

CHAPTER 33. DOCUMENTARY FILINGS

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Subchapter A. GENERAL REQUIREMENTS

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FILINGS GENERALLY

§ 33.1. Title.

Pleadings, submittals or other documents filed with an agency in any proceeding shall clearly show the file number or similar identifying symbols, if any, and title of the proceeding before the agency. They shall also show, in the title of the particular pleading, submittal or other document filed, the name of the person in

whose behalf the filing is made. If more than one person is involved, a single name only need be included in the title.

Cross References

This section cited in 16 Pa. Code § 42.12 (relating to caption); 34 Pa. Code § 111.11 (relating to content and form); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.21 (relating to identifying number); 34 Pa. Code § 131.31 (relating to form of pleadings); 52 Pa. Code § 1.31 (relating to requirements for documentary filings); 52 Pa. Code § 1001.31 (relating to requirements for documentary filings); 55 Pa. Code § 41.11 (relating to title of document); 61 Pa. Code § 703.2 (relating to petition content); and 61 Pa. Code § 703.5 (relating to other submissions).

§ 33.2. Form.

(a) *Typewritten.* Pleadings, submittals or other documents filed in proceedings, if not printed, shall be typewritten on paper cut or folded to letter size, 8 to 8 1/2 inches wide by 10 1/2 to 11 inches long, with left-hand margin not less than 1 1/2 inches wide and other margins not less than 1 inch. The impression shall be on only one side of the paper, unless there are more than four pages, and shall be double spaced, except that quotations in excess of a few lines shall be single spaced and indented. Mimeographed, multigraphed, hectographed or plano-graphed copies will be accepted as typewritten, provided all copies are clearly legible.

(b) *Printed.* Printed documents may not be less than 10-point type on unglazed paper, cut or folded so as not to exceed 8 1/2 inches wide by 11 inches long, with inside margin not less than 1 inch wide, and with double-led text and single-led, indented quotations.

(c) *Binding.* Pleadings, submittals, and other documents, other than correspondence, shall be bound at the left side only.

Cross References

This section cited in 4 Pa. Code § 110.5 (relating to form of documents); 12 Pa. Code § 11.6 (relating to filings); 12 Pa. Code § 11.7 (relating to complaints); 19 Pa. Code § 13.5 (relating to form); 34 Pa. Code § 111.11 (relating to content and form); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.31 (relating to form of pleadings); 37 Pa. Code § 171.12 (relating to form of papers filed); 37 Pa. Code § 197.11 (relating to size and form of documents); 52 Pa. Code § 1.32 (relating to filing specifications); 52 Pa. Code § 1001.32 (relating to filing specifications); 55 Pa. Code § 41.12 (relating to form); 58 Pa. Code § 495a.2 (relating to form of documents); 61 Pa. Code § 703.2 (relating to petition content); and 61 Pa. Code § 703.5 (relating to other submissions).

§ 33.3. Incorporation by reference.

(a) Except as otherwise provided in subsection (b), any documents on file with an agency may be incorporated by reference into a subsequently filed pleading, submittal, or other document. A document may be so incorporated only by reference to the specific document and to the prior filing in which it was physically filed, not to another document which incorporates it by reference.

(b) No document which has been on file with any agency for a period of more than 10 years may be incorporated by reference in a current document unless the person filing the current document first makes inquiry to the office of

the agency and ascertains that the earlier document continues to be readily available in the active records of the agency.

Cross References

This section cited in 16 Pa. Code § 42.1 (relating to applicability of general rules); 19 Pa. Code § 13.6 (relating to incorporation by reference); 34 Pa. Code § 111.11 (relating to content and form); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.31 (relating to form of pleadings); 52 Pa. Code § 1001.33 (relating to incorporation by reference); 55 Pa. Code § 41.13 (relating to incorporation by reference); 58 Pa. Code § 495a.1 (relating to form of documentary filings generally); 61 Pa. Code § 703.2 (relating to petition content); and 61 Pa. Code § 703.5 (relating to other submissions).

§ 33.4. Single pleading or submittal covering more than one matter.

Except as otherwise provided by this part, a single pleading or submittal may be accepted for filing with respect to a particular transaction and one or more related transactions. The acceptance for filing may not affect the computation of fees under § 33.21 (relating to filing fees).

