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under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) *Service*. (1) The party requesting issuance of a subpoena shall arrange for service.

(2) A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as a sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(g) *Contumacy or refusal to obey a subpoena*. In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a U.S. District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

§ 955.36 Effective dates and applicability.

These revised rules govern proceedings under this part docketed on or after July 2, 2015.

[80 FR 31305, June 2, 2015]

PART 956 [RESERVED]

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT FROM CONTRACTING

Sec.

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AUTHORITY: 39 U.S.C. 204, 401.

SOURCE: 80 FR 55767, Sept. 17, 2015, unless otherwise noted.

§ 957.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. 204, 401).

§ 957.2 Scope of rules.

The rules in this part apply to proceedings initiated pursuant to paragraphs (g)(2) or (h)(2) of § 601.113 of this subchapter.

§ 957.3 Definitions.

(a) *Vice President* means the Vice President, Supply Management, or the Vice President's representative for the purpose of carrying out the provisions of § 601.113 of this subchapter.

(b) *General Counsel* includes the Postal Service's General Counsel and any designated representative within the Office of the General Counsel.

(c) *Judicial Officer* includes the Postal Service's Judicial Officer, Associate Judicial Officer, and Acting Judicial Officer.

(d) *Debarment* has the meaning given by paragraph (b)(2) of § 601.113 of this subchapter.

(e) *Respondent* means any individual, firm or other entity which has been served a written notice of proposed debarment pursuant to § 601.113(h), or which previously has been debarred, as provided in § 601.113(g)(2) of this subchapter.

(f) *Hearing Officer* means the judge assigned to the case by the Judicial Officer. The Hearing Officer may be the Judicial Officer, Associate Judicial Officer, Administrative Law Judge or an

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Administrative Judge who is a member of the Postal Service Board of Contract Appeals.

(g) *Recorder* means the Recorder of the Judicial Officer Department of the United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078. The Recorder's telephone number is (703) 812-1900, fax number is (703) 812-1901, and the Judicial Officer's Web site is <http://www.about.usps.com/who-we-are/judicial/welcome.htm>.

§ 957.4 Authority of the Hearing Officer.

The Hearing Officer's authority includes, but is not limited to, the following:

(a) Ruling on all motions or requests by the parties.

(b) Issuing notices, orders, or memoranda to the parties concerning the hearing proceedings.

(c) Conducting conferences with the parties. The Hearing Officer will prepare a Memorandum of Conference, which will be transmitted to both parties and which serves as the official record of that conference.

(d) Determining whether an oral hearing will be conducted, and setting the place, date, and time for such a hearing.

(e) Administering oaths or affirmations to witnesses.

(f) Conducting the proceedings and the hearing in a manner to maintain discipline and decorum while ensuring that relevant, reliable and probative evidence is elicited, but irrelevant, immaterial or repetitious evidence is excluded. The Hearing Officer in his or her discretion may examine witnesses to ensure that a satisfactory record is developed.

(g) Establishing the record. The weight to be attached to evidence will rest within the discretion of the Hearing Officer. Except as the Hearing Officer may otherwise order, no proof shall be received in evidence after completion of a hearing. The Hearing Officer may require either party, with appropriate notice to the other party, to submit additional evidence on any relevant matter.

(h) Granting reasonable time extensions or other relief for good cause

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shown, in the Hearing Officer's sole discretion.

(i) Issuing findings of fact. The Hearing Officer will issue findings of fact to the Vice President within 30 days from the close of the record, to the extent practicable.

§ 957.5 Case initiation.

(a) Upon receipt of a request or referral from the Vice President, the Recorder will docket a case under this Part. Following docketing, the Judicial Officer will assign a Hearing Officer. The Hearing Officer will establish the schedule for the proceeding, perform all judicial duties under this Part and render Findings of Fact. Whenever practicable, a hearing should be conducted within 30 days of the date of docketing.

(b) The request or referral from the Vice President shall include the notice of proposed debarment and the information or argument submitted by the Respondent pursuant to paragraphs (g) or (h) of § 601.113 of this subchapter.

§ 957.6 Filing documents for the record.

The parties shall file documents, permitted by the rules in this part or required by the Hearing Officer, in the Judicial Officer Department's electronic filing system. The Web site for electronic filing is <https://uspsjoe.justware.com/justiceweb>. Documents submitted using that system are considered filed as of the date and time (Eastern Time) reflected in the system. Orders issued by the Hearing Officer shall be considered received by the parties on the date posted to the electronic filing system.

§ 957.7 Failure to appear at the hearing.

If a party fails to appear at the hearing, the Hearing Officer may proceed with the hearing, receive evidence and issue findings of fact without requirement of further notice to the absent party.

