

unable to obtain sufficient information to admit or deny each allegation; a statement of a lack of information shall have the effect of a denial; any allegation not expressly denied shall be deemed to be admitted;

(2) A statement of the facts supporting each affirmative defense.

(c) *Effect of failure to file answer.* A party who fails to file an answer within 20 days shall be in default and, pursuant to procedures set forth in §10.93 of these rules, the proceeding may be determined against him by the Administrative Law Judge upon his consideration of the complaint, the allegations of which shall then be deemed to be true.

(d) *Admission of all allegations of fact.* If a respondent's answer admits the truth of all the material allegations of fact contained in the complaint, it shall constitute a waiver of hearing on those allegations. However, the Administrative Law Judge may conduct a hearing, if so requested, by any of the parties. Following waiver, the parties may submit proposed findings and conclusions and briefs, as provided in §10.82 and may appeal any initial decision to the Commission as provided in §10.102 of these rules.

(e) *Motion for more definite statement.* Where a reasonable showing is made by a respondent that he cannot frame a responsive answer based on the allegations in the complaint, he may move for a more definite statement of the charges against him before filing an answer. A motion for a more definite statement shall be filed within ten days after service of the complaint and shall specify the defects complained of and the particular allegation as to which a more definite statement is sought.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]

§ 10.24 Amendments and supplemental pleadings.

(a) *Complaint and notice of hearing.* The Commission may, at any time, amend the complaint and notice of hearing in any proceeding. If the Commission so amends the complaint and notice of hearing, the Administrative Law Judge shall adjust the scheduling of the proceeding to the extent nec-

essary to avoid any prejudice to any of the parties to the proceeding. Upon motion to the Administrative Law Judge and with notice to all other parties and the Commission, the Division of Enforcement may amend a complaint to correct typographical and clerical errors or to make other technical, non-substantive revisions within the scope of the original complaint.

(b) *Other pleadings.* Except for the complaint and notice of hearing, a party may amend any pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted, he may amend it within 20 days after it is served. Otherwise a party may amend a pleading only by leave of the Administrative Law Judge, which shall be freely given when justice so requires.

(c) *Response to amended pleadings.* Any party may file a response to any amendment to any pleading, including the complaint, within ten days after the date of service upon him of the amendment or within the time provided to respond to the original pleading, whichever is later.

(d) *Pleadings to conform to the evidence.* When issues not raised by the pleadings but reasonably within the scope of a proceeding initiated by the complaint are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.

[41 FR 2511, Jan. 16, 1976, as amended at 63 FR 55791, Oct. 19, 1998]

§ 10.25 Form of pleadings.

All averments of claim and defense shall be made in consecutively numbered paragraphs. The contents of each paragraph shall be limited as far as practicable to a single set of circumstances.

§ 10.26 Motions and other papers.

(a) *Presentation.* An application for a form of relief not otherwise specifically provided for in these rules shall be made by motion, filed with the Proceedings Clerk, which shall be in writing unless made on the record during a hearing. The motion shall state: (1) The relief sought; (2) the basis for relief; and (3) the authority relied upon.