Cross References

This section cited in 12 Pa. Code § 11.6 (relating to filings); 16 Pa. Code § 42.1 (relating to applicability of general rules); 19 Pa. Code § 13.7 (relating to single submittal covering more than one matter); 34 Pa. Code § 111.11 (relating to content and form); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.31 (relating to form of pleadings); 52 Pa. Code § 1.34 (relating to single pleading or submittal covering more than one matter); 52 Pa. Code § 1001.34 (relating to single pleading or submittal covering more than one matter); 58 Pa. Code § 495a.3 (relating to single pleading covering more than one matter); 61 Pa. Code § 703.2 (relating to petition content); and 61 Pa. Code § 703.5 (relating to other submissions).

EXECUTION AND VERIFICATION

§ 33.11. Execution.

(a) *Signature.* Except as may be otherwise ordered or requested by an agency, the original copy of each pleading, submittal or other document shall be signed in ink by the party in interest, or by his or its attorney, as required by subsection (b), and shall show the office and post office address of the party or attorney. Other copies filed shall be fully conformed thereto.

(b) *Subscription.*

(1) Pleadings, submittals and other documents filed with an agency shall be subscribed:

(i) By the person filing the documents, and severally if there is more than one person so filing;

(ii) By an officer thereof if it is a corporation, trust, association or other organized group;

(iii) By an officer or employe thereof if it is another agency or a political subdivision, or other governmental authority, agency or instrumentality;
or

(iv) By an attorney having authority with respect thereto.

(2) Documents filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney subscribing the documents.

(c) *Effect.* The signature of the person subscribing a document filed with an agency constitutes a certificate by the individual that he has read the document being subscribed and filed, and knows the contents thereof; that if executed in a representative capacity, the document has been subscribed and executed in the capacity specified upon the document with full power and authority so to do; that the contents are true as stated, except as to matters and things, if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

Cross References

This section cited in 10 Pa. Code § 604.011 (relating to filings of copies—by facsimile or otherwise—of submittals, pleadings and other nonoriginal documents—statement of policy); 16 Pa. Code § 42.45 (relating to answers to interrogations); 19 Pa. Code § 13.8 (relating to execution); 25 Pa. Code § 1021.91 (relating to general); 34 Pa. Code § 111.11 (relating to content and form); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.31 (relating to form of pleadings); 52 Pa. Code § 1.35 (relating to execution); 52 Pa. Code § 1001.35 (relating to execution); 58 Pa. Code § 495a.4 (relating to execution of documents); and 61 Pa. Code § 703.5 (relating to other submissions).

§ 33.12. Verification.

Except as otherwise required by statute, it may not be necessary to verify under oath a pleading, submittal or other document filed with an agency; but any individual who shall execute a pleading, submittal or other document knowing that it contains a false statement and who shall cause it to be filed in an agency shall be considered to have committed a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a) (relating to unsworn falsification to authorities).

Source

The provisions of this § 33.12 amended May 18, 1973, 3 Pa.B. 924. Immediately preceding text appears at serial page (10497).

Cross References

This section cited in 25 Pa. Code § 1021.92 (relating to procedural motions); 25 Pa. Code § 1021.93 (relating to discovery motions); 25 Pa. Code § 1021.95 (relating to miscellaneous motions); 34 Pa. Code § 111.11 (relating to content and form); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.31 (relating to form of pleadings); 37 Pa. Code § 197.12 (relating to verification); 37 Pa. Code § 197.90 (relating to procedure at hearing); 52 Pa. Code § 1.36 (relating to verification); 52 Pa. Code § 1001.36 (relating to verification and affidavit); 55 Pa. Code § 41.14 (relating to verification); 58 Pa. Code § 495a.5 (relating to verification); and 61 Pa. Code § 703.5 (relating to other submissions).

COPIES**§ 33.15. Number of copies.**

Except as may be otherwise provided by statute or ordered or requested by an agency, and except as provided by §§ 35.193 and 35.212(d) (relating to filing and service of briefs; and content and form of briefs on exceptions), at the time pleadings, submittals or documents other than correspondence are filed with the agency, there shall be furnished to the agency an original and two conformed copies of the papers, including exhibits, if any.

