission are governed by part 519 of this chapter.

§ 580.5 What happens if I file late or fail to file?

(a) Failure to file an appeal within the time provided shall result in a waiver of the right to appeal.

(b) Failure to meet any deadline for the filing of any motion or response thereto shall result in a waiver of the right to file.

§ 580.6 How is time computed?

In computing any period of time prescribed for filing and serving a document, the first day of the period so computed shall not be included. The

25 CFR Ch. III (4-1-14 Edition)

last day shall be included unless it falls on a Saturday, Sunday, or Federal legal holiday, in which case the period shall run until the end of the next business day. Except for appeals of temporary closure orders, when the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal federal holidays shall be excluded in the computation.

§ 580.7 What is the burden of proof and standard of review?

(a) The Chair bears the burden of proof to support his or her action or decision by a preponderance of the evidence.

(b) The Commission shall review the Chair's actions or decisions de novo.

§ 580.8 What will the Commission's final decision contain?

The Commission may affirm, modify, or reverse, in whole or in part, the Chair's decision or the presiding official's recommended decision, or may remove a certificate of self-regulation, and will state the bases of its decision. The final decision will be in writing and will include:

(a) A statement of findings and conclusions, with the bases for them on all material issues of fact, law, or discretion;

(b) A ruling on each material issue; and

(c) An appropriate grant or denial of relief.

§ 580.9 What is the effective date of the Commission's final decision?

The Commission's final decision is effective immediately unless the Commission provides otherwise in the decision.

§ 580.10 Is the Commission's decision a final agency action?

The Commission's final decision is a final agency action for purposes of judicial review.

§ 580.11 What if the Commission does not issue a majority decision?

In the absence of a decision of a majority of the Commission within the time provided, the Chair's decision shall constitute the final decision of