

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

#### § 31.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service of a complaint is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his or her representative.

#### § 31.9 Answer.

(a) The defendant may request a hearing by serving an answer on the reviewing official within 30 days of service of the complaint. Service of an answer shall be made by delivering a copy to the reviewing official or by placing a copy in the United States mail, postage prepaid and addressed to the reviewing official. Service of an answer is complete upon such delivery or mailing. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, serve on the reviewing official a general answer de-

nying liability and requesting a hearing, and a request for an extension of time within which to serve an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly the complaint, the general answer denying liability, and the request for an extension of time as provided in § 31.11. For good cause shown, the ALJ may grant the defendant up to 30 additional days from the original due date within which to serve an answer meeting the requirements of paragraph (b) of this section.

#### § 31.10 Default upon failure to answer.

(a) If the defendant does not answer within the time prescribed in § 31.9(a), the reviewing official may refer the complaint to an ALJ by filing the complaint and a statement that defendant has failed to answer on time.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 31.8, a notice that an initial decision will be issued under this section.

(c) In addition, the ALJ shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 31.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to answer on time, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from answering, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to answer on time, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.