



**Issue Date: 11 June 2015**

Case No. 2015-MIS-00004

*In the Matter of*

**EFFECTIVE DATE OF FINAL RULE REGARDING RULES OF  
PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS  
BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES**

**AND**

**CLARIFICATION ON TECHNICAL ERRORS IN FINAL RULE,**

**ADMINISTRATIVE NOTICE**

On May 19, 2015, United States Department of Labor published a Final Rule implementing revised Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges, 80 Fed. Reg. 28767.

***Effective Date***

These rules have an effective/compliance date of June 18, 2015. 80 Fed. Reg. at 28768. This Administrative Notice clarifies that the revised Rules shall govern in all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending. *Compare* Fed. R. Civ. P. 86(a)(2)(B) (amendments to the federal rules govern in pending proceedings unless “the court determines that applying them in a particular action would be infeasible or work an injustice”).

***Cross-Reference Errors***

This Administrative Notice further clarifies that shortly before the Final Rule was published in the Federal Register, the rules of practice and procedure were renumbered to comply with the requirements of the Office of the Federal Register. Four cross-references failed to be properly renumbered in the document that was published in the Federal Register. The Office of Administrative Law Judges is working with the Department to have technical corrections published in the Federal Register. In the interim, this Administrative Notice provides notice of the following:

1. 29 C.F.R. § 18.32(c) should read as follows:

**§ 18.32 Computing and extending time.**

\* \* \* \* \*

(c) *Additional time after certain kinds of service.* When a party may or must act within a specified time after service and service is made under § 18.30(a)(2)(ii)(C) or (D), 3 days are added after the period would otherwise expire under paragraph (a) of this section.

\* \* \* \* \*

2. 20 C.F.R. § 18.51(d)(1) should read as follows:

**§ 18.51 Discovery scope and limits.**

\* \* \* \* \*

(d) *Hearing preparation: experts—(1) Deposition of an expert who may testify.* A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If § 18.50(c)(2)(ii) requires a report from the expert the deposition may be conducted only after the report is provided, unless the parties stipulate otherwise.

\* \* \* \* \*

3. 29 C.F.R. § 18.51(d)(3) should read as follows:

**§ 18.51 Discovery scope and limits.**

\* \* \* \* \*

(d) \* \* \*

(3) *Hearing-preparation protection for communications between a party's representative and expert witnesses.* Paragraphs (c)(1) and (2) under this section protect communications between the party's representative and any witness required to provide a report under § 18.50(c)(2)(ii), regardless of the form of the communications, except to the extent that the communications: \* \* \*

\* \* \* \* \*

4. 29 C.F.R. § 18.53(b) should read as follows:

**§ 18.53 Supplementing disclosures and responses.**

\* \* \* \* \*

(b) *Expert witness.* For an expert whose report must be disclosed under § 18.50(c)(2)(ii), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed by the time the party's prehearing disclosures under § 18.50(c)(3) are due.

\* \* \* \* \*

**SO NOTICED.**

**STEPHEN R. HENLEY**  
Acting Chief Administrative Law Judge