(1) Contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or

(2) State that the respondent admits all of the allegations of the complaint. The answer may contain a waiver of hearing.

Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission of facts, the hearing examiner without further hearing shall prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision, and to file briefs in support of the exceptions.

§ 1921.5 Motions and requests.

Motions or requests shall be filed with the Chief Hearing Examiner, except that those made during the course of the hearing shall be filed with the hearing examiner or shall be stated orally and made part of the transcript. Each motion or request shall state the particular order, ruling, or action desired, and the grounds therefor. The hearing examiner is authorized to rule upon all motions or requests filed or made prior to the filing of his report.

§ 1921.6 Intervention.

At any time after the institution of proceedings and before the hearing examiner makes his decision, the hearing examiner may, upon petition in writing and for good cause shown, permit any interested person, including an employer, employee, labor or trade organization, or Federal or State agency, to intervene therein. The petition shall state with precision and particularity:

(a) The petitioner's relationship to the matters involved in the proceedings,

(b) The nature of any material he intends to present in evidence,

(c) The nature of any argument he intends to make, and

(d) Any other reason that he should be allowed to intervene.

§ 1921.7 Stipulations of compliance.

At any time prior to the issuance of a complaint in the proceeding, the Assistant Solicitor in charge of trial litigation may in his discretion, enter into stipulations with the prospective respondent, whereby the latter admits the material facts and agrees to discontinue the acts or practices which are intended to be set up as violative of the Act or parts 1915 and 1918 of this subtitle. Such stipulations shall be admissible as evidence of such acts and practices in any subsequent proceeding in law or equity or under these regulations against such person.

§ 1921.8 Consent findings and order.

(a) *General.* At any time after the issuance of a complaint and prior to the receiption of evidence in any proceeding, the respondent 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 in the discretion of the hearing examiner, 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.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(3) A waiver of any further procedural steps before the hearing examiner or the Director; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the hearing examiner for his consideration; or

(2) Inform the hearing examiner that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed therefor, the hearing examiner within 30 days thereafter shall accept such agreement by issuing his decision based upon the agreed findings.

§ 1921.9 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the hearing examiner may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact and of contents and authenticity of documents;

(4) Limitation of the number of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

Subpart C—Hearing and Related Matters

§ 1921.10 Appearances.

(a) *Representation.* The parties may appear in person or by counsel. The term ''counsel'' means a member in good standing of the bar of a Federal Court or of the highest court of any State or Territory of the United States.

(b) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the hearing examiner. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the hearing examiner's decision and to file exceptions thereto.

§ 1921.11 Postponement or change of place of hearing.

If in the judgment of the hearing examiner convenience or necessity so requires, he may postpone the time or change the place of the hearing.

§ 1921.12 Hearing.

(a) *Order of proceeding; burden of proof.* Except as may be determined otherwise by the hearing examiner, counsel supporting the complaint shall proceed first at the hearing. The Assistant Solicitor of Labor in charge of trial litigation, supporting the complaint, shall have the burden of proof. The burden of proof shall be satisfied by a preponderance of the evidence.

(b) *Evidence*—(1) *In general.* The testimony of witnesses shall be upon oath or affirmation administered by the hearing examiner and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The hearing examiner shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the hearing examiner may be relied upon subsequently in the proceeding.

(3) *Exceptions.* Formal exception to an adverse ruling is not required.

(c) *Official notice.* Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert: *Provided,* That the parties shall be given