

Office of the Secretary of Labor

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AUTHORITY: 5 U.S.C. 301; 5 U.S.C. 551-553; 5 U.S.C. 571 note; E.O. 12778; 57 FR 7292.

SOURCE: 48 FR 32538, July 15, 1983, unless otherwise noted.

Subpart A—General

§ 18.1 Scope of rules.

(a) *General application.* These rules of practice are generally applicable to adjudicatory proceedings before the Office of Administrative Law Judges, United States Department of Labor. Such proceedings shall be conducted expeditiously and the parties shall make every effort at each stage of a proceeding to avoid delay. To the extent that these rules may be inconsistent with a rule of special application as provided by statute, executive order, or regulation, the latter is controlling. The Rules of Civil Procedure for the District Courts of the United States shall be applied in any situation not provided for or controlled by these rules, or by any statute, executive order or regulation.

(b) *Waiver, modification, or suspension.* Upon notice to all parties, the adminis-

trative law judge may, with respect to matters pending before him or her, modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby. These rules may, from time to time, be suspended, modified or revoked in whole or part.

§ 18.2 Definitions.

For purposes of these rules:

(a) *Adjudicatory proceeding* means a judicial-type proceeding leading to the formulation of a final order;

(b) *Administrative law judge* means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105 (provisions of the rules in this part which refer to administrative law judges may be applicable to other Presiding Officers as well);

(c) *Administrative Procedure Act* means those provisions of the Administrative Procedure Act, as codified, which are contained in 5 U.S.C. 551 through 559;

(d) *Complaint* means any document initiating an adjudicatory proceeding, whether designated a complaint, appeal or an order for proceeding or otherwise;

(e) *Hearing* means that part of a proceeding which involves the submission of evidence, either by oral presentation or written submission;

(f) *Order* means the whole or any part of a final procedural or substantive disposition of a matter by the administrative law judge in a matter other than rulemaking;

(g) *Party* includes a person or agency named or admitted as a party to a proceeding;

(h) *Person* includes an individual, partnership, corporation, association, exchange or other entity or organization;

(i) *Pleading* means the complaint, the answer to the complaint, any supplement or amendment thereto, and any reply that may be permitted to any answer, supplement or amendment;

(j) *Respondent* means a party to an adjudicatory proceeding against whom findings may be made or who may be required to provide *relief or take remedial action*;

(k) *Secretary* means the Secretary of Labor and includes any administrator, commissioner, appellate body, board,

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or other official thereunder for purposes of appeal of recommended or final decisions of administrative law judges;

(l) *Complainant* means a person who is seeking relief from any act or omission in violation of a statute, executive order or regulation;

(m) The term *petition* means a written request, made by a person or party, for some affirmative action;

(n) The term *Consent Agreement* means any written document containing a specified proposed remedy or other relief acceptable to all parties;

(o) *Commencement of Proceeding* is the filing of a request for hearing, order of reference, or referral of a claim for hearing.

§ 18.3 Service and filing of documents.

(a) *Generally.* Except as otherwise provided in this part, copies of all documents shall be served on all parties of record. All documents should clearly designate the docket number, if any, and short title of the matter. If the matter involves a program administered by the Office of Workers' Compensation Programs (OWCP), the document should contain the OWCP number in addition to the docket number. All documents to be filed shall be delivered or mailed to the Chief Docket Clerk, Office of Administrative Law Judges (OALJ), 800 K Street, NW., Suite 400, Washington, DC 20001-8002, or to the OALJ Regional Office to which the proceeding may have been transferred for hearing. Each document filed shall be clear and legible.

(b) *How made; by parties.* All documents shall be filed with the Office of Administrative Law Judges, except that notices of deposition, depositions, interrogatories, requests for admissions, and answers and responses thereto, shall not be so filed unless the presiding judge so orders, the document is being offered into evidence, the document is submitted in support of a motion or a response to a motion, filing is required by a specialized rule, or there is some other compelling reason for its submission. Whenever under this part service by a party is required to be made upon a party represented by an attorney or other representative the service shall be made upon the attor-

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ney or other representative unless service upon the party is ordered by the presiding administrative law judge. Service of any document upon any party may be made by personal delivery or by mailing a copy to the last known address. The person serving the document shall certify to the manner and date of service.

(c) *By the Office of Administrative Law Judges.* Service of notices, orders, decisions and all other documents, except complaints, shall be made by regular mail to the last known address.

(d) *Service of complaints.* Service of complaints or charges in enforcement proceedings shall be made either: (1) By delivering a copy to the individual, partner, officer of a corporation, or attorney of record; (2) by leaving a copy at the principal office, place of business, or residence; (3) by mailing to the last known address of such individual, partner, officer or attorney. If done by certified mail, service is complete upon mailing. If done by regular mail, service is complete upon receipt by addressee.

(e) *Form of pleadings.* (1) Every pleading shall contain a caption setting forth the name of the agency under which the proceeding is instituted, the title of the proceeding, the docket number assigned by the Office of Administrative Law Judges, and a designation of the type of pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the party or person representing the party. Although there are no formal specifications for documents, they should be typewritten when possible on standards size (8½×11) paper legal size (8½×14) 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