

shall be served on the respondent with a notice that an answer is required.

(c) *Service of report of investigation.* A report prepared by the Agency, of its investigation of the matter complained of, and supplements to such a report, may be served on the parties and made a part of the record of the proceeding. Whether such a report or supplement shall be prepared, and whether it shall be served on the parties and made a part of the record, and its contents, shall be in the discretion of the Agency Head. The Judicial Officer shall consider information in such a report or supplement as part of the evidence in the proceeding, to the extent that such information is relevant and material to the proceeding. Any party may submit evidence in rebuttal of such information as is provided generally in these rules for the submission of evidence. Oral testimony, to the extent credible, shall be given greater weight as evidence than such information.

**§ 202.105 Rule 5: Filing; time for filing; service.**

(a) *Filing; number of copies.* Prior to docketing of a proceeding under these rules, all documents and papers other than the initial complaint, filed in the proceeding, shall be filed with the Agency. After such docketing of a proceeding, all such documents and papers shall be filed with the hearing clerk, *Provided*, That all such documents and papers, except a petition for disqualification of a presiding officer, shall be filed with the presiding officer if the parties have been served with written notice to do so. Each such document or paper shall be filed in quadruplicate with an extra copy for each party in excess of two, except as otherwise provided in these rules. Any document or paper not filed in the required number of copies, except an initial complaint, may be returned to the party filing it.

(b) *Effective date of filing.* Any document or paper other than an initial complaint, filed in a proceeding under these rules, shall be deemed to be filed at the time when it reaches the headquarters of the Department in Washington DC, or, if authorized to be filed with an officer or employee of the Department at any place outside the District of Columbia, it shall be deemed to

be filed at the time when it reaches the office of such officer or employee.

(c) *Additional time for filing.* The time for the filing of any document or paper other than an initial complaint, in a proceeding under these rules, may upon request be extended as reasonable, by the agency head prior to docketing of the proceeding, or by the presiding officer, or by the judicial officer; notice of any extension of time shall be served on all parties. After docketing of the proceeding, in all instances in which time permits, notice of a request for extension of time shall be given to parties other than the one filing such request, with opportunity to submit views concerning the request.

(d) *Computation of time.* Saturdays, Sundays, and Federal holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That, when such time expires on a Saturday, Sunday, or Federal holiday, such time shall be extended to include the next following business day.

(e) *Who shall make service.* Copies of all documents or papers required or authorized by the rules in this part to be filed with the Agency shall be served on the parties by the Agency, and copies of all documents or papers required or authorized by the rules in this part to be filed with the Hearing Clerk shall be served on the parties by the Hearing Clerk, unless any such document or paper is served by some other employee of the Department, or by a U.S. marshal or deputy marshal, or as otherwise provided herein, or as otherwise directed by the presiding officer or Judicial Officer.

(f) *Service on party.* (1) Any complaint or other document initially served on a person to make that person a party respondent in a proceeding, a final order, or other document specifically ordered by the presiding officer or Judicial Officer to be served by certified or registered mail, shall be deemed to be received by any party to a proceeding on the date of delivery by certified or registered mail to the last known principal place of business of such party, last known principal place of business of the attorney or representative of record of such party, or last known residence of such party if an individual,

*provided that*, if any such document or paper is sent by certified or registered mail but is returned marked by the postal service as unclaimed or refused, it shall be deemed to be received by such party on the date of remailing by ordinary mail to the same address.

(2) Any document or paper, other than one specified in paragraph (f)(1) of this section or written questions for a deposition as provided in §202.109(c)(3), shall be deemed to be received by any party to a proceeding on the date of mailing by ordinary mail to the last known principal place of business of such party, last known principal place of business of the attorney or representative or record of such party, or last known residence of such party if an individual.

(3) Any document or paper served other than by mail on any party to a proceeding shall be deemed to be received by such party on the date of:

(i) Delivery to any responsible individual at, or leaving in a conspicuous place at, the last known principal place of business of such party, last known principal place of business of the attorney or representative of record of such party, or last known residence of such party if an individual, or

(ii) Delivery to such party if an individual, to an officer or director of such party if a corporation, or to a member of such party if a partnership, at any location.

(g) *Service on another.* Any subpoena or other document or paper served on any person other than a party to a proceeding shall be deemed to be received by such person on the date of:

(1) Delivery by certified mail or registered mail to the last known principal place of business of such person, last known principal place of business of the attorney or representative of record of such person, or last known residence of such person if an individual;

(2) Delivery other than by mail to any responsible individual at, or leaving in a conspicuous place at, any such location; or

(3) Delivery to such party if an individual, to an officer or director of such party if a partnership, at any location.

(h) *Proof of service.* Any of the following, in the possession of the Depart-

ment, showing such service, shall be deemed to be accurate:

(1) A certified or registered mail receipt returned by the postal service with a signature;

(2) An official record of the postal service;

(3) An entry on a docket record or a copy placed in a docket file by the Hearing Clerk of the Department or by an employee of the Hearing Clerk in the ordinary course of business;

(4) A certificate of service, which need not be separate from and may be incorporated in the document or paper of which it certifies service, showing the method, place and date of service in writing and signed by an individual with personal knowledge thereof, *Provided* that such certificate must be verified by oath or declaration under penalty of perjury if the individual certifying service is not a party to the proceeding in which such document or paper is served, an attorney or representative of record for such a party, or an official or employee of the United States or of a State of political subdivision thereof.

[43 FR 30510, July 14, 1978, as amended at 55 FR 41183, Oct. 10, 1990; 60 FR 8465, Feb. 14, 1995]

#### § 202.106 Rule 6: Answer.

(a) *Filing and service.* Within 20 days after service on a respondent, of a complaint or amendment of a complaint, such person shall file an answer in writing, signed by such person or by the attorney or representative of such person. If a respondent desires an oral hearing, a request for it should be included with the answer of such person. If any answer or amended answer is filed, it shall be served on the complainant.

(b) *Required contents.* If a respondent desires to make a defense, the answer of such person shall contain a precise statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the allegations of the complaint, except that, if the respondent is without knowledge, such answer shall state that. If a respondent does not desire to make a defense, the answer of such person shall contain an admission of all the allegations of the complaint, or an