

1                                   **Title 36 STATE LOTTERY AND GAMING CONTROL AGENCY**

2  
3                                   **Subtitle 01 GENERAL PROVISIONS**

4  
5                                   **Chapter 02 Administrative Procedures**

6  
7 **Authority: State Government Article, §§9-108---9-111; §9-1A-04; §§10-201---10-226; §§10-**  
8 **301---10-305; §§10-501---10-512; and §§10-611---10-630, Annotated Code of Maryland**

9 **.01 Public Information Act Requests.**

10       A. Scope.

11           This regulation sets out procedures for filing and processing requests with the Agency for  
12 the inspection and copying of public records under the Public Information Act.

13       B. Policy.

14           It is the policy of the Agency to facilitate access to the public records of the Agency, when  
15 access is allowed by law, by minimizing costs and time delays to applicants.

16       C. Definitions.

17           (1) In this regulation the following terms have the meanings indicated.

18           (2) Terms Defined.

19           (a) "Act" means the Public Information Act, §§10-611—10-630 of the State  
20 Government Article, Annotated Code of Maryland.

21           (b) "Applicant" has the meaning stated in § 10-611 of the Act.

22           (c) "Custodian" has the meaning stated in § 10-611 of the Act.

23           (d) "Official custodian" has the meaning stated in § 10-611 of the Act.

24           (e) "Prepare" includes reviewing documents to determine whether the information  
25 contained in them may be disclosed under the Act.

26           (g) "Public Record" has the meaning stated in § 10-611 of the Act.

27       D. Director as Official Custodian.

28           Unless otherwise provided by law, the Director is the official custodian of the Agency's  
29 records.

1 E. Who May Request Public Record.

2 Any person may request to inspect or copy public records of the Agency.

3 F. Necessity for Written Request.

4 (1) Inspection.

5 (a) Except as otherwise provided in this regulation, the custodian shall make public  
6 records available for inspection by an applicant without demanding a written request.

7 (b) The custodian shall require a written request if the custodian reasonably believes  
8 that:

9 (i) The Act or any other law may prevent the disclosure of the record to the  
10 applicant; or

11 (ii) A written request will materially assist the Agency in responding to the request.

12 (2) Copies.

13 If the applicant requests one or more copies of any public record of the Agency, the  
14 custodian may require a written request from the applicant.

15 G. Contents of Written Request.

16 A written request shall:

17 (1) Contain the applicant's complete name and address;

18 (2) Be signed by the applicant; and

19 (3) Reasonably identify, by brief description, the public record sought.  
20

21 H. Written Request to Addressee.

22 (1) A written request for a public record of the Agency shall be addressed to the custodian  
23 of the record.  
24

25 (2) If the custodian is unknown to the applicant, the request may be addressed to the  
26 Director.

27 I. Response to Written Request.

28 (1) If the custodian decides to grant a request for inspection, the custodian shall produce  
29 the record for inspection:

1 (a) Immediately; or

2 (b) Within a reasonable period, not to exceed 30 days from the date of the request if  
3 that period of time is needed to retrieve the public record and conduct any necessary review.

4 (2) If the custodian decides to deny a request for inspection:

5 (a) The custodian shall do so within 30 days after the request; and

6 (b) Immediately notify the applicant of the denial.

7 (3) If a request is denied, the custodian shall provide the applicant, at the time of the denial  
8 or within 10 working days, a written statement that gives:

9 (a) The reasons for the denial;

10 (b) The legal authority for the denial;

11 (c) Notice of the remedies available for review of the denial; and

12 (d) Permission to inspect any part of the record that is:

13 (i) Subject to inspection, and

14 (ii) Reasonably severable.

15 (4) If a requested public record is not in the custody or control of the person to whom  
16 application is made, that person shall, within 10 working days after receipt of the request, notify  
17 the applicant:

18 (a) That the person does not have custody or control of the requested public record; and

19 (b) If the person knows:

20 (i) The name of the custodian of the public record; and

21 (ii) The location or possible location of the public record.