Cross References

This section cited in 4 Pa. Code § 110.2 (relating to exhibits); 7 Pa. Code § 1.24 (relating to specifications for equipment and sanitation prior to granting inspection); 12 Pa. Code § 11.6 (relating to filings); 16 Pa. Code § 42.13 (relating to number of copies); 19 Pa. Code § 13.9 (relating to number of copies); 25 Pa. Code § 1.5 (relating to procedures); 34 Pa. Code § 111.12 (relating to filing, service and proof of service); 34 Pa. Code § 111.14 (relating to motions to quash); 34 Pa. Code § 111.22 (relating to filing); 34 Pa. Code § 111.23 (relating to answers); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 111.33 (relating to specific petitions/requirements); 34 Pa. Code § 111.34 (relating to answers to petitions); 34 Pa. Code § 131.32 (relating to petitions except petitions for joinder and challenge proceedings); 34 Pa. Code § 131.33 (relating to answers except answers to petitions for joinder and challenge proceedings); 37 Pa. Code § 197.4 (relating to filings); 40 Pa. Code § 17.7 (relating to exhibits); 52 Pa. Code § 1.37 (relating to number of copies); 52 Pa. Code § 1001.37 (relating to number of copies to be filed); 55 Pa. Code § 41.15 (relating to copies of documents); 58 Pa. Code § 495a.6 (relating to number of copies); 61 Pa. Code § 703.5 (relating to other submissions); and 67 Pa. Code § 491.7 (relating to filing requirements).

FEES**§ 33.21. Filing fees.**

(a) A pleading, submittal or other document for which a filing fee is required to be charged shall be received, but may not be deemed to be filed, until the filing fee required by statute or regulation has been paid.

(b) If the regulations of the agency do not set forth the specific fee payable with respect to the filing of a pleading, submittal or other document, the document may be deposited without tender of the required fee. The agency will forthwith notify the person who deposited the filing of the proper amount of the fee. If the required fee is paid within 15 days of the mailing of the notice, the office of the agency will file the document as of the day the document was originally deposited. This subsection is applicable notwithstanding the fact that the amount of the required fee is fixed by or determinable from a statutory provision.

Cross References

This section cited in 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter); 12 Pa. Code § 11.6 (relating to filings); 19 Pa. Code § 3.1 (relating to filing fees required); 19 Pa. Code § 3.2 (relating to date of deposit as filing date); 52 Pa. Code § 1.41 (relating to filing fees); 52 Pa. Code § 1.43 (relating to schedule of fees payable to the Commission); 52

Pa. Code § 1001.41 (relating to filing fees); 52 Pa. Code § 1001.43 (relating to Authority fee schedule); 55 Pa. Code § 41.15 (relating to copies of documents); 58 Pa. Code § 51.25 (relating to demand for or waiver of hearing); 61 Pa. Code § 703.5 (relating to other submissions); and 67 Pa. Code § 491.5 (relating to filing fee).

§ 33.22. Mode of payment of fees.

Fees shall be paid by money order, certified check or bank cashier's check made payable to the Commonwealth of Pennsylvania. Personal checks are not acceptable unless the drawer has established credit with the agency. Cash is sent at the risk of the sender.

Cross References

This section cited in 12 Pa. Code § 11.6 (relating to filings); 19 Pa. Code § 3.3 (relating to mode of payment of fees); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.32 (relating to petitions except petitions for joinder and challenge proceedings); 40 Pa. Code § 15.24 (relating to fees); 52 Pa. Code § 1.42 (relating to mode of payment of fees); 52 Pa. Code § 1001.42 (relating to mode of payment to the Authority); 55 Pa. Code § 41.15 (relating to copies of documents); 58 Pa. Code § 51.25 (relating to demand for or waiver of hearing); and 61 Pa. Code § 703.5 (relating to other submissions).

§ 33.23. Copy fees.

(a) Uncertified copies of documents filed in an agency shall be furnished at a charge of 25¢ per page. Certified copies of documents filed in an agency shall be furnished at a charge of \$1 per page.

(b) Fees for copies of documents shall be paid in advance. The agency on request shall advise the cost of preparing a copy of a particular paper.

Cross References

This section cited in 19 Pa. Code § 3.21 (relating to copy fees); 34 Pa. Code § 111.32 (relating to form/content); 34 Pa. Code § 131.32 (relating to petitions except petitions for joinder and challenge proceedings); 52 Pa. Code § 1.43 (relating to schedule of fees payable to the Commission); 52 Pa. Code § 1001.43 (relating to Authority fee schedule); 55 Pa. Code § 41.15 (relating to copies of documents); and 61 Pa. Code § 703.5 (relating to other submissions).

