

paper will not be accepted after July 31, 1983.

(2) Illegible documents, whether handwritten, typewritten, photocopied, or otherwise will not be accepted. Papers may be reproduced by any duplicating process, provided all copies are clear and legible.

(f) *Filing and service by facsimile*—(1) *Filing by a party; when permitted.* Filings by a party may be made by facsimile (fax) when explicitly permitted by statute or regulation, or when directed or permitted by the administrative law judge assigned to the case. If prior permission to file by facsimile cannot be obtained because the presiding administrative law judge is not available, a party may file by facsimile and attach a statement of the circumstances requiring that the document be filed by facsimile rather than by regular mail. That statement does not ensure that the filing will be accepted, but will be considered by the presiding judge in determining whether the facsimile will be accepted *nunc pro tunc* as a filing.

(2) *Service by facsimile; when permitted.* Service upon a party by another party or by the administrative law judge may be made by facsimile (fax) when explicitly permitted by statute or regulation, or when the receiving party consents to service by facsimile.

(3) *Service sheet and proof of service.* Documents filed or served by facsimile (fax) shall include a service sheet which states the means by which filing and/or service was made. A facsimile transmission report generated by the sender's facsimile equipment and which indicates that the transmission was successful shall be presumed adequate proof of filing or service.

(4) *Cover sheet.* Filings or service by facsimile (fax) shall include a cover sheet that identifies the sender, the total number of pages transmitted, and the caption and docket number of the case, if known.

(5) *Originals.* Documents filed or served by facsimile (fax) shall be presumed to be accurate reproductions of the original document until proven otherwise. The party proffering the document shall retain the original in the event of a dispute over authenticity or the accuracy of the trans-

mission. The original document need not be submitted unless so ordered by the presiding judge, or unless an original signature is required by statute or regulation. If an original signature is required to be filed, the date of the facsimile transmission shall govern the effective date of the filing provided that the document containing the original signature is filed within ten calendar days of the facsimile transmission.

(6) *Length of document.* Documents filed by facsimile (fax) should not exceed 12 pages including the cover sheet, the service sheet and all accompanying exhibits or appendices, except that this page limitation may be exceeded if prior permission is granted by the presiding judge or if the document's length cannot be conformed because of statutory or regulatory requirements.

(7) *Hours for filing by facsimile.* Filings by facsimile (fax) should normally be made between 8:00 am and 5:00 pm, local time at the receiving location.

(g) *Filing and service by courier service.* Documents transmitted by courier service shall be deemed transmitted by regular mail in proceedings before the Office of Administrative Law Judges.

[48 FR 32538, July 15, 1983, as amended at 56 FR 54708, Oct. 22, 1991; 59 FR 41876, Aug. 15, 1994; 60 FR 26970, May 19, 1995]

§ 18.4 Time computations.

(a) *Generally.* In computing any period of time under these rules or in an order issued hereunder the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday or legal holiday observed by the Federal Government in which case the time period includes the next business day. When the period of time prescribed is seven (7) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

(b) *Date of entry of orders.* In computing any period of time involving the date of the entry of an order, the date of entry shall be the date the order is served by the Chief Docket Clerk.

(c) *Computation of time for delivery by mail.* (1) Documents are not deemed filed until received by the Chief Clerk at the Office of Administrative Law

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Judges. However, when documents are filed by mail, five (5) days shall be added to the prescribed period.

(2) Service of all documents other than complaints is deemed effected at the time of mailing.

(3) Whenever a party has the right or is required to take some action within a prescribed period after the service of a pleading, notice, or other document upon said party, and the pleading, notice or document is served upon said party by mail, five (5) days shall be added to the prescribed period.

(d) *Filing or service by facsimile.* Filing or service by facsimile (fax) is effective upon receipt of the entire document by the receiving facsimile machine. For purposes of filings by facsimile the time printed on the transmission by the facsimile equipment constitutes the date stamp of the Chief Docket Clerk.

[48 FR 32538, July 15, 1983, as amended at 59 FR 41877, Aug. 15, 1994]

§ 18.5 Responsive pleadings—answer and request for hearing.

(a) *Time for answer.* Within thirty (30) days after the service of a complaint, each respondent shall file an answer.

(b) *Default.* Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the administrative law judge to find the facts as alleged in the complaint and to enter an initial or final decision containing such findings, appropriate conclusions, and order.

(c) *Signature required.* Every answer filed pursuant to these rules shall be signed by the party filing it or by at least one attorney, in his or her individual name, representing such party. The signature constitutes a certificate by the signer that he or she has read the answer; that to the best of his or her knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.

(d) *Content of answer—(1) Orders to show cause.* Any person to whom an order to show cause has been directed and served shall respond to the same by filing an answer in writing. Arguments opposing the proposed sanction should be supported by reference to

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specific circumstances or facts surrounding the basis for the order to show cause.

(2) *Complaints.* Any respondent contesting any material fact alleged in a complaint, or contending that the amount of a proposed penalty or award is excessive or inappropriate or contending that he or she is entitled to judgment as a matter of law, shall file an answer in writing. An answer shall include:

(i) A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny each allegation; a statement of lack of information shall have the effect of a denial; any allegation not expressly denied shall be deemed to be admitted;

(ii) A statement of the facts supporting each affirmative defense.

(e) *Amendments and supplemental pleadings.* If and whenever determination of a controversy on the merits will be facilitated thereby, the administrative law judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to complaints, answers, or other pleadings; provided, however, that a complaint may be amended once as a matter of right prior to the answer, and thereafter if the administrative law judge determines that the amendment is reasonably within the scope of the original complaint. When issues not raised by the pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and such amendments may be made as necessary to make them conform to the evidence. The administrative law judge may, upon reasonable notice and such terms as are just, permit supplemental pleadings setting forth transactions, occurrences or events which have happened since the date of the pleadings and which are relevant to any of the issues involved.

§ 18.6 Motions and requests.

(a) *Generally.* Any application for an order or any other request shall be made by motion which, unless made