22 (5) With the consent of the applicant, any time limit imposed by §§1—4 of this regulation  
23 may be extended for an additional period of up to 30 days.

24 J. Notice and Consideration of Views of Person Potentially Affected by Disclosure.

25 (1) Unless prohibited by law, the custodian may provide notice of a request for inspection  
26 or copying of any public record of the Agency to any person who, in the judgment of the  
27 custodian, could be adversely affected by disclosure of that public record.

1 (2) The custodian may consider the views of the potentially affected person before  
2 deciding whether to disclose the public record to the applicant.

3 K. Record Temporarily Unavailable.

4 If a requested public record is in the custody and control of the person to whom written  
5 application is made, but is not immediately available for inspection or copying, the custodian  
6 shall promptly:

7 (1) Notify the applicant that the public record is not immediately available; and

8 (2) Schedule a date within a reasonable time for inspection or copying.

9 L. Records Destroyed or Lost.

10 If a requested record has been destroyed or lost, the custodian to whom the application is  
11 made shall promptly:

12 (1) Notify the applicant of this fact within 10 working days of the request; and

13 (2) Explain the reasons why the public record cannot be produced.

14 M. Review of the Denial.

15 (1) If the custodian denies a written request to inspect or copy a public record of the  
16 Agency, the applicant may, within 30 days after receipt of the notice of denial, request an  
17 administrative hearing.

18 (2) If the applicant requests a hearing:

19 (a) The hearing shall be governed by Title 10, Subtitle 2 of the State Government  
20 Article, Annotated Code of Maryland; and

21 (b) The Director shall issue the final decision of the Agency unless the Director  
22 delegates final decision authority.

23 (3) If the hearing results in a total or partial denial of the request, the applicant may file an  
24 appropriate action in the circuit court under §10-623 of the Act.

25 (4) If the applicant does not request a hearing, the applicant may file an action for judicial  
26 enforcement under §10-623 of the Act without exhausting that administrative remedy.

27 N. Disclosure Against Public Interest.

28 (1) Denial pending court order.

1 (a) If, in the opinion of the Director, disclosure of a public record of the Agency  
2 otherwise subject to disclosure under the Act would do substantial injury to the public interest,  
3 the Director may temporarily deny the request to obtain a court order allowing nondisclosure.

4 (b) The temporary denial shall be in writing to the applicant.

5 (2) Circuit court review.

6 (a) Within 10 working days after the denial, the Director shall apply to the appropriate  
7 circuit court for an order permitting continued denial or restriction of access.

8 (b) Notice of the Director's complaint shall be served on the applicant in the same  
9 manner provided for service of process by the Maryland Rules of Civil Procedure.

10 O. Fees.

11 (1) The fee schedule for copying and certifying copies of records of the Agency is as  
12 follows:

13 (a) Copies.

14 (i) The fee for each copy made by a photocopying machine within the Agency is 25  
15 cents per page.

16 (ii) The fee for each copy made otherwise shall be based on the actual cost of  
17 reproduction.

18 (b) Certification of copies.

19 If a person requests that a copy of a public record be certified as a true copy, an  
20 additional fee of \$1 per page (or if appropriate, per item) shall be charged.

21 (c) Minimum fee.

22 No charge will be made if the total fee is \$1 or less.

23 (2) Notwithstanding §O(1)(a)-(c) of this regulation, if the fee for copies or certified copies  
24 of any public record is specifically prescribed by a law other than the Act or this regulation, the  
25 custodian shall charge the prescribed fee.

26 (3) If the custodian cannot copy a public record within the Agency, the custodian shall:

27 (a) Make arrangements for the prompt reproduction of the record at public or private  
28 facilities outside the Agency; and

1 (b) Collect from the applicant a fee to cover the actual cost of reproduction or direct the  
2 applicant to pay the cost of reproduction directly to the facility making the copy.

