

Subpart B—Rules of Practice for Most Cases

§ 134.201 Scope of the rules in this subpart B.

The rules in this subpart generally apply to all proceedings over which OHA has jurisdiction, except for appeals from size determinations and SIC code designations. Specific procedural rules pertaining to 8(a) program appeals and to proceedings under the Program Fraud Civil Remedies Act are set forth, respectively in subpart D of this part and part 142 of this chapter. In the case of a conflict between a particular rule in this subpart and a rule of procedure pertaining to OHA appearing in another subpart of this part or another part of this chapter, the latter rule shall govern.

[61 FR 2683, Jan. 29, 1996, as amended at 63 FR 35766, June 30, 1998]

§ 134.202 Commencement of cases.

A case may be commenced by filing a written petition within the following time periods:

- (a) Except as provided by paragraphs (b) through (d) of this section, no later than 45 days from the date of service of the SBA action or determination to which the petition relates;
- (b) In debt collection proceedings under part 140 of this chapter, no later than 15 days after receipt of a notice of indebtedness and intention to collect such debt by salary or administrative offset;
- (c) In applications for an award of fees pursuant to subpart E of this part, no later than 30 days after the decision to which it applies becomes final;
- (d) For 8(a) program suspension proceedings, see § 134.305 of this chapter.

[61 FR 2683, Jan. 29, 1996, as amended at 63 FR 35766, June 30, 1998]

§ 134.203 The petition.

- (a) A petition must contain the following:
 - (1) The basis of OHA's jurisdiction;
 - (2) The SBA determination being appealed.
 - (3) A clear and concise statement of the factual basis of the case;
 - (4) The relief being sought; and

- (5) The name, address, telephone number, and signature of the petitioner or its attorney.

- (b) A petition which does not contain all of the information required by paragraph (a) of this section may be dismissed, with or without prejudice, at the Judge's own initiative, or upon motion of the respondent.

[61 FR 2683, Jan. 29, 1996, as amended at 63 FR 35766, June 30, 1998]

§ 134.204 Service and filing requirements.

- (a) *Service.* Each party is responsible for the service of its pleadings and other submissions upon all other parties or their attorneys. Unless otherwise ordered by the Judge, service is made by providing each party, or its attorney, with a copy of the pleading or other submission by personal delivery, first-class mail, express mail, facsimile transmission, or commercial delivery service. Service by mail must be directed as follows:

- (1) To a party's last-known residence or business address if it has not yet appeared in the case, or to the address of a party which has appeared as shown in its submission;
- (2) If a party has appeared in the case through an attorney, to the address of the attorney shown in the party's submission or in a notice of appearance;
- (3) If SBA is the party, unless an attorney has been specified in SBA's submissions to OHA, by mailing to: Office of General Counsel, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

- (b) *Filing.* (1) All pleadings and other submissions must be filed with OHA by personal delivery, first-class mail, express mail, facsimile transmission, or commercial delivery service. Filing may only be accomplished at the following address: Office of Hearings and Appeals, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

- (2) If filing is by personal delivery or commercial delivery service, such filing must be accomplished between the hours of 8:30 a.m. and 5:00 p.m. If filing is by facsimile transmission, the telephone number to be used may be obtained by calling OHA.