

Subpart F—Post Hearing Procedures; Initial Decisions

§ 10.81 Filing the transcript of evidence.

As soon as practicable after the close of the hearing, the reporter shall transmit to the Proceedings Clerk the transcript of the testimony and the exhibits introduced in evidence at the hearing, except such portions of the transcript and exhibits as shall have been delivered to the Administrative Law Judge.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]

§ 10.82 Proposed findings and conclusions; briefs.

In any proceeding involving a hearing or an opportunity for hearing, the parties may file written proposed findings of fact and conclusions of law. Briefs may be filed in support of proposed findings and conclusions either as part of the same document or in a separate document. Any proposed finding or conclusion not briefed may be regarded as waived.

(a) *Proposed findings and briefs; time for filing.* Where the parties file proposed findings and briefs, the following schedule shall apply, unless otherwise determined by the Administrative Law Judge:

(1) *Initial submission.* Proposed findings, conclusions and an initial brief shall be served and filed by the Division of Enforcement and intervenors on the side of the Division of Enforcement within 45 days of the close of the hearing;

(2) *Answering submission.* Proposed findings, conclusions, and an answering brief shall be served and filed by the respondents and intervenors on the side of the respondents within 30 days after service of the initial findings, conclusions and briefs upon the respondents;

(3) *Reply.* A reply brief may be filed by the Division of Enforcement and intervenors on the side of the Division of Enforcement within 15 days after filing of the answering submission;

(4) *Submissions by limited participants.* Submissions by a person admitted as a limited participant pursuant to § 10.34 of these rules, are permitted under

such terms as determined by the Administrative Law Judge.

(b) *Alternative procedures for submissions.* In his discretion the Administrative Law Judge may lengthen or shorten the periods for the filing of submissions, may direct that respondents make the first filing, or may otherwise modify the procedures set forth in paragraph (a) of this section for purposes of a particular proceeding.

(c) *Briefs.* (1) The initial brief should include:

(i) A short, clear and concise statement of the case;

(ii) Specification of the questions to be resolved; and

(iii) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.

(2) The answering brief shall generally follow the same style as prescribed for the initial brief but may omit a statement of the case if the party does not dispute the statement of the case contained in the initial brief;

(3) Reply briefs should be limited to rebuttal of matters in the prior briefs.

(d) *Content and form of proposed findings and conclusions.* (1) The findings of fact shall be confined to the material issues of fact presented on the record, with exact citations to the transcripts of record and exhibits in support of each proposed finding.

(2) The proposed findings and conclusions of the party filing initially shall be set forth in consecutively numbered paragraphs and all counter-statement of proposed findings and conclusions shall, in addition to any other matter, indicate which paragraphs of initial proposals are not disputed.

§ 10.83 Oral arguments.

In his discretion the Administrative Law Judge may hear oral arguments by the parties any time before he files his initial decision with the Proceedings Clerk. The argument shall be recorded and transcribed in written form.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]