

required by the administrative law judge, continue to accept service of process until new counsel has filed a notice of appearance or until the represented party indicates that he or she will proceed on a *pro se* basis.

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3. In § _____.8, paragraph (b) is revised to read as follows:

§ _____.8 Conflicts of interest.

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(b) *Certification and waiver.* If any person appearing as counsel represents two or more parties to an adjudicatory proceeding or also represents a non-party on a matter relevant to an issue in the proceeding, counsel must certify in writing at the time of filing the notice of appearance required by § _____.6(a):

(1) That the counsel has personally and fully discussed the possibility of conflicts of interest with each such party or non-party; and

(2) That each such party or non-party waives any right it might otherwise have had to assert any known conflicts of interest or to assert any non-material conflicts of interest during the course of the proceeding.

4. In § _____.11, paragraphs (c)(2) and (d) are revised to read as follows:

§ _____.11 Service of papers.

* * * * *

(c) * * *

(2) If a party has not appeared in the proceeding in accordance with § _____.6, the [Agency head] or the administrative law judge shall make service by any of the following methods:

(i) By personal service;

(ii) By delivery to a person of suitable age and discretion at the party's residence or place of work;

(iii) By registered or certified mail addressed to the party's last known address; or

(iv) By any other method reasonably calculated to give actual notice.

(d) *Subpoenas.* Service of a subpoena may be made by personal service, by delivery to an agent, by delivery to a person of suitable age and discretion at the subpoenaed person's residence or place of work, by registered or certified mail addressed to the person's last known address, or in such other manner as is reasonably calculated to give actual notice.

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5. In § _____.12, paragraphs (a) and (c)(1), (c)(2), and (c)(3) are revised to read as follows:

§ _____.12 Construction of time limits.

(a) *General rule.* In computing any period of time prescribed by this subpart, the date of the act or event that

commences the designated period of time is not included. The last day so computed is included unless it is a Saturday, Sunday, or Federal holiday. When the last day is a Saturday, Sunday, or Federal holiday, the period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays, and Federal holidays are included in the computation of time. However, when the time period within which an act is to be performed is ten days or less, not including any additional time allowed for service by mail, delivery service, or electronic media transmission in § _____.12(c), intermediate Saturdays, Sundays, and Federal holidays are not included.

* * * * *

(c) * * *

(1) If service is made by first class, registered, or certified mail, add three calendar days to the prescribed period;

(2) If service is made by express mail or overnight delivery service, add one calendar day to the prescribed period; or

(3) If service is made by electronic media transmission, add one calendar day to the prescribed period, unless otherwise determined by the [Agency head] or the administrative law judge in the case of filing, or by agreement among the parties in the case of service.

6. Section _____.20 is revised to read as follows:

§ _____.20 Amended pleadings.

(a) *Amendments.* The notice or answer may be amended or supplemented at any stage of the proceeding. The respondent must answer an amended notice within the time remaining for the respondent's answer to the original notice, or within ten days after service of the amended notice, whichever period is longer, unless the [Agency head] or administrative law judge orders otherwise for good cause.

(b) *Amendments to conform to the evidence.* When issues not raised in the notice or answer are tried at the hearing by express or implied consent of the parties, they will be treated in all respects as if they had been raised in the notice or answer, and no formal amendments are required. If evidence is objected to at the hearing on the ground that it is not within the issues raised by the notice or answer, the administrative law judge may admit the evidence when admission is likely to assist in adjudicating the merits of the action and the objecting party fails to satisfy the administrative law judge that the admission of such evidence would unfairly prejudice that party's action or defense upon the merits. The

administrative law judge may grant a continuance to enable the objecting party to meet such evidence.

7. In § _____.24, paragraphs (a)(1), (a)(2), and (b) are revised and paragraph (a)(3) is added to read as follows:

§ _____.24 Scope of document discovery.

(a) *Limits on discovery.* (1) Subject to the limitations set out in paragraphs (b), (c), and (d) of this section, a party to a proceeding under this subpart may obtain document discovery by serving a written request to produce documents. For purposes of a request to produce documents, the term "documents" may be defined to include drawings, graphs, charts, photographs, recordings, data stored in electronic form, and other data compilations from which information can be obtained, or translated, if necessary, by the parties through detection devices into reasonably usable form, as well as written material of all kinds.

(2) Discovery by use of deposition is governed by subpart [insert appropriate subpart] of this part.

(3) Discovery by use of interrogatories is not permitted.

(b) *Relevance.* A party may obtain document discovery regarding any matter, not privileged, that has material relevance to the merits of the pending action. Any request to produce documents that calls for irrelevant material, that is unreasonable, oppressive, excessive in scope, unduly burdensome, or repetitive of previous requests, or that seeks to obtain privileged documents will be denied or modified. A request is unreasonable, oppressive, excessive in scope or unduly burdensome if, among other things, it fails to include justifiable limitations on the time period covered and the geographic locations to be searched, the time provided to respond in the request is inadequate, or the request calls for copies of documents to be delivered to the requesting party and fails to include the requestor's written agreement to pay in advance for the copying, in accordance with § _____.25.

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8. In § _____.25, paragraphs (a), (b), (e), and (g) are revised to read as follows:

§ _____.25 Request for document discovery from parties.

(a) *General rule.* Any party may serve on any other party a request to produce for inspection any discoverable documents that are in the possession, custody, or control of the party upon whom the request is served. The request must identify the documents to be produced either by individual item or by category, and must describe each