Subchapter B. SERVICE OF DOCUMENTS

- Sec.
- 33.31. Service by the agency.
 - 33.32. Service by a participant.
 - 33.33. Effect of service upon an attorney.
 - 33.34. Date of service.
 - 33.35. Proof of service.
 - 33.36. Form of certificate of service.
 - 33.37. Number of copies.

§ 33.31. Service by the agency.

Orders, notices and other documents originating with an agency, including forms of agency action, complaints and similar process and other documents designated by the agency for this purpose, shall be served by the office of the agency by mail, except when service by another method shall be specifically required by the agency, by mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading or submittal at his principal office or place of business. If service is not accomplished by mail, it may be effected by anyone authorized by the agency in the manner provided in 231 Pa. Code Rules 400—441 (relating to service of original process).

Notes of Decisions*Delay in Service*

Since neither the employer, nor its insurance carrier were ever properly served by the workers compensation claimant, there was understandably a delay in filing the employer's answer to the petition and the employer most certainly had an adequate excuse for the late filing of its answer under 77 P. S. § 821. *ABEX Corp. v. Workmen's Compensation Appeal Board*, 665 A.2d 845 (Pa. Cmwlth. 1995); appeal denied 681 A.2d 1343 (Pa. 1996).

Subpoenas

If an agency issuing a subpoena has the power to compel court enforcement on a bare showing that there is a proceeding before the agency over which it has jurisdiction and that the evidence sought relates to the matter under investigation, enforcement of the subpoena is ancillary to its issuance and neither original process nor service as though original process were involved is required. *National Apartment Leasing Corp. v. Human Relations Commission*, 425 A.2d 499 (Pa. Cmwlth. 1981).

When service of an order to show cause is not accomplished by mail, the agency must authorize someone to accomplish service as provided in 231 Pa. Code Rule 1009 (relating to service); if this service is not accomplished, there is a lack of proper service and there is no power to make an order. *Celane v. Insurance Commissioner*, 415 A.2d 130 (Pa. Cmwlth. 1980).

Cross References

This section cited in 4 Pa. Code § 265.4 (relating to appeals—level III); 16 Pa. Code § 42.34 (relating to motions); 25 Pa. Code § 1.5 (relating to procedures); 25 Pa. Code § 1021.33 (relating to service by the Board); 34 Pa. Code § 49.11 (relating to service of orders, notices and duty of owner to post address); 34 Pa. Code § 60.10 (relating to service of orders and notices); 34 Pa. Code § 111.13 (relating to processing of appeals and cross appeals); 34 Pa. Code § 131.32 (relating to petitions except petitions for joinder and challenge proceedings); 40 Pa. Code § 15.44 (relating to service); 40 Pa. Code § 17.4 (relating to legal representation); 40 Pa. Code § 17.13 (relating to protests/intervention procedure); 52 Pa. Code § 1.53 (relating to service by the Commission); 52 Pa. Code § 1001.51 (relating to service by the Authority); 55 Pa. Code § 41.23 (relating to proof of service); 55 Pa. Code § 41.24 (relating to certificate of service); 58 Pa. Code § 51.23 (relating to order to show cause); 58 Pa. Code § 491a.5 (relating to service); 61 Pa. Code § 703.5 (relating to other submissions); 61 Pa. Code § 703.6 (relating to service); and 67 Pa. Code § 491.8 (relating to service).

§ 33.32. Service by a participant.

Pleadings, submittals, briefs and other documents, filed in proceedings pending before an agency, when filed or tendered to the agency for filing, shall be served

upon all participants in the proceeding. The service shall be made by delivering in person or by mailing, properly addressed with postage prepaid, the requisite number of copies to each participant as provided in § 33.37 (relating to number of copies).

