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it before filing an answer. Such a motion shall be filed within ten (10) days after service of the complaint and shall point out the defects complained of and the details desired.

[32 FR 8449, June 13, 1967, as amended at 43 FR 11978, Mar. 23, 1978; 50 FR 53305, Dec. 31, 1985]

§3.11A Fast-track proceedings.

(a) *Scope and applicability.* This section governs the availability of fast-track procedures in administrative cases where the Commission files a collateral federal district court complaint that seeks preliminary injunctive relief against some or all of the conduct alleged in the Commission's administrative complaint. The Commission will afford the respondent the opportunity to elect such fast-track procedures, subject to the conditions set forth in paragraph (b)(1) of this section, in cases that the Commission designates as appropriate. In cases so designated, the Commission will provide written notice to each respondent at the time that it is served with the Commission's federal district court complaint for preliminary injunctive relief. Except as modified by this section, the rules contained in subparts A through I of part 3 of this chapter will govern fast-track procedures in adjudicative proceedings. Discovery will be governed by subpart D of this part, and the Administrative Law Judge may exercise his plenary authority under §3.42(c)(6) to establish limitations on the number of depositions, witnesses, or any document production.

(b)(1) *Conditions.* In cases designated as appropriate by the Commission pursuant to paragraph (a) of this section, a respondent may elect fast-track procedures:

(i) if a federal court enters a preliminary injunction against some or all of the conduct alleged in the Commission's administrative complaint; or,

(ii) where no such injunction is entered, if the Commission determines that the Federal court proceeding has resulted in an evidentiary record that is likely materially to facilitate resolution of the administrative proceeding in accordance with the expedited schedule set forth in this section. The Commission will provide each respondent

with written notice of any such determination.

(2) *Election.* A respondent that determines to elect fast-track procedures shall file a notice of such election with the Secretary by the latest of: three days after entry of a preliminary injunction as described in paragraph (b)(1)(i) of this section; three days after the respondent is served with notice of the Commission's determination under paragraph (b)(1)(ii) of this section; or three days after the respondent is served with the Commission's administrative complaint in the adjudicative proceeding. In proceedings involving multiple respondents, the fast-track procedures set forth in this section will not apply unless the procedures are elected by all respondents.

(c) *Deadlines in fast-track proceedings.*
(1) For purposes of this paragraph, "triggering event" means the latest of: entry of a preliminary injunction as described in paragraph (b)(1)(i) of this section; service on the last respondent of notice of the Commission's determination under paragraph (b)(1)(ii) of this section; service on the last respondent of the Commission's administrative complaint in the adjudicative proceeding; or filing with the Secretary by the last respondent of a notice electing fast-track procedures.

(2) *Proceedings before the Administrative Law Judge.* In fast-track proceedings covered by this section:

(i) The scheduling conference required by §3.21(b) shall be held not later than three days after the triggering event.

(ii) Respondent's answer shall be filed within 14 days after the triggering event.

(iii) The Administrative Law Judge shall file an initial decision within 56 days following the conclusion of the evidentiary hearing. The initial decision shall be filed no later than 195 days after the triggering event.

(iv) Any party wishing to appeal an initial decision to the Commission shall file a notice of appeal with the Secretary within three days after service of the initial decision. The notice shall comply with §3.52(a) in all other respects.

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(v) The appeal shall be in the form of a brief, filed within 21 days after service of the initial decision, and shall comply with § 3.52(b) in all other respects. All issues raised on appeal shall be presented in the party's appeal brief.

(vi) Within 14 days after service of the appeal brief, the appellee may file an answering brief, which shall comply with § 3.52(c). Cross-appeals, as permitted in § 3.52(c), may not be raised in an appellee's answering brief.

(vii) Within five days after service of the appellee's answering brief, the appellant may file a reply brief, in accordance with § 3.52(d) in all other respects.

(3) *Proceedings before the Commission.* In fast-track proceedings covered by this section, the Commission will issue a final order and opinion within 13 months after the triggering event. If the adjudicative proceeding is stayed pursuant to a motion filed under § 3.26, the 13-month deadline will be tolled for as long as the proceeding is stayed. The Commission may extend the date for issuance of the Commission's final order and opinion in the following circumstances: if necessary to permit the Commission to provide submitters of *in camera* material or information with advance notice of the Commission's intention to disclose all or portions of such material or information in the Commission's final order or opinion; or if the Commission determines that adherence to the 13-month deadline would result in a miscarriage of justice due to circumstances unforeseen at the time of respondent's election of fast-track procedures.

[63 FR 7527, Feb. 13, 1998]

§ 3.12 Answer.

(a) *Time for filing.* A respondent shall file an answer within twenty (20) days after being served with the complaint; *Provided, however,* That the filing of a motion permitted under these Rules shall alter this period of time as follows, unless a different time is fixed by the Administrative Law Judge:

(1) If the motion is denied, the answer shall be filed within ten (10) days after service of the order of denial or

thirty (30) days after service of the complaint, whichever is later;

(2) If a motion for more definite statement of the charges is granted, in whole or in part, the more definite statement of the charges shall be filed within ten (10) days after service of the order granting the motion and the answer shall be filed within ten (10) days after service of the more definite statement of the charges.

(b) *Content of answer.* An answer shall conform to the following:

(1) *If allegations of complaint are contested.* An answer in which the allegations of a complaint are contested shall contain:

(i) A concise statement of the facts constituting each ground of defense;

(ii) Specific admission, denial, or explanation of each fact alleged in the complaint or, if the respondent is without knowledge thereof, a statement to that effect. Allegations of a complaint not thus answered shall be deemed to have been admitted.

(2) *If allegations of complaint are admitted.* If the respondent elects not to contest the allegations of fact set forth in the complaint, his answer shall consist of a statement that he admits all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the Administrative Law Judge shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. In such an answer, the respondent may, however, reserve the right to submit proposed findings and conclusions under § 3.46 and the right to appeal the initial decision to the Commission under § 3.52.

(c) *Default.* Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of the respondent's right to appear and contest the allegations of the complaint and to authorize the Administrative Law Judge, without further notice to the respondent, to find the facts to be as alleged in the complaint