§ 957.8 Hearings.

Hearings ordinarily will be conducted in the Judicial Officer Department courtroom at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078.

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However, the Hearing Officer, in his or her discretion, may order the hearing to be conducted at another location, or by another means such as by video.

§ 957.9 Appearances.

(a) An individual Respondent may appear in his or her own behalf, a corporation may appear by an officer thereof, a partnership or joint venture may appear by a member thereof, or any of these may appear by a licensed attorney.

(b) After a request for a hearing has been filed pursuant to the rules in this part, the General Counsel shall designate a licensed attorney as counsel assigned to handle the case.

(c) All counsel, or a self-represented Respondent, shall register in the electronic filing system, and request to be added to the case. Counsel also promptly shall file notices of appearance.

(d) An attorney for any party who has filed a notice of appearance and who wishes to withdraw must file a motion requesting withdrawal, explaining the reasons supporting the motion, and identifying the name, email address, mailing address, telephone number, and fax number of the person who will assume responsibility for representation of the party in question.

§ 957.10 Conduct of the hearing.

The Hearing Officer may approve or disapprove witnesses in his or her discretion. All testimony will be taken under oath or affirmation, and subject to cross-examination. The Hearing Officer may exclude evidence to avoid unfair prejudice, confusion of the issues, undue delay, waste of time, or presentation of irrelevant, immaterial, or cumulative evidence. Although the Hearing Officer will consider the Federal Rules of Evidence for guidance regarding admissibility of evidence and other evidentiary issues, he or she is not bound by those rules. The weight to be attached to evidence presented in any particular form will be within the discretion of the Hearing Officer, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be accepted as evidence at the hearing. The parties may stipulate the testimony that would be given by a

witness if the witness were present. The Hearing Officer may in any case require evidence in addition to that offered by the parties. A party requiring the use of a foreign language interpreter allowing testimony to be taken in English for itself or witnesses it proffers is responsible for making all necessary arrangements and paying all costs and expenses associated with the use of an interpreter.

§ 957.11 Witness fees.

Each party is responsible for the fees and costs for its own witnesses.

§ 957.12 Transcript.

Testimony and argument at hearings shall be reported verbatim, unless the Hearing Officer otherwise orders. Transcripts of the proceedings will be made available or provided to the parties.

§ 957.13 Proposed findings of fact.

(a) The Hearing Officer may direct the parties to submit proposed findings of fact and supporting explanations within 15 days after the delivery of the official transcript to the Recorder who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties.

(b) Proposed findings of fact shall be set forth in numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings.

§ 957.14 Findings of fact.

The Hearing Officer shall issue written findings of fact, and transmit them to the Vice President. Copies will be sent to the parties.

§ 957.15 Computation of time.

A designated period of time under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

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§ 957.16 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 957.17 Public information.

The Postal Service shall maintain for public inspection copies of all findings of fact issued under this Part, and make them available through the Postal Service Web site. The Recorder maintains the complete official record of every proceeding.

§ 957.18 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d), and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

PART 958—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO CIVIL PENALTIES, CLEAN-UP COSTS AND DAMAGES FOR VIOLATION OF HAZARDOUS MATERIAL REGULATIONS

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- 958.23 Settlement.

AUTHORITY: 39 U.S.C. 204, 401, 3001, 3018; 5 U.S.C. 554.

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SOURCE: 74 FR 18631, Apr. 24, 2009, unless otherwise noted.

§ 958.1 Purpose.

This part establishes the procedures governing the hearing and appeal rights of any person alleged to be liable for civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations under 39 U.S.C. 3018.

§ 958.2 Definitions.

As used in this part:

(a) *Complaint* refers to the determination by the Determining Official that an individual has violated the prohibition against mailing hazardous materials and/or related violations under 39 U.S.C. 3018.

(b) *Initial Decision* refers to the written decision which the Presiding Officer renders.

(c) *Determining Official* refers to the Chief Postal Inspector or designee.

(d) *Judicial Officer* refers to the Judicial Officer or Acting Judicial Officer of the United States Postal Service or designee within the Judicial Officer Department.

(e) *Party* refers to the Postal Service or the respondent.

(f) *Person* refers to any individual, partnership, corporation, association, or private organization.

(g) *Presiding Officer* refers to an Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing, or to the Judicial Officer, if an Administrative Law Judge is not available.

(h) *Recorder* refers to the Recorder of the Judicial Office of the United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, Virginia 22201–3078.

(i) *Representative* refers to an attorney or other advocate.

(j) *Respondent* refers to any person determined by the Determining Official to be liable for civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations under 39 U.S.C. 3018.

[74 FR 18631, Apr. 24, 2009, as amended at 81 FR 40193, June 21, 2016]