Cross References

This section cited in 1 Pa. Code § 33.36 (relating to form of certificate of service); 1 Pa. Code § 35.31 (relating to notice and action on petitions to intervene); 16 Pa. Code § 42.34 (relating to motions); 25 Pa. Code § 1021.34 (relating to service by a party); 25 Pa. Code § 1021.91 (relating to general); 34 Pa. Code § 111.12 (relating to filing, service and proof of service); 34 Pa. Code § 111.14 (relating to motions to quash); 34 Pa. Code § 131.11 (relating to filing, service and proof of service); 34 Pa. Code § 121.34 (relating to objections to assessments); 34 Pa. Code § 131.32 (relating to petitions except petitions for joinder and challenge proceedings); 34 Pa. Code § 131.56a (relating to withdrawal of appearance); 37 Pa. Code § 171.25 (relating to service); 37 Pa. Code § 197.5 (relating to service on other parties); 37 Pa. Code § 197.34 (relating to notice of appeal); 40 Pa. Code § 15.44 (relating to service); 40 Pa. Code § 17.13 (relating to protests/intervention procedure); 52 Pa. Code § 1.54 (relating to service by a party); 52 Pa. Code § 1001.52 (relating to service by a party); 55 Pa. Code § 41.23 (relating to proof of service); 55 Pa. Code § 41.24 (relating to certificate of service); 61 Pa. Code § 703.5 (relating to other submissions); 61 Pa. Code § 703.6 (relating to service); and 67 Pa. Code § 491.8 (relating to service).

§ 33.33. Effect of service upon an attorney.

When a participant has appeared by attorney, service upon the attorney shall be deemed service upon the participant as provided in § 31.24(b) (relating to notice of appearance) and separate service on the party may be omitted as provided in § 31.26 (relating to service on attorneys).

Notes of Decisions

Service of an administrative law judge's ruling on petitioner's counsel, but not on petitioner himself was proper and did not constitute "fraud" sufficient to vitiate the untimely filing of petitioner's appeal from the ruling. *Carol Lines, Inc. v. Pennsylvania Public Utility Commission*, 481 A.2d 990 (Pa. Cmwlth. 1984).

Cross References

This section cited in 7 Pa. Code § 131.13 (relating to service); 16 Pa. Code § 42.34 (relating to motions); 34 Pa. Code § 111.12 (relating to filing, service and proof of service); 34 Pa. Code § 111.14 (relating to motions to quash); 34 Pa. Code § 131.5 (relating to definitions); 34 Pa. Code § 131.13 (relating to continuances or postponements of hearings); 34 Pa. Code § 131.50 (relating to return to work—modification or suspension); 34 Pa. Code § 131.56a (relating to withdrawal of appearance); 34 Pa. Code § 131.64 (relating to notice of oral deposition); 37 Pa. Code § 171.25 (relating to service); 40 Pa. Code § 15.44 (relating to service); 40 Pa. Code § 17.4 (relating to legal representation); 40 Pa. Code § 17.13 (relating to protests/intervention procedure); 52 Pa. Code § 1001.53 (relating to service on attorneys); 61 Pa. Code § 703.5 (relating to other submissions); 61 Pa. Code § 703.6 (relating to service); and 67 Pa. Code § 491.8 (relating to service).

§ 33.34. Date of service.

The date of service shall be the day when the document served is deposited in the United States mail, or is delivered in person, as the case may be.

Cross References

This section cited in 16 Pa. Code § 42.34 (relating to motions); 25 Pa. Code § 1021.35 (relating to date of service); 34 Pa. Code § 111.3 (relating to definitions); 34 Pa. Code § 131.11 (relating to filing, service and proof of service); 34 Pa. Code § 131.56a (relating to withdrawal of appearance); 37 Pa. Code § 171.25 (relating to service); 40 Pa. Code § 15.44 (relating to service); 40 Pa. Code § 17.13 (relating to protests/intervention procedure); 52 Pa. Code § 1.56 (relating to date of service); 52 Pa. Code § 1001.54 (relating to date of service); 61 Pa. Code § 703.5 (relating to other submissions); 61 Pa. Code § 703.6 (relating to service); and 67 Pa. Code § 491.8 (relating to service).

§ 33.35. Proof of service.

There shall accompany and be attached to the original of each pleading, submittal or other document filed with an agency when service is required to be made by the parties, a certificate of service in the form prescribed by § 33.36 (relating to form of certificate of service). All other copies filed shall be fully conformed thereto.

