

## § 26.11

abode with some person of suitable age and discretion who resides there. Service by mail, overnight delivery, facsimile transmission, or electronic means is complete upon deposit in a mail box, or upon posting, or upon electronic transmission.

(b) *Proof of Service.* Proof of service shall not be required unless the fact of service is put in issue by appropriate motion or objection on the part of the person allegedly served. In these cases, service may be established by written receipt signed by or on behalf of the person to be served, or may be established prima facie by affidavit, certificate of service of mailing, or electronic receipt of sending.

### § 26.11 Time computation.

(a) *Generally.* Computation of any period of time prescribed or allowed by this part shall begin with the first business day following the day on which the act, event, development, or default initiating the period of time occurred. When the last day of the period computed is a Saturday, Sunday, national holiday, or other day on which the Department of Housing and Urban Development is closed, the period shall run until the end of the next following business day. When any prescribed or allowed period of time is 7 days or less, each of the Saturdays, Sundays, and national holidays shall be excluded from the computation of the prescribed or allowed period.

(b) *Entry of orders.* In computing any time period involving the date of the issuance of an order or decision by a hearing officer, the date of the issuance is the date the order or decision is served on the parties by the hearing officer or Docket Clerk.

(c) *Service by mail.* If a document is served by mail, 3 days shall be added to the time permitted for a response.

(d) *Extensions of time periods.* Except where mandated by statute, the hearing officer (or in the case of a review under §§ 26.26 and 26.27, the Secretary or designee) may upon motion enlarge the time within which any act required by these rules must be performed where necessary to avoid prejudicing the public interest or the rights of the parties.

## 24 CFR Subtitle A (4–1–10 Edition)

### § 26.12 Notice of administrative action.

In every case, there shall be a notice of administrative action. The notice shall be in writing and inform the party of the nature of that administrative action. The notice shall state the reasons for the proposed or imposed action, except where general terms are permitted by 2 CFR part 2424, and shall inform the party of any right to a hearing to challenge the administrative action, and the manner and time in which to request such hearing. A supplemental notice may be issued in the discretion of the initiating official to add to or modify the reasons for the action.

### § 26.13 Complaint.

(a) *Respondent.* A complaint shall be served upon the party against whom an administrative action is taken, who shall be called the respondent.

(b) *Grounds.* The complaint shall state the legal and factual grounds upon which the administrative action is based. The grounds set forth in the complaint may not contain allegations beyond the scope of the notice of administrative action or any amendment thereto.

(c) *Notice of administrative action as complaint.* A notice of administrative action may serve as a complaint provided the notice states it is also a complaint and complies with paragraph (b) of this section.

(d) *Timing.* When the notice does not serve as a complaint, the complaint shall be served on or before the 30th day after the referral to a hearing officer or a request for hearing is made, or within any other time period designated by the hearing officer.

### § 26.14 Answer.

(a) Respondent shall file an answer within 30 days of receipt of the complaint, unless otherwise specified in this title or ordered by the hearing officer.

(b) The answer shall:

- (1) Respond specifically to each factual allegation contained in the complaint;
- (2) Specifically plead any affirmative defense; and
- (3) Set forth any mitigating factors or extenuating circumstances.