3 (4) Before searching for or copying a public record of the Agency, the custodian shall  
4 estimate the cost of reproduction and either:

5 (a) Obtain the agreement of the applicant to pay the cost; or

6 (b) Demand prepayment of the cost from the applicant.

7 (5) Except as provided below in subsection (6) of this regulation, the Agency may charge a  
8 reasonable fee:

9 (a) To search for requested public records; and

10 (b) To prepare public records for inspection and copying.

11 (6) The custodian may not charge any search or preparation fee for the first 2 hours that an  
12 official or employee of the Agency spends to respond to a request for public records.

13 (7) Waiver or reduction of fee.

14 (a) The official custodian may waive or reduce any fee set under this regulation if:

15 (i) The applicant requests a waiver; and

16 (ii) The custodian determines that the waiver or reduction is in the public interest.

17 (b) The official custodian shall consider, among other relevant factors, the ability of the  
18 applicant to pay the fee.

19 (8) If the applicant requests that copies of a public record be mailed or delivered to the  
20 applicant or a third party, the custodian may charge the applicant for the cost of postage or  
21 delivery.

22 **P. Time and Place of Inspection.**

23 (1) An applicant may inspect any public record of the Agency that the applicant is entitled  
24 to inspect during the normal working hours of the Agency.

25 (2) The place of inspection shall be the place where the public record is located unless the  
26 custodian, taking into account the applicant's express wish, determines that another place of  
27 inspection is more suitable and convenient.

28 **.02 Correction of Public Records.**

1 A. Scope.

2 This regulation sets out procedures under which a person in interest may request the  
3 correction or amendment of a public record of the Agency pursuant to §10-625 of the State  
4 Government Article, Annotated Code of Maryland.

5 B. Definitions.

6 The definitions in Regulation .01 of this chapter also apply to this Regulation .02.

7 C. Who May Request.

8 A person in interest may request that the Agency correct or amend any public record that  
9 the:

- 10 (1) Agency keeps; and  
11 (2) Person in interest is authorized to inspect.

12 D. Form and Contents of Request.

13 (1) The request shall be:

- 14 (a) In writing; and  
15 (b) Filed with:  
16 (i) The custodian of the record; or  
17 (ii) If the custodian is unknown to the person in interest, to the Director.

18 (2) The request shall:

- 19 (a) Contain the name, address, and telephone number of the requestor;  
20 (b) Identify the public record sought to be corrected or amended;  
21 (c) Specify the precise correction or amendment sought;  
22 (d) State the reason for the correction or amendment; and  
23 (e) Include a statement that, to the best of the requestor's belief, the public record is  
24 inaccurate or incomplete.

25 E. Return of Non-conforming Request.

1 (1) The Agency shall accept a request to correct or amend a public record when it is  
2 received if it reasonably complies with sections B and C of this regulation.

3 (2) If the request does not reasonably comply with sections B and C of this regulation, the  
4 Agency shall return the request to the requestor with:

5 (a) An explanation of the reason for the return; and

6 (b) A statement that, on receipt of a request that reasonably complies with sections B  
7 and C of this regulation, the request will be accepted.

8 F. Response to Request.

9 Within 30 days after the Agency receives a request for correction or amendment that  
10 reasonably complies with sections C and D of this regulation, the custodian shall:

11 (1) Make the requested correction or amendment and inform the requestor in writing of the  
12 action; or

13 (2) Inform the requestor in writing that the Agency will not:

14 (a) Make the requested correction or amendment, and the reason for the refusal; or

15 (b) Act on the request because:

16 (i) The requestor is not a "person in interest";

17 (ii) The requestor is not authorized to inspect the record;

18 (iii) The record is correct as it stands; or

19 (iv) Of any other reason authorized by law.

20 G. Statement of Disagreement.

21 (1) If the Agency refuses to make a requested correction or amendment, a person in interest  
22 may file with the Agency a concise statement of the reasons for:

23 (a) The requested correction or amendment; and

24 (b) The person's disagreement with the refusal of the Agency to make the correction or  
25 amendment.