Cross References

This section cited in 16 Pa. Code § 42.34 (relating to motions); 25 Pa. Code § 1021.36 (relating to certificate of service); 25 Pa. Code § 1021.91 (relating to general); 34 Pa. Code § 111.12 (relating to filing, service and proof of service); 34 Pa. Code § 111.14 (relating to motions to quash); 34 Pa. Code § 121.34 (relating to objections to assessments); 34 Pa. Code § 131.11 (relating to filing, service and proof of service); 34 Pa. Code § 131.56a (relating to withdrawal of appearance); 37 Pa. Code § 171.25 (relating to service); 37 Pa. Code § 197.5 (relating to service on other parties); 37 Pa. Code § 197.34 (relating to notice of appeal); 40 Pa. Code § 15.44 (relating to service); 40 Pa. Code § 17.13 (relating to protests/intervention procedure); 52 Pa. Code § 1.57 (relating to proof of service); 52 Pa. Code § 1001.55 (relating to proof of service); 55 Pa. Code § 41.23 (relating to proof of service); 55 Pa. Code § 41.24 (relating to certificate of service); 61 Pa. Code § 703.5 (relating to other submissions); 61 Pa. Code § 703.6 (relating to service); and 67 Pa. Code § 491.8 (relating to service).

§ 33.36. Form of certificate of service.

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of § 33.32 (relating to service by a participant).

Dated this _____ day of _____, 19 _____

(Signature)

Of counsel for

Cross References

This section cited in 1 Pa. Code § 31.3 (relating to definitions); 1 Pa. Code § 33.35 (relating to proof of service); 16 Pa. Code § 42.34 (relating to motions); 25 Pa. Code § 1021.91 (relating to general); 34 Pa. Code § 111.12 (relating to filing, service and proof of service); 34 Pa. Code § 111.14 (relating to motions to quash); 34 Pa. Code § 131.11 (relating to filing, service and proof of service); 34 Pa. Code § 131.56a (relating to withdrawal of appearance); 37 Pa. Code § 197.6 (relating to form of certificate of service); 40 Pa. Code § 15.44 (relating to service); 40 Pa. Code § 17.13 (relating to protests/intervention procedure); 52 Pa. Code § 1.58 (relating to form of certificate of service); 52 Pa. Code § 1001.56 (relating to form of certificate of service); 55 Pa. Code § 41.23 (relating to proof

of service); 55 Pa. Code § 41.24 (relating to certificate of service); 61 Pa. Code § 703.5 (relating to other submissions); 61 Pa. Code § 703.6 (relating to service); and 67 Pa. Code § 491.8 (relating to service).

§ 33.37. Number of copies.

The following number of copies of documents shall be served on each other participant in a proceeding:

- (1) Briefs—three copies.
- (2) All other documents—one copy.

Cross References

This section cited in 1 Pa. Code § 33.32 (relating to service by a participant); 16 Pa. Code § 42.34 (relating to motions); 34 Pa. Code § 111.12 (relating to filing, service and proof of service); 34 Pa. Code § 111.14 (relating to motions to quash); 34 Pa. Code § 111.16 (relating to briefs: content and form and time for filing); 34 Pa. Code § 131.32 (relating to petitions except petitions for joinder and challenge proceedings); 34 Pa. Code § 131.33 (relating to answers except answers to petitions for joinder and penalty proceedings); 34 Pa. Code § 131.56a (relating to withdrawal of appearance); 40 Pa. Code § 17.13 (relating to protests/intervention procedure); and 52 Pa. Code § 1.59 (relating to number of copies to be served); 52 Pa. Code § 1001.57 (relating to number of copies to be served); 55 Pa. Code § 41.15 (relating to copies of documents); 61 Pa. Code § 703.5 (relating to other submissions); and 61 Pa. Code § 703.6 (relating to service).

Subchapter C. MISCELLANEOUS PROVISIONS

AMENDMENTS AND WITHDRAWALS OF SUBMITTALS

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WAIVER OF RULES

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AMENDMENTS AND WITHDRAWALS OF SUBMITTALS

§ 33.41. Amendments.

An amendment to a submittal may be tendered for filing any time and shall be deemed filed as of the date of tender unless the agency shall otherwise order.

