

be guilty of disorderly or contemptuous language or conduct in connection with any hearing, the administrative law judge may, for good cause stated in the record, suspend the hearing, and, in the case of an attorney, recommend that the Director report the matter to the Director of Practice for disciplinary action. The refusal of a witness to answer any question which has been ruled to be proper shall be considered by the administrative law judge in determining the weight to be given all the testimony of that witness.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 43 FR 13531, Mar. 31, 1978; 44 FR 55846, Sept. 28, 1979]

§ 200.100 Unavailability of administrative law judge.

In the event that the administrative law judge designated to conduct a hearing becomes unavailable before the filing of his findings and decision or recommended decision, the Director may assign the case to another administrative law judge for the continuance of the proceeding, in accordance with the regulations in this part in the same manner as if he had been designated administrative law judge at the commencement of the proceeding.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 43 FR 13531, Mar. 31, 1978; 44 FR 55846, Sept. 28, 1979]

Subpart H—Decisions

§ 200.105 Administrative law judge's finding and decision or recommended decision.

Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the administrative law judge shall render his decision or recommended decision, as the case may be. All decisions shall become a part of the record and, if proposed findings and conclusions have been filed, shall show the administrative law judge's ruling upon each of such proposed findings and conclusions. Decisions shall consist of (a) a brief statement of the issues of fact involved in the proceeding; (b) the administrative law judge's findings and conclusions, as well as the reasons or basis therefor

with record references, upon all the material issues of fact, law or discretion presented on the record (including, when appropriate, comment as to the credibility and demeanor of the witnesses); and (c) the administrative law judge's determination or recommended determination on the record. Where the administrative law judge determines that the imposition of a period of suspension of the permit is appropriate, his decision shall state the length of such period of suspension, to commence at such time as the district director shall specify.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.106 Certification and transmittal of record and decision.

After reaching his decision, the administrative law judge shall certify to the complete record of the proceeding before him and (a) in proceedings on an application, shall immediately forward the complete certified record together with four copies of his recommended decision to the district director for initial decision, or (b) in revocation, suspension or annulment proceedings, shall immediately forward the complete certified record, together with two copies of his decision, to the regional director (compliance), serve one copy of his decision on the respondent or his counsel and transmit a copy of his decision to the attorney for the Government.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

ACTION BY DISTRICT DIRECTOR

§ 200.107 Application proceedings.

If, upon receipt of the record and the recommended decision of the administrative law judge, the district director decides that the permit should be issued, he shall thereupon approve the application briefly stating, for the record, his reasons therefor, but if he contemplates the disapproval of the application he shall serve a copy of the administrative law judge's recommended decision on the applicant,

informing the applicant of his contemplated action and affording the applicant not more than 10 days in which to submit proposed findings and conclusions or exceptions to the recommended decision with reasons in support thereof. If the district director, after consideration of the record of the hearing and of any proposed findings, conclusions or exceptions filed with him by the applicant, approves the findings, conclusions and recommended decision of the administrative law judge, he shall by order approve or disapprove of the application in accordance therewith. If, after such consideration, he disapproves of the findings, conclusions and recommended decision of the administrative law judge, in whole or in part, he shall by order make such findings and conclusions as in his opinion are warranted by the law and facts in the record. Any decision of the district director ordering the disapproval of an application for a permit shall state the findings and conclusions upon which it is based, including his ruling upon each proposed finding, conclusion and exception to the administrative law judge's recommended decision, together with a statement of his findings and conclusions, and reasons or basis therefor, upon all material issues of fact, law or discretion presented on the record. A signed duplicate original of the decision shall be served upon the applicant and the original copy containing certificate of service shall be placed in the official record of the proceeding.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.107a District director's decision.

(a) When the district director issues an initial decision in accordance with § 200.79, the decision shall become a part of the record. The decision shall consist of (1) a brief statement of the issues involved in the proceedings; (2) the district director's findings and conclusions, as well as the reasons therefor; and (3) the district director's determination on the record.

[T.D. ATF-244, 51 FR 45764, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.108 Suspension, revocation, or annulment proceedings.

(a) Upon receipt of the complete certified record of the hearing the district director shall enter an order suspending, revoking, or annulling the permit (Form 1430-B) or dismissing the proceedings in accordance with the administrative law judge's findings and decision, unless he disagrees with such findings and decision and files a petition with the Director, for review thereof, as provided in § 200.115. If the district director files such petition, he shall withhold issuance of the order, pending the decision of the Director, upon receipt of which he shall issue the order in accordance therewith. A signed duplicate original of the order of the district director shall be served upon the respondent and the original copy containing certificate of service shall be placed in the official record of the proceeding. In all proceedings in which a suspension is imposed, the district director's order shall state the time when the suspension period set forth in the administrative law judge's decision shall commence and terminate.

(b) In a case where the initial decision is made by the district director in accordance with § 200.79, the district director will also issue an order suspending, revoking or annulling the permit (on Form 5000.5), or dismissing the proceedings in accordance with his initial decision. A signed duplicated original of the decision and order of the district director shall be served upon the respondent and the original copy placed in the official record of the proceeding. In all proceedings in which a suspension is imposed, the district director's order shall state the time when the suspension period set forth in the initial decision shall commence and terminate.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9196 and 9197, Mar. 6, 1985; T.D. ATF-244, 51 FR 45764, Dec. 22, 1986; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.109 Notice to Director.

When the district director makes an order suspending, revoking or annulling a permit, he will furnish a copy of the order and of the decision on which