26 (2) Form of Statement of Disagreement.

27 (a) The statement of disagreement may not exceed five pages;



1 (b) The pages may not exceed 8 1/2" × 11" each; and

2 (c) Only one side of a page may be used for the statement.

3 H. Statement of Disagreement Provided Third Parties.

4 When the Agency discloses to a third party information about which a statement of  
5 disagreement has been filed under section H of this regulation, the Agency shall provide a copy  
6 of the statement to that third party.

7 I. Administrative Review.

8 (1) A person may seek administrative review under this regulation if the Agency has:

9 (a) Refused the person's request to correct or amend a public record under section E of  
10 this regulation;

11 (b) Rejected the person's statement of disagreement under section F of this regulation;  
12 or

13 (c) Has not provided a statement of disagreement to a third party under section G of this  
14 regulation.

15 (2) A request for administrative review shall be filed with the Director within 30 days after  
16 the requestor is advised of the Agency's action.

17 (3) The administrative review proceedings shall be conducted in accordance with Title 10,  
18 Subtitle 2, of the State Government Article, Annotated Code of Maryland and the hearing  
19 regulations of the Agency.

20 **.03 Open Meetings.**

21 A. Public Attendance.

22 (1) At any open session of the Commission the general public is invited to listen and  
23 observe.

24 (2) Except in instances when the Commission expressly invites public testimony,  
25 questions, comments, or other forms of public participation, or when public participation is  
26 otherwise authorized by law, no member of the public attending an open meeting may participate  
27 in the session.

28 B. Disruptive Conduct or Activity.

29 (1) A person attending an open session of the Commission may not engage in any conduct,  
30 including visual demonstrations such as the waving of placards, signs, or banners, which disrupts

1 the session or interferes with the opportunity of members of the public to listen and observe the  
2 session.

3 (2) The presiding officer may:

4 (a) Order any person who engages in conduct prohibited in §A of this regulation, or  
5 who has violated another regulation concerning the conduct of an open session, to be removed  
6 from the session;

7 (b) Request police assistance to restore order; and

8 (c) Recess the session while order is restored.

9 C. Recording, Photographing, and Broadcasting of Open Meetings.

10 (1) A member of the public, including a representative of the news media, may record  
11 discussions of the Commission at an open session by means of a tape recorder or another  
12 recording device if the device:

13 (a) Is operated from the individual's seat;

14 (b) Does not create a noise that disturbs members of the Commission or other persons  
15 attending the session;

16 (c) Does not otherwise interfere with another person's observation of or participation in  
17 the session; and

18 (d) Is operated openly so that it is obvious to those in attendance that the session is  
19 being recorded.

20 (2) A member of the public, including a representative of the news media, may  
21 photograph, videotape, broadcast, or televise the proceedings of the Commission at an open  
22 session by means of any type of camera if the camera:

23 (a) Is operated from a fixed position that does not block the view of another individual;

24 (b) Is operated without a flash or other form of excessively bright artificial light that  
25 disturbs members of the Commission or other persons attending the session;

26 (c) Does not otherwise interfere with another person's observation of or participation in  
27 the session;

28 (d) Is operated openly so that it is obvious to those in attendance that the session is  
29 being photographed or videotaped; and

1 (e) Does not create a noise that disturbs members of the Commission or other persons  
2 attending the session.

3 (3) Except with the unanimous consent of all members present at an open session of the  
4 Commission, a microphone may not be placed on the tables used by members of the Commission  
5 during an open session.

6 (4) Except during a recess of an open session of the Commission a person may not:

7 (a) Move about the meeting room when using a recording device, camera, or  
8 broadcasting or televising equipment; or

9 (b) Move a recording device, camera, or broadcasting or televising equipment from its  
10 initial location.

11 (5) The Commission may require any person who intends to record, photograph,  
12 videotape, broadcast, or televise an open session to register in advance of the beginning of the  
13 session.

