

§ 3809.801

43 CFR Ch. II (10–1–02 Edition)

§ 3809.801 When may I file an appeal of the BLM decision with OHA?

lowing table to see when you must file a notice of appeal with OHA:

(a) If you intend to appeal a BLM decision under this subpart, use the fol-

If—	And—	Then if you intend to appeal, you must file a notice of appeal with OHA—
(1) You do not request State Director review.	Within 30 calendar days after the date you receive the original decision.
(2) You request State Director review.	The State Director does not accept your request for review.	On the original decision within 30 calendar days of the date you receive the State Director’s decision not to review.
(3) You request State Director review.	The State Director has accepted your request for review, but has not made a decision on the merits of the appeal.	On the original decision before the State Director issues a decision.
(4) You request State Director review.	The State Director makes a decision on the merits of the appeal.	On the State Director’s decision within 30 calendar days of the date you receive, or are notified of, the State Director’s decision.

(b) In order for OHA to consider your appeal of a decision, you must file a notice of appeal in writing with the BLM office where the decision was made.

effect while appeals are pending before OHA unless OHA grants a stay under § 4.21(b) of this title.

§ 3809.802 What must I include in my appeal to OHA?

§ 3809.804 When may I ask the BLM State Director to review a BLM decision?

(a) Your written appeal must contain:

The State Director must receive your request for State Director review no later than 30 calendar days after you receive or are notified of the BLM decision you seek to have reviewed.

- (1) Your name and address; and
- (2) The BLM serial number of the notice or plan of operations that is the subject of the appeal.

(b) You must submit a statement of your reasons for the appeal and any arguments you wish to present that would justify reversal or modification of the decision within the time frame specified in part 4 of this chapter (usually within 30 calendar days after filing your appeal).

§ 3809.805 What must I send BLM to request State Director review?

§ 3809.803 Will the BLM decision go into effect during an appeal to OHA?

(a) Your request for State Director review must be a single package that includes a brief written statement explaining why BLM should change its decision and any documents that support your written statement. Mark your envelope “State Director Review.” You must also provide a telephone or fax number for the State Director to contact you.

All decisions under this subpart go into effect immediately and remain in

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(b) When you submit your request for State Director review, you may also request a meeting with the State Director. The State Director will notify you as soon as possible if he or she can accommodate your meeting request.

§ 3809.806 Will the State Director review the original BLM decision if I request State Director review?

(a) The State Director may accept your request and review a decision made under this subpart. The State Director will decide within 21 days of a timely filed request whether to accept your request and review the original BLM decision. If the State Director does not make a decision within 21 days on whether to accept your request for review, you should consider your request for State Director review declined, and you may appeal the original BLM decision to OHA.

(b) The State Director will not begin a review and will end an ongoing review if you or another affected party files an appeal of the original BLM decision with OHA under section § 3809.801 before the State Director issues a decision under this subpart, unless OHA agrees to defer consideration of the appeal pending a State Director decision.

(c) If you file an appeal with OHA after requesting State Director review, you must notify the State Director who, after receiving your notice, may request OHA to defer considering the appeal.

(d) If you fail to notify the State Director of your appeal to OHA, any decision issued by the State Director may be voided by a subsequent OHA decision.

§ 3809.807 What happens once the State Director agrees to my request for a review of a decision?

(a) The State Director will promptly send you a written decision, which may be based on any of the following:

- (1) The information you submit;
- (2) The original BLM decision and any information BLM relied on for that decision;
- (3) Any additional information, including information obtained from your meeting, if any, with the State Director.

(b) Any decision issued by the State Director under this subpart may affirm the original BLM decision, reverse it completely, or modify it in part. The State Director's decision may incorporate any part of the original BLM decision.

(c) If the original BLM decision was published in the FEDERAL REGISTER, the State Director will also publish his or her decision in the FEDERAL REGISTER.

§ 3809.808 How will decisions go into effect when I request State Director review?

(a) The original BLM decision remains in effect while State Director review is pending, except that the State Director may stay the decision during the pendency of his or her review.

(b) The State Director's decision will be effective immediately and remain in effect, unless a stay is granted by OHA under § 4.21 of this title.

§ 3809.809 May I appeal a decision made by the State Director?

(a) An adversely affected party may appeal the State Director's decision to OHA under part 4 of this title, except that you may not appeal a denial of your request for State Director review or a denial of your request for a meeting with the State Director.

(b) Once the State Director issues a decision under this subpart, it replaces the original BLM decision, which is no longer in effect, and you may appeal only the State Director's decision.

PUBLIC VISITS TO MINES

§ 3809.900 Will BLM allow the public to visit mines on public lands?

(a) If requested by any member of the public, BLM may sponsor and schedule a public visit to a mine on public land once each year. The purpose of the visit is to give the public an opportunity to view the mine site and associated facilities. Visits will include surface areas and surface facilities ordinarily made available to visitors on public tours. BLM will schedule visits during normal BLM business hours at the convenience of the operator to avoid disruption of operations.

(b) Operators must allow the visit and must not exclude persons whose