

Office of the Secretary, Interior

§ 4.1100

(b) MMS or the delegated State must provide to IBLA and all parties any recalculation IBLA requires under paragraph (a) of this section within 60 days of receiving IBLA's decision.

(c) There is no further appeal within the Department from MMS's or the State's recalculation under paragraph (b) of this section.

(d) The IBLA decision issued under paragraph (a) of this section together with recalculation under paragraph (b) of this section are the final action of the Department that is judicially reviewable under 5 U.S.C. 704.

§ 4.908 What is the administrative record for my appeal if it is deemed decided?

If your appeal is deemed decided under § 4.906, the record for your appeal consists of:

(a) The record established in an appeal before the MMS Director;

(b) Any additional correspondence or submissions to the MMS Director;

(c) The MMS Director's decision in an appeal;

(d) Any pleadings or submissions to the IBLA; and

(e) Any IBLA orders and decisions.

§ 4.909 How do I request an extension of time?

(a) If you are a party to an appeal subject to this subpart before the IBLA, and you need additional time after an appeal commences for any purpose, you may obtain an extension of time under this section.

(b) You must submit a written request for an extension of time before the required filing date.

(1) You must submit your request to the IBLA at Interior Board of Land Appeals, 801 North Quincy Street, Arlington, Virginia 22203, using the U.S. Postal Service, a private delivery or courier service, hand delivery or telefax to (703) 235-8349;

(2) If you file a document by telefax, you must send an additional copy of your document to the IBLA using the U.S. Postal Service, a private delivery or courier service or hand delivery so that it is received within 5 business days of your telefax transmission.

(c) If you are an appellant, in addition to meeting the requirements of

paragraph (b) of this section, you must agree in writing in your request to extend the period in which the Department must issue a final decision in your appeal under § 4.906 by the amount of time for which you are requesting an extension.

(d) If you are any other party, the IBLA may require you to submit a written agreement signed by the appellant to extend the period in which the Department must issue a final decision in the appeal under § 4.906 by the amount of time for which you are requesting an extension.

(e) The IBLA has the discretion to decline any request for an extension of time.

(f) You must serve your request on all parties to the appeal.

[64 FR 26259, May 13, 1999, as amended at 67 FR 4368, Jan. 30, 2002]

Subpart K [Reserved]

Subpart L—Special Rules Applicable to Surface Coal Mining Hearings and Appeals

AUTHORITY: 30 U.S.C. 1256, 1260, 1261, 1264, 1268, 1271, 1272, 1275, 1293; 5 U.S.C. 301.

SOURCE: 43 FR 34386, Aug. 3, 1978, unless otherwise noted.

GENERAL PROVISIONS

§ 4.1100 Definitions.

As used in the regulations in this subpart, the term—

(a) *Act* means the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 445 *et seq.*, 30 U.S.C. 1201 *et seq.*

(b) *Administrative law judge* means an administrative law