14 (6) A representative from the news media who desires special arrangements for the use of  
15 a recording device, camera, or broadcasting or televising equipment in a manner not consistent  
16 with the provisions of this regulation may request these special arrangements in advance by  
17 contacting the Director.

#### 18 D. Recordings Not Part of Record.

19 A recording of an open session made by a member of the public, and any transcript derived  
20 from the recording, may not be considered a part of the record of any proceeding of the  
21 Commission.

### 22 .04 Petition for Declaratory Ruling.

#### 23 A. Who May File.

24 Any person may file a petition with the Agency seeking the issuance of a declaratory ruling  
25 with respect to the applicability of any regulation, order, or statute enforceable by the Agency.

#### 26 B. Petition Requirements.

##### 27 (1) Form.

##### 28 (a) The petition shall:

29 (i) Be in writing and specifically state the declaratory ruling sought;

1 (ii) Include a detailed statement of the relevant facts and the petitioner's argument in  
2 support of the position asserted in the petition; and

3 (iii) Include a statement concerning the interest of the petitioner in the controversy  
4 and how a declaratory ruling would affect the petitioner's interest.

5 (2) Submission and Consideration.

6 (a) The petition shall be submitted to the Director.

7 (b) The Director:

8 (i) Shall consider the petition; and

9 (ii) May delegate the preparation of written findings of fact and proposed  
10 conclusions of law.

11 C. Disposition.

12 (1) If the Director decides not to issue a declaratory ruling, the Director shall notify the  
13 petitioner in writing, stating briefly the reasons for the refusal.

14 (2) If the Director decides to issue a declaratory ruling, the Director shall after appropriate  
15 consideration, issue the ruling in writing, stating the findings of fact and conclusions of law.

16 (3) Unless reviewable by the Commission under section E of this regulation, the Director's  
17 decision shall be considered final.

18 D. Effect of Declaratory Ruling.

19 A final declaratory ruling is binding between the Agency and the petitioner on the  
20 statement of facts set forth in the final ruling.

21 E. Review By Commission.

22 (1) For declaratory rulings under Criminal Law Article, Title 12, Subtitle 3, and State  
23 Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland, or regulations  
24 promulgated thereunder, the Director's decision shall be forwarded to the Commission for its  
25 review and approval before it may be considered final.

26 (2) The Commission's approval of the Director's decision shall make the Director's  
27 decision final.

28 F. Judicial Review.

1 A final declaratory ruling is subject to judicial review in the manner provided for by §10-  
2 222 of the State Government Article, Annotated Code of Maryland.

3 G. Agency File.

4 (1) The Agency shall maintain a file of:

5 (a) All petitions submitted for declaratory ruling; and

6 (b) The Director's responses and rulings.

7 (2) The Agency's file shall be available for public inspection as provided in §10-613 of the  
8 State Government Article, Annotated Code of Maryland.

9 **.05 Petition for Promulgation, Amendment, or Repeal of a Regulation.**

10 A. Who May File.

11 Any person may file a petition requesting the promulgation, amendment, or repeal of any  
12 regulation concerning which the Agency has rule-making authority.

13 B. Form and Submission.

14 (1) The petition shall:

15 (a) Be submitted to the Director in writing;

16 (b) Include the name, address, and telephone number of the petitioner;

17 (c) Generally describe the regulation sought or identify the regulation which the  
18 petitioner seeks to amend or repeal; and

19 (d) Include a brief statement of reasons in support of the petition.

20 (2) The petition may be in the form of a letter or any other written form as requested by the  
21 Director.

22 C. Consideration.

23 (1) Upon receipt of the petition, the Director shall consider the petition.

24 (2) In considering the petition, the Director may use any of the following procedures to  
25 obtain additional information or views:

26 (a) Publication of the petition or a summary of it in the Maryland Register;

- 1 (b) Submission of the petition to other interested persons requesting their comments;
- 2 (c) Public meetings or hearings on the petition; or
- 3 (d) Any other procedure designed to obtain the views of the public on the subject
- 4 matter of the petition.

