

on the same record, including the initial decision of the presiding officer.

**§ 201.151 Objections to public disclosure of information.**

Upon objection to public disclosure of any information sought to be elicited during a hearing, and a showing of cause satisfactory to the presiding officer, the witness shall disclose such information only in the presence of the presiding officer, official reporter and such attorneys or representatives of each party with demonstrated interests, as the presiding officer shall determine and after all present have been sworn to secrecy. The transcript of testimony shall be held confidential. Within five (5) days after such testimony is given, or document received, the objecting party shall file with the presiding officer a verified written motion to withhold such information from public disclosure, setting forth sufficient identification of same and the basis upon which public disclosure should not be made. Copies of said transcript and motion need not be served upon any other parties than those sworn to secrecy unless so ordered by the presiding officer.

**Subpart P—Briefs, Requests for Findings, Decisions, Exceptions (Rule 16)**

**§ 201.155 Briefs; request for findings.**

The time for filing briefs to the presiding officer, and extensions thereof, shall be fixed by him. The period of time allowed shall be the same for all parties unless the presiding officer, for good cause shown, directs otherwise. Normally there shall be an opening brief by the moving parties, an answering brief by the proponents of a contrary conclusion and a short reply by the moving parties. Briefs and statements of position as authorized, shall be served upon all parties pursuant to subpart D of this part. Briefs shall include a summary of evidence, together with references to exhibit numbers and pages of the transcript, and memoranda of law with appropriate citations of the authorities relied upon. They shall contain proposed findings of fact and conclusions in serially numbered paragraphs.

**§ 201.156 Requests for extension of time for filing briefs.**

Requests for extension of time within which to file briefs shall conform to the requirements of § 201.53. Except for good cause shown, such requests shall be filed and served not later than five (5) days before the expiration of the time fixed for the filing of briefs.

**§ 201.157 Reopening of a case by presiding officer prior to decision.**

At any time prior to the filing of his initial or recommended decision, the presiding officer, either upon petition or upon his own initiative may, for good cause shown and upon reasonable notice, reopen the case for the receipt of further evidence.

**§ 201.158 Decisions, authority to make and kinds.**

To the presiding officer is delegated the authority to render initial or recommended decisions in all proceedings before him, including motions, petitions and other pleadings. Tentative or final decisions will be rendered by the Administration. The same officers who preside at the reception of evidence pursuant to section 7 of the Administrative Procedure Act shall render the initial or recommended decisions except where such officers become unavailable to the Administration, in which case another Presiding Officer will be designated to make such decision or certify the record to the Administration. Where the Administration requires the entire record in the case to be certified to it for initial decision, the Presiding Officer shall first recommend a decision, except that in rule making:

(a) In lieu thereof the Administration may issue a tentative decision or any of its responsible officers may recommend a decision or (b) any such procedure may be omitted in any case in which the Administration finds upon the record that due and timely execution of its functions in the public interest imperatively and unavoidably so requires.

**§ 201.159 Decisions; contents and service.**

All initial, recommended, tentative, and final decisions, whether rendered

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orally or in writing shall include a statement of findings and conclusions, as well as the reasons or bases therefor, upon the material issues presented, as well as a statement of the appropriate rule, order, sanction, relief to be imposed, or the denial thereof. A copy of each decision when issued or when transcribed if orally rendered (and all orally presented decisions shall be stenographically recorded) shall be served on the parties to the proceeding, and furnished to interested persons upon request.

### § 201.160 Decision based on official notice.

Official notice may be taken of such matters as might be judicially noticed by the courts, or of technical or scientific facts within the general or specialized knowledge of the Administration as an expert body or of a document required to be filed with or published by a duly constituted governmental body: *Provided*, That where a decision or part thereof rests on the official notice of a material fact not appearing in the evidence of the record, the fact of official notice shall be so stated in the decision, and any party, on timely request, shall be afforded an opportunity to show the contrary.

### § 201.161 Exceptions to, and review by the Administration of initial or recommended decisions.

Within twenty (20) days after the service date of the initial or recommended decision, whether oral or in writing, unless a shorter period is fixed under § 201.54, any party may file exceptions to any conclusions, findings, or statements contained in such decision, and a brief in support of such exceptions. Such exceptions and brief shall constitute one document, shall indicate with particularity alleged errors, shall indicate pages of transcript and exhibit numbers when referring to the record, and shall be served on all parties pursuant to subpart D of this part. Whenever the presiding officer renders an initial decision, in the absence of the filing of exceptions thereto, or notice of review thereof by the Administration, such decision, shall upon the issuance of an appropriate order by the Administration, become the decision of

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the Administration. Upon the filing of exceptions to, or notice of review of, an initial or recommended decision, such decision shall become inoperative until the Administration determines the matter. Where exceptions are filed to, or the Administration reviews, an initial or recommended decision, the Administration, except as it may limit the issues upon notice or by rule, will have all the powers which it would have in making the initial decision. Whenever the Administration shall determine to review an initial or recommended decision on its own initiative, notice of such intention shall be served upon the parties within thirty (30) days after the date when the initial or recommended decision is orally rendered and, if in writing, served.

### § 201.162 Replies to exceptions.

Any party may file and serve a reply to exceptions within twenty (20) days after date of service thereof, unless a shorter period is fixed pursuant to § 201.54. Such reply shall indicate pages of the transcript and exhibit numbers when referring to the record.

### § 201.163 Request for extension of time for filing exceptions and replies thereto.

Requests for extension of time within which to file exceptions, and briefs in support thereof, or replies to exceptions shall conform to the applicable provisions of subpart E of this part. Except for good cause shown, such requests shall be filed and served not later than five (5) days before the expiration of the time fixed for the filing of such documents.

### § 201.164 Certification of record by presiding officer.

The presiding officer shall certify and transmit the entire record to the Administration when: (a) Exceptions are filed or the time therefor has expired, (b) notice is given by the Administration that the initial or recommended decision will be reviewed on its own initiative, or (c) the Administration requires the case to be certified to it for initial decision.