

**§ 801.60**

the time period includes the next business day.

(d) When a request for hearing is served by mail, five (5) days shall be added to the prescribed period during which the party has the right to request a hearing on the determination.

**§ 801.60 Commencement of proceeding.**

Each administrative proceeding permitted under the Act and these regulations shall be commenced upon receipt of a timely request for hearing filed in accordance with § 801.53 of this part.

**§ 801.61 Designation of record.**

(a) Each administrative proceeding instituted under the Act and this part shall be identified of record by a number preceded by the year and the letters "EPPA".

(b) The number, letter, and designation assigned to each such proceeding shall be clearly displayed on each pleading, motion, brief, or other formal document filed and docketed of record.

**§ 801.62 Caption of proceeding.**

(a) Each administrative proceeding instituted under the Act and this part shall be captioned in the name of the person requesting such hearing, and shall be styled as follows:

In Matter of \_\_\_\_\_, Respondent.

(b) For the purposes of administrative proceedings under the Act and this part the "Secretary of Labor" shall be identified as plaintiff and the person requesting such hearing shall be named as respondent.

**REFERRAL FOR HEARING**

**§ 801.63 Referral to Administrative Law Judge.**

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § 801.53 of this part, the Administrator, by the Associate Solicitor for the Division of Fair Labor Standards or by the Regional Solicitor for the Region in which the action arose, shall by Order of Reference, promptly refer a copy of the notice of administrative determination complained of, and the original or a duplicate copy of the request for hearing

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signed by the person requesting such hearing or the authorized representative of such person, to the Chief Administrative Law Judge, for a determination in an administrative proceeding as provided herein. The notice of administrative determination and request for hearing shall be filed of record in the Office of the Chief Administrative Law Judge and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment that may be permitted under this part.

(b) A copy of the Order of Reference, together with a copy of this part, shall be served by counsel for the Secretary upon the person requesting the hearing, in the manner provided in 29 CFR 18.3.

**§ 801.64 Notice of docketing.**

The Chief Administrative Law Judge shall promptly notify the parties of the docketing of each matter.

**PROCEDURES BEFORE ADMINISTRATIVE LAW JUDGE**

**§ 801.65 Appearances; representation of the Department of Labor.**

The Associate Solicitor, Division of Fair Labor Standards, or Regional Solicitor shall represent the Department in any proceeding under this part.

**§ 801.66 Consent findings and order.**

(a) *General.* At any time after the commencement of a proceeding under this part, but prior to the reception of evidence in any such proceeding, a party may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be at the discretion of the Administrative Law Judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.