5 D. Disposition.

6 (1) Within 60 days after submission of the petition, the Director shall either:

- 7 (a) Deny the petition (stating the reason for denial); or
- 8 (b) Initiate rulemaking proceedings.

9 (2) For petitions related to regulations under State Government Article, Title 9, Subtitle

10 1A or Criminal Law Article, Title 12, Subtitle 3 of the Annotated Code of Maryland, within 60

11 days after submission of the petition, the Director shall forward the petition to the Commission

12 with a recommendation to deny the petition or initiate rulemaking proceedings.

13 (3) The Director shall send written notice of the final action taken on the petition to the

14 petitioner and any other person requesting notification.

15 E. Agency File.

16 (1) The Agency shall maintain a file of all:

- 17 (a) Petitions submitted; and
- 18 (b) Responses and rulings.

19 (2) The Agency file shall be available for public inspection as provided in §10-613 of the

20 State Government Article, Annotated Code of Maryland.

21 **.06 Commission Hearings.**

22 A. Scope.

23 (1) These regulations apply only to contested case hearings before the Commission.

24 (2) These regulations do not apply to conferences or other informal proceedings where no

25 formal ruling or decision is made.

26 B. Definitions.

27 (1) In this regulation, the following terms have the meanings indicated.

1 (2) Terms Defined.

2 (a) "Act" means the Administrative Procedure Act, State Government Article, §§10-  
3 201---10-226, Annotated Code of Maryland.

4 (b) "Administrative law judge" has the meaning stated in COMAR 28.02.01.

5 (c) "Contested case" has the meaning stated in §10-202 of the State Government  
6 Article, Annotated Code of Maryland.

7 (d) "Filed" means when a document related to a hearing is:

8 (i) Received by the Commission or, if earlier, postmarked; and

9 (ii) If required, served on the other parties to the proceeding.

10 (e) "Party" means a person, including the Agency, named or admitted to participate in a  
11 hearing.

12 (f) "Presiding Officer" means:

13 (i) The Chairman of the Commission or a member designated by the Chairman; or

14 (ii) In the absence of the Chairman or the member designated by the Chairman, any  
15 other Commission member in attendance.

16 (g) "Quorum" means a majority of the full authorized membership of the Commission.

17 C. Conduct of Hearing.

18 (1) Commission Action.

19 (a) A hearing conducted by the Commission shall be held before not less than a  
20 quorum of the Commission.

21 (b) Commission action shall be by the concurrence of at least 4 members.

22 (2) Duties of Presiding Officer.

23 (a) The Presiding Officer shall have complete charge of the hearing.

24 (b) In addition to other powers and authority granted by law, the presiding officer may:

25 (i) Administer oaths and affirmations;

26 (ii) Rule upon offers of proof by the parties;

- (iii) Rule upon the admission and inadmissibility of evidence;
- (iv) Consider and rule upon all procedural and other motions appropriate to the procedures;
- (v) Examine witnesses;
- (vi) Maintain order; and
- (vii) Limit unduly repetitious or irrelevant testimony or argument.

#### D. Legal Advisor.

(1) The presiding officer may ask the Office of the Attorney General to act as legal advisor to the Commission.

(2) The legal advisor may assist the Commission with:

- (a) Questions of evidence and law;
- (b) Preparation of the Commission's written decision; and
- (c) Any other appropriate advice function.

#### E. Presenter of Evidence.

(1) The presiding officer may ask the Office of the Attorney General to act as the presenter of evidence before the Commission.

(2) An Agency staff member may act as the presenter of evidence before the Commission.

(3) The presenter of evidence shall have all the rights as a representative for any other party with regard to:

- (a) Submission of evidence;
- (b) Examination and cross-examination of witnesses;
- (c) Preparation of summation and argument; and
- (d) Filing of objections, exceptions, and motions.

#### F. Evidence.



1 (1) Only evidence that possesses probative value commonly accepted by reasonable and  
2 prudent persons in the conduct of their affairs shall be admitted into the record and considered by  
3 the Commission in reaching its decision.

