

Wage and Hour Division, Labor

§ 580.14

REFERRAL FOR HEARING

§ 580.10 Referral to Administrative Law Judge.

(a) Upon receipt of a timely exception to a determination of penalties and request for a hearing filed pursuant to and in accordance with § 580.6 of this subpart, the Administrator, by the Associate Solicitor for the Division of Fair Labor Standards or by the Regional Solicitor for the Region in which the action arose, shall, by Order of Reference, refer the matter to the Chief Administrative Law Judge, for a determination in an administrative proceeding as provided herein. A copy of the notice of administrative determination and of the request for hearing shall be attached to the Order of Reference and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment that may be permitted under this subpart and 29 CFR part 18.

(b) A copy of the Order of Reference and attachments thereto, together with a copy of this part, shall be served by counsel for the Administrator upon the person requesting the hearing, in the manner provided in § 580.8 of this subpart.

§ 580.11 Appointment of Administrative Law Judge and notification of prehearing conference and hearing date.

Upon receipt from the Administrator of an Order of Reference, the Chief Administrative Law Judge shall appoint an Administrative Law Judge to hear the case. The Administrative Law Judge shall notify all interested parties of the time and place of a prehearing conference and of the hearing.

§ 580.12 Decision and Order of Administrative Law Judge.

(a) The Administrative Law Judge shall render a decision on the issues referred by the Administrator.

(b) The decision of the Administrative Law Judge shall be limited to a determination of whether the respondent has committed a violation of section 12, or a repeated or willful violation of section 6 or section 7 of the Act, and the appropriateness of the penalty as-

essed by the Administrator. The Administrative Law Judge shall not render determinations on the legality of a regulatory provision or the constitutionality of a statutory provision.

(c) The decision of the Administrative Law Judge shall include a statement of findings and conclusions, with reasons and basis therefor, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator.

(d) The Administrative Law Judge shall serve copies of the decision on each of the parties.

(e) The decision of the Administrative Law Judge shall constitute the final order of the Secretary unless, pursuant to § 580.13 of this part, there is an appeal to the Secretary.

§ 580.13 Procedures for appeals to the Secretary.

Any party desiring review of a decision of the Administrative Law Judge shall file an appeal with the Secretary. To be effective, such appeal must be received by the Secretary within 30 days of the date of the decision of the Administrative Law Judge. Copies of the appeal shall be served on all parties and on the Chief Administrative Law Judge. If no timely appeal has been filed, the decision of the Administrative Law Judge shall be deemed the final agency action.

§ 580.14 Filing and Service.

(a) Filing. All documents submitted to the Secretary shall be filed with the Secretary of Labor, U.S. Department of Labor, Washington, DC 20210.

(b) Number of copies. An original and two copies of all documents shall be filed.

(c) Computation of time for delivery by mail. Documents are not deemed filed with the Secretary until actually received by the Secretary either on or before the due date. No additional time shall be added where service of a document requiring action within a prescribed time was made by mail.

(d) Manner and proof of service. A copy of each document filed with the Secretary shall be served upon all