

(i) The closed record is not available to the public.

(ii) The closed record is available to the parties' attorneys of record.

(iii) The administrative law judge may determine whether the closed record is available to the parties, the parties' representatives, or other persons such as witnesses for a party.

(iv) No party, attorney of record, representative of record, or person who receives information from such persons, may disclose information that has been protected under this section except to a person authorized by this section or the administrative law judge to receive it.

(v) If a person other than one authorized by this section desires to view or copy a closed record, the person must file a motion to open the record.

§ 406.119 Computation of time.

(a) This section applies to any period of time prescribed or allowed by this subpart, by notice or order of the administrative law judge or the FAA decisionmaker, or by any applicable statute.

(b) The date of an act, event, or default, after which a designated time period begins to run, is not included in a computation of time under this subpart.

(c) The last day of a time period is included in a computation of time unless it is a Saturday, Sunday, or a legal holiday. If the last day of the time period is a Saturday, Sunday, or legal holiday, the time period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

§ 406.121 Extension of time.

Before an appeal is filed with the FAA decisionmaker, the parties may seek an extension of time as follows:

(a) *Extension of time by agreement of the parties.* The parties may agree to extend for a reasonable period the time for filing a document under this subpart with the agreement of the administrative law judge. The party seeking the extension of time must submit a draft order to the administrative law judge for signature, file it with the Docket Management System, and serve it on each party.

(b) *Motion for extension of time.* If the parties do not agree to an extension of time for filing a document, a party desiring an extension may file with the Docket Management System and serve a written motion for an extension of time not later than 7 days before the document is due unless good cause for the late filing is shown. The administrative law judge may grant the extension of time if good cause for the extension is shown.

(c) *Failure to rule.* If the administrative law judge fails to rule on a written motion for an extension of time by the date the document is due, the motion for an extension of time is granted for no more than 20 days after the original date the document was to be filed.

§ 406.123 Waivers.

Waivers of any rights provided by statute or regulation must be in writing or by stipulation made at a hearing and entered into the record. The parties must set forth the precise terms of the waiver and any conditions.

§ 406.127 Complaint and answer in civil penalty adjudications.

(a) *Complaint—(1) Filing.* The complainant must file the original and one copy of the complaint with the Docket Management System, or may file a written motion pursuant to § 406.141(f)(1) instead of filing a complaint, not later than 20 days after receipt by the complainant of a request for hearing. The complainant should suggest a location for the hearing when filing the complaint.

(2) *Service.* The complainant must personally deliver or mail a copy of the complaint to the respondent, or the respondent's attorney or representative who has filed a notice of appearance in accordance with § 406.107.

(3) *Contents of complaint.* The final notice of proposed civil penalty issued under § 406.9(d) may be filed as the complaint. A complaint must set forth the following in sufficient detail to provide notice:

(i) The facts alleged.

(ii) Any requirement of the Act, a regulation issued under the Act, or any term or condition of a license issued or transferred under the Act allegedly violated by the respondent.

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(iii) The proposed civil penalty.

(b) *Answer*—(1) *Time for filing*. The respondent must file an answer to the complaint, or may file a written motion pursuant to § 406.141(f)(2) instead of filing an answer, not later than 30 days after service of the complaint.

(2) *Form*. The answer must be in writing. The answer may be in the form of a letter but must be dated and signed by the person responding to the complaint. The answer must be legible, and may be handwritten, typed, or printed from a computer.

(3) *Filing and service*. A respondent must file the answer with the Docket Management System and serve a copy of the answer on the agency attorney who filed the complaint.

(4) *Contents of answer*—(i) *Specific denial of allegations required*. The respondent must admit, deny, or state that the respondent is without sufficient knowledge or information to admit or deny, each numbered paragraph of the complaint. Any statement or allegation contained in the complaint that is not specifically denied in the answer constitutes an admission of the truth of that allegation. An administrative law judge shall treat a general denial of the complaint as a failure to file an answer.

(ii) *Affirmative defenses*. The answer must specifically state any affirmative defense that the respondent asserts.

(iii) *Request for relief*. The answer may include a brief statement of any relief requested.

(iv) *Hearing location*. The respondent should suggest a location for the hearing when filing the answer.

(5) *Failure to file answer*. A respondent's failure to file an answer without good cause constitutes an admission of the truth of each allegation contained in the complaint.

§ 406.133 Amendment of pleadings.

(a) *Time*. A party must file with the Docket Management System and serve on each other party any amendment to a complaint or an answer as follows:

(1) Not later than 15 days before the scheduled date of a hearing, a party may amend a complaint or an answer without the consent of the administrative law judge.

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(2) Less than 15 days before the scheduled date of a hearing, the administrative law judge may allow amendment of a complaint or an answer only for good cause shown in a motion to amend.

(b) *Responses*. The administrative law judge must allow a reasonable time, but not more than 20 days from the date of filing, for other parties to respond to an amendment to a complaint or answer.

§ 406.135 Withdrawal of complaint or request for hearing.

At any time before or during a hearing, the complainant may withdraw a complaint or a party may withdraw a request for a hearing without the consent of the administrative law judge. If the complainant withdraws the complaint or a party withdraws the request for a hearing and the answer, the administrative law judge must dismiss the proceedings under this subpart with prejudice.

§ 406.137 Intervention.

(a) A person may file with the Docket Management System and serve on each other party a motion for leave to intervene as a party in an adjudication. Except for good cause shown, a motion for leave to intervene must be filed not later than 10 days before the hearing.

(b) The administrative law judge may grant a motion for leave to intervene if the administrative law judge finds that—

(1) Intervention will not unduly broaden the issues or delay the proceedings, and

(2) The intervener will be bound by any order or decision entered in the action or the intervener has a property, financial, or other legitimate interest that may not be addressed adequately by the parties.

(c) The administrative law judge may determine the extent to which an intervener may participate in the proceedings.

§ 406.139 Joint procedural or discovery schedule.

(a) *General*. The parties may agree to submit a schedule for filing all pre-hearing motions or for conducting discovery or both.