4 (2) The presiding officer may exclude incompetent, irrelevant, immaterial, and unduly  
5 repetitious evidence.

6 (3) The presiding officer shall give effect to the rules of privilege recognized by law.

7 (4) In making its determination, the Commission may consider only evidence which has  
8 been:

9 (a) Introduced in the course of the hearing; and

10 (b) Made part of the record in the case.

11 (5) Documentary evidence may be received in the form of copies or excerpts, or  
12 incorporated by reference.

13 (6) The Commission may use its experience, technical competence, and specialized  
14 knowledge in its evaluation of the evidence.

15 (7) The Commission may take notice of:

16 (a) Judicially cognizable facts; and

17 (b) General, technical, or scientific facts within its specialized knowledge.

18 (8) The presiding officer shall inform the parties of notices taken by the Commission.

19 (9) A Party may contest facts so noticed.

#### 20 G. Rights of Parties.

21 (1) At a hearing, the parties may:

22 (a) Be represented by counsel;

23 (b) Present witnesses;

24 (c) Cross-examine witnesses presented by the other party or presiding officer;

25 (d) Present documentary and other evidence which is relevant;

26 (e) Submit rebuttal evidence; and

1 (f) Present argument and summation.

2 (2) If a party is represented by counsel, submissions of evidence, examination and cross-  
3 examination of witnesses, and summation shall be performed solely by counsel.

4 (3) The presiding officer, on the presiding officer's own motion or upon request by a  
5 member of the Commission, may call additional witnesses.

6 (4) A member of the Commission may examine a witness.

7 H. Record and Transcript of Hearing.

8 (1) Record.

9 (a) The Commission shall prepare an official record of the hearing, which shall include  
10 all pleadings, testimony, exhibits, and other memoranda or other documents filed in the  
11 proceedings.

12 (b) A record of the hearing shall be made at the expense of the Commission.

13 (c) This record need not be transcribed unless requested by a party or the Commission.

14 (2) Transcript expense.

15 (a) The cost to obtain a written transcript of a proceeding, or part of one, shall be paid  
16 by the party requesting the transcript.

17 (b) The party requesting the transcript is responsible for all costs of transcription  
18 unless, at the party's request, the Commission agrees to reduce or waive those costs for good  
19 cause shown.

20 (c) If a party is excepting to or appealing from a proposed decision by the Commission,  
21 that party shall request a transcript of the recording, unless a transcript already has been prepared  
22 or the Director or the Commission waives the requirement for a transcript.

23 (d) If a party is seeking judicial review of a final decision, that party shall request a  
24 transcript of the recording, unless a transcript already has been prepared.

25 I. Decision and Order.

26 (1) Each decision and order rendered by the Commission shall be in writing and  
27 accompanied by findings of fact and conclusions of law.

28 (2) A copy of the decision and order and accompanying findings and conclusions shall be  
29 delivered or mailed promptly to each party or each party's attorney of record.

1 J. Consolidation.

2 (1) When proceedings involving a common question of law or fact are pending before the  
3 Commission, the Commission may consolidate the proceedings pursuant to a motion or on the  
4 Commission's own initiative.

5 (2) If the consolidated proceedings involve different parties or burdens of going forward or  
6 persuasion, the Commission may specify special procedures to assure an expeditious and just  
7 proceeding.

8 K. Default.

9 (1) If, after receiving notice, a party fails to attend or participate in a prehearing conference,  
10 hearing, or any other stage of a proceeding, the Commission may:

11 (a) Proceed in that party's absence;

12 (b) Continue the matter to a later time; or

13 (c) Issue a default order against that party.

14 (2) Within 30 days after issuance of a default order, the party in default may file a written  
15 motion requesting that the order be vacated or modified.

16 (3) The Commission may vacate or modify a default order if the Commission finds that:

17 (a) There is a substantial and sufficient basis for an actual controversy on the merits;  
18 and

19 (b) It is equitable to excuse the default.