Cross References

This section cited in 34 Pa. Code § 111.15 (relating to no other pleadings allowed); 34 Pa. Code § 131.35 (relating to amendments to pleadings); 34 Pa. Code § 131.36 (relating to joinder); 52 Pa. Code § 1.81 (relating to amendments); 52 Pa. Code § 1001.81 (relating to amendments); 55 Pa. Code § 41.25 (relating to amendment or withdrawal of legal documents); and 61 Pa. Code § 703.5 (relating to other submissions).

§ 33.42. Withdrawal or termination.

(a) A party which desires to terminate a noncontested matter or proceeding before final decision by an agency or otherwise desires to withdraw a submittal shall file a motion for leave to withdraw the appropriate document. Unless otherwise provided by statute, the motion will be granted or denied as a matter of discretion.

(b) Withdrawal of pleadings in contested proceedings shall be governed by the provisions of § 35.51 (relating to withdrawal of pleadings).

Cross References

This section cited in 10 Pa. Code § 606.041 (relating to delegation and substitution); 34 Pa. Code § 111.15 (relating no other pleadings allowed); 34 Pa. Code § 131.34 (relating to other filings); 34 Pa. Code § 131.35 (relating to amendments to pleadings); 34 Pa. Code § 131.36 (relating to joinder); 34 Pa. Code § 131.57 (relating to compromise and release agreements); 52 Pa. Code § 1.82 (relating to withdrawal or termination); 52 Pa. Code § 1001.82 (relating to withdrawal or termination of uncontested matter or proceedings); 55 Pa. Code § 41.25 (relating to amendment or withdrawal of legal documents); and 61 Pa. Code § 703.9 (relating to withdrawal or termination of appeal).

DOCKET**§ 33.51. Docket.**

The office of the agency shall maintain a docket of all proceedings, and each proceeding as initiated shall be assigned an appropriate designation. The docket shall be available for inspection and copying by the public during the office hours of the agency insofar as consistent with the proper discharge of the duties of the agency.

Cross References

This section cited in 7 Pa. Code § 131.17 (relating to docket); 25 Pa. Code § 1021.39 (relating to docket); 34 Pa. Code § 131.21 (relating to identifying number); 34 Pa. Code § 131.34 (relating to other filings); 37 Pa. Code § 171.13 (relating to docket); 40 Pa. Code § 15.31 (relating to central docketing and case control); 52 Pa. Code § 1.86 (relating to docket); 52 Pa. Code § 1001.91 (relating to docket); 55 Pa. Code § 41.25 (relating to amendment or withdrawal of legal documents); and 61 Pa. Code § 703.32 (relating to notice of proceeding).

WAIVER OF RULES**§ 33.61. Applications for waiver of formal requirements.**

(a) Pleadings, submittals or other documents which are subject to rejection under § 31.5 (relating to communications and filings generally) may be accompanied by a request, under § 35.18 (relating to petitions for issuance, amendment, waiver or repeal of regulations) for waiver of, or exception to, a provision of this chapter or regulations or requirements with which the document tendered is in conflict or does not conform. The request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof. Unacceptable filings may be returned by the agency with an indication of the deficiencies thereof and the reasons for nonacceptance and return.

(b) Unless the agency shall expressly so order, acceptance for filing may not waive a failure to comply with this chapter, the regulations of the agency or another applicable requirement, and the failure may be cause for striking all or any part of the filings.

Notes of Decisions

The fact that the Department of Public Welfare filed and docketed an appeal did not constitute a waiver of the failure of the appellant to meet the applicable appeal period as the appellant did not claim an unreasonable delay in receipt of a letter from Department of Public Welfare advising the appellant of the 30 day appeal period for audit disallowances nor did an order exist waiving the appellant's 30 day appeal period. *Friends Hospital v. Department of Public Welfare*, 551 A.2d 640 (Pa. Cmwlth. 1988).

Cross References

This section cited in 34 Pa. Code § 111.15 (relating to no other pleadings allowed); 34 Pa. Code § 131.3 (relating to waiver and modification of rules); 34 Pa. Code § 131.202 (relating to first hearing information and stay); 40 Pa. Code § 15.42 (relating to waiver of hearing or appeal); 40 Pa. Code § 15.45 (relating to notice of hearings; effect of waiver of hearing); 52 Pa. Code § 1.91 (relating to applications for waiver of formal requirements); 52 Pa. Code § 1001.101 (relating to applications for waiver of formal requirements); and 61 Pa. Code § 702.4 (relating to filing generally).

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