

**Changes to Federal Rules of Appellate and Criminal Procedure,**  
**Effective December 1, 2009**

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A number of significant changes to the rules governing federal criminal prosecutions and appeals took effect on December 1, 2009. The most significant changes involve Criminal Rule 45(a)(1)(B) and Appellate Rule 26(a)(1)(B), which both adopt a new “days-are-days” approach to calculating court deadlines. Previously, Saturdays, Sundays, and holidays were excluded from calculating time periods less than 11 days. Under the new rules *all* days will count. Federal criminal defense attorneys should determine if, in light of these changes to the Federal Rules, courts in their jurisdiction are proposing changes to local rules. Practitioners should always consult their local rules in addition to the Federal Rules.

The most significant changes to the Federal Rules are:

1. Fed. R. Crim. P. 5.1: 14 days to conduct a preliminary hearing if in custody and 21 days if not in custody (formerly 10 and 20 days);
2. Fed. R. Crim. P. 29(c): 14 days after verdict in which to file or renew a motion for a judgment of acquittal (formerly 7 days);
3. Fed. R. Crim. P. 33(b)(2): 14 days after verdict to file a motion for a new trial on grounds other than newly discovered evidence (formerly 7 days);
4. Fed. R. Crim. P. 34(b): 14 days after verdict to file a motion for arrest of judgment (formerly 7 days);
5. Fed. R. Crim. P. 35(a): 14 days after sentencing for court to correct clear, arithmetical, or technical error (formerly 7 days);
6. Fed. R. Crim. P. 45(a)(1)(B): count every intermediate Saturday, Sunday, and holiday (formerly not counted if the time period was less than 11 days);
7. Fed. R. Crim. P. 47(c): must file a motion at least 7 days before any hearing date unless a rule or court order sets a different time period (formerly at least 5 days before);
8. Fed. R. Crim. P. 58(g)(2): appeal from magistrate’s order or judgment of conviction and sentence within 14 days from entry (formerly 10 days);
9. Fed. R. Crim. P. 59(b)(2): must object within 14 days to magistrate’s report and recommendations (formerly 10 days);
10. Fed. R. App. P. 4(b)(1) & (3): notice of appeal must be filed within 14 days after entry of judgment or order, or 14 days after disposition of motions under Fed. R. Crim. P. 29, 33, and 34 (formerly 10 days);

11. Fed. R. App. P. 26(a)(1)(B): count every intermediate Saturday, Sunday, and holiday (formerly not counted if the time period was less than 11 days);

12. Fed. R. App. P. 27(a)(3)(A): 10 days to reply to a motion (formerly 8 days);

13. Fed. R. App. P. 31(a)(1): reply brief must be filed 14 days after service of appellee's brief but at least 7 days before argument (formerly 14 days but at least 3 days before argument).