20 (4) If a motion to vacate or modify is not timely filed, or if a motion is filed and denied,  
21 the default order shall be final and effective immediately.

22 L. Dismissal for Lack of Prosecution.

23 (1) In this section "docket entry":

24 (a) Means filing a pleading, requesting a hearing date, or scheduling a proceeding; and

25 (b) Does not include the entry or withdrawal of an appearance, case status reports, or  
26 other inquiries.

27 (2) At the expiration of 6 months from the last docket entry, the Commission may dismiss  
28 an action for lack of prosecution.

1 (3) The Commission shall notify all parties that an order of dismissal for lack of  
2 prosecution will be entered after the expiration of 30 days from the notice, unless a motion is  
3 filed under §L(4) of this regulation.

4 (4) On motion filed within 30 days of the notice, and for good cause shown, the  
5 Commission may defer entry of an order of dismissal for the period and on the terms the  
6 Commission considers proper.

7 (5) If a motion is not timely filed, or if a motion is filed and denied, the Commission shall  
8 issue an order of dismissal.

9 M. Time Modifications and Waivers.

10 (1) The Presiding Officer may modify or waive a time limit established by this title.

11 (2) An administrative law judge may not modify or waive a time limit established by this  
12 title, except with the consent of all parties or the consent of the Commission.

13 N. Service.

14 (1) A copy of any notice, order, pleading, motion, response, correspondence, decision,  
15 paper, or other document filed in a proceeding shall be served promptly on all other parties to the  
16 proceeding or their respective authorized representatives.

17 (2) Unless otherwise required by law, service shall be made by personal delivery or by  
18 regular mail.

19 (3) Service on a party to whom a permit, license, or certification has been issued by the  
20 Agency or the Commission may be made by delivering a copy to the last address provided the  
21 Agency by that party.

22 (4) Every paper or document filed in a proceeding, other than one filed by or on behalf of  
23 the Commission, shall contain or be accompanied by a certificate of service that:

24 (a) Is signed by or on behalf of the party filing the paper or document; and

25 (b) Specifies the:

26 (i) Date of service;

27 (ii) Manner of service;

28 (iii) Name of each person served; and

29 (iv) Address at which each person was served.

1 O. Delegation of Hearing Authority.

2 (1) The Commission may delegate the hearing of a contested case to the Office of  
3 Administrative Hearings.

4 (2) Unless the Commission expressly delegates hearing authority to the Office of  
5 Administrative Hearings, the Commission shall hear all contested case matters that come before  
6 the Commission.

7 (3) In a hearing delegated to be conducted by an administrative law judge of the Office of  
8 Administrative Hearings, these regulations shall be construed, whenever possible, in harmony  
9 with COMAR 28.02.01.

10 (4) In the event of conflict between these regulations and COMAR 28.02.01, these  
11 regulations control.

12 (5) The Commission may revoke all or part of a delegation previously made to the Office  
13 of Administrative Hearings if the Commission believes that the case might:

14 (a) Involve novel or unanticipated factual or legal issues;

15 (b) Have significant social or fiscal consequences;

16 (c) Involve policy issues of general applicability; or

17 (d) Be likely to have precedential value.

18 (6) The Commission may revoke a delegation to the Office of Administrative Hearings at  
19 any time before the earlier of:

20 (a) The issuance of a ruling on a substantive issue; or

21 (b) The taking of oral testimony from the first witness.

22 (7) The Commission shall provide written notice of a revocation to all parties and the Office  
23 of Administrative Hearings by sending to the parties a notice that:

24 (a) Contains a brief statement of the reason for the revocation;

25 (b) Specifies whether all or part of the delegation to hear the case is revoked; and

26 (c) If less than all of the delegation is revoked, specifies the parts of the contested case  
27 for which the delegation has been revoked.

28 (8) The Commission's decision in the case shall reflect the fact that delegation to the  
29 Office of Administrative Hearings was revoked.

(9) A copy of the Commission's revocation notice shall be made a part of the record.

DRAFT