

## § 1921.13

adequate notice, at the hearing or by reference in the hearing examiner's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(d) *Oral argument before the hearing examiner.* Oral argument before the hearing examiner may be allowed. However, such argument may be limited by the hearing examiner to any extent that he finds necessary for the expeditious disposition of the proceeding.

(e) *Transcript.* Hearings shall be stenographically reported. Copies of the transcript may be obtained by the parties upon written application filed with the reporter, and upon the payment of fees at the rate provided in the agreement between the Assistant Secretary and the reporter.

### Subpart D—Decision and Order

#### § 1921.13 Decision of the hearing examiner.

(a) *Filing of transcript of evidence.* As soon as practicable after the close of the hearing, the reporter shall transmit to the Chief Hearing Examiner the copies of the transcript of the testimony and the exhibits introduced in evidence at the hearing except such copies of the transcript and exhibits as are forwarded to the hearing examiner.

(b) *Proposed findings of fact, conclusions, and orders.* Within 10 days after receipt of notice that the transcript of the testimony has been filed or such additional time as the hearing examiner may allow, each party may file with the hearing examiner proposed findings of fact, conclusions of law, and order, together with a supporting brief including the reasons for any proposals. Such proposals shall be served upon all parties, and shall contain adequate references to the record and authorities relied upon.

(c) *Decision of the hearing examiner.* Within a reasonable time after the termination of the time allowed for the filing of proposed findings of fact, conclusions of law, and orders, or after the date of submission of an agreement containing consent findings and order, the hearing examiner shall prepare his decision, which shall become the decision of the Assistant Secretary 20 days after service thereof unless exceptions

## 29 CFR Ch. XVII (7–1–10 Edition)

are filed thereto, as provided in § 1921.14 except in cases dealt with in § 1921.8(b). Except in cases under § 1921.8(b) the decision of the hearing examiner shall include a statement of:

(1) Findings and conclusions, with reasons and bases, therefor, upon each material issue of fact, law, or discretion presented on the record, and

(2) An appropriate order.

Except in cases under § 1921.8(b), the decision of the hearing examiner shall be based upon a consideration of the whole record and supported by reliable, probative, and substantial evidence and upon the basis of the preponderance of the evidence.

#### § 1921.14 Exceptions.

Within 20 days after the date of the decision of the hearing examiner, the parties may file exceptions thereto with supporting reasons. Any party who desires to take exception to any matter set out in that decision shall transmit his exceptions in writing to the Chief Hearing Examiner, referring to the specific findings of fact, conclusions of law, or order excepted to, and the specific pages of transcript relevant to the exceptions, and suggesting corrected findings of fact, conclusions of law, or order.

#### § 1921.15 Transmittal of record.

Immediately following the period allowed for filing exceptions, the hearing examiner shall transmit the record of the proceeding to the Assistant Secretary. The record shall include: The pleadings, motions, and requests filed, and rulings thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed; any documents or papers filed in connection with prehearing conferences; such proposed findings of fact, conclusions of law, and orders, and supporting reasons, as may have been filed in connection with the hearing; the hearing examiner's decision; and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

#### § 1921.16 Decision and order of the Director.

(a) Upon the basis of and after due consideration of the whole record, the