

## § 207.115

## 19 CFR Ch. II (4–1–10 Edition)

(1) An opinion making all necessary findings of fact and conclusions of law and the reasons therefor, and

(2) A statement that the initial determination shall become the determination of the Commission unless a party files a petition for review of the determination pursuant to § 207.115 or the Commission pursuant to § 207.116 of this subpart, orders on its own motion a review of the initial determination or certain issues therein.

(c) *Burden of proof.* A finding that a charged party committed a prohibited act shall be supported by clear and convincing evidence.

(d) *Effect of initial determination.* The initial determination shall become the determination of the Commission forty-five (45) days after the date of service of the initial determination, unless the Commission within such time orders review of the initial determination or certain issues therein pursuant to § 207.115 or 207.116 of this subpart or by order shall have changed the effective date of the initial determination. In the event an initial determination becomes the determination of the Commission, the parties shall be notified thereof by the Commission Secretary.

### § 207.115 Petition for review.

(a) *The petition and responses.* (1) Any party may request a review by the Commission of the initial determination by filing with the Commission Secretary a petition for review, except that a party who has defaulted may not petition for review of any issue regarding which the party is in default.

(2) Any person who wishes to obtain judicial review pursuant to 19 U.S.C. 1677f(f)(5) must first seek review by the Commission in accordance with the procedures set forth in this regulation governing petitions for review.

(3) Any petition for review must be filed within fourteen (14) days after service of the initial determination on the charged party. The petition shall:

- (i) Identify the party seeking review;
- (ii) Specify the issues upon which review is sought, including a statement as to whether review is sought of the initial determination regarding the commitment of a prohibited act, or of

the initial determination regarding sanctions;

(iii) Set forth a concise statement of the relevant law or material facts necessary for consideration of the stated issues; and

(iv) Present a concise argument setting forth the reasons why review is necessary or appropriate.

(4) Any issue not raised in the petition for review filed under this section will be deemed to have been abandoned and may be disregarded by the Commission.

(5) Any party may file a response to the petition within seven (7) days after service of the petition, except that a party who has defaulted may not file a response to any issue regarding which the party is in default.

(b) *Grant or denial of review.* (1) The Commission shall decide whether to grant a petition for review, in whole or in part, within forty-five (45) days of the service of the initial determination on the parties, or by such other time as the Commission may order.

(2) The Commission shall base its decision whether to grant a petition for review upon the petition and response thereto, without oral argument or further written submissions, unless the Commission shall order otherwise.

(3) The Commission shall grant a petition for review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its notice, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for the filing of briefs and oral argument if deemed appropriate by the Commission. The notice that the Commission has granted the petition shall be served by the Commission Secretary on all parties.

### § 207.116 Commission review on its own motion.

Within forty-five (45) days of the date of service of the initial determination, the Commission on its own initiative shall order review of an initial determination or certain issues therein upon request of any Commissioner.