

shall be in writing and inform the party of the determination. The notice shall state the reasons for the proposed or imposed action except where general terms are permitted by 24 CFR part 24. The notice shall inform the party of any right to a hearing to challenge the determination, and the manner and time in which to request such hearing. A supplemental notice may be issued in the discretion of the initiating official to add to or modify the reasons for the action.

#### § 26.10 Complaint.

(a) *Respondent.* A complaint shall be served upon the party against whom an administrative action is taken, who shall be called the respondent.

(b) *Grounds.* The complaint shall state the grounds upon which the administrative action is based. The grounds set forth in the complaint may not contain allegations beyond the scope of the notice of administrative action or any amendment thereto.

(c) *Notice of administrative action as complaint.* A notice of administrative action may serve as a complaint provided the notice states it is also a complaint and complies with paragraph (b) of this section.

(d) *Timing.* When the notice does not serve as a complaint, the complaint shall be served on or before the thirtieth day after a request for hearing is made.

#### § 26.11 Answer.

Respondent shall file an answer within thirty days of receipt of the complaint. The answer shall respond specifically to each factual allegation. A general denial shall not be permitted. Where a respondent intends to rely on an affirmative defense it shall be pleaded specifically. Allegations are admitted when not specifically denied in respondent's answer.

#### § 26.12 Amendments and supplemental pleadings.

(a) *Amendments.* (1) By right: The Department may amend its complaint without leave at any time within thirty days of the date the complaint is filed or at any time before respondent's responsive pleading is filed, whichever is later. Respondent may amend its an-

swer at any time within thirty days of filing of its answer. A party shall plead in response to an amended pleading within fifteen days of receipt of the amended pleading.

(2) By leave: Upon conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, the hearing officer may allow amendments to pleadings upon motion of any party.

(3) Conformance to evidence: When issues not raised by the pleadings but reasonably within the scope of the proceeding initiated by the complaint are tried by express or implied consent to the parties, they shall be treated in all respects as if they had been raised in the pleadings, and amendments of the pleadings necessary to make them conform to the evidence shall be allowed at any time.

(b) *Supplemental pleadings.* The hearing officer may, upon reasonable notice, permit service of a supplemental pleading concerning transactions, occurrences, or events which have happened or been discovered since the date of prior pleadings.

#### § 26.13 Motions.

(a) *Motions.* All motions after the commencement of the action until decision shall be addressed to the hearing officer.

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds for granting the motion.

(c) *Answers.* Within seven (7) days after receipt of any written motion, or within any other period as may be designated by the hearing officer, the opposing party shall answer the motion. Failure to make a timely answer shall constitute a party's consent to the granting of the motion. The moving party shall have no right to reply, except as permitted by the hearing officer.

(d) *Oral argument.* The hearing officer may order oral argument on any motion.

(e) *Motions for extensions.* The hearing officer may waive the requirements of this section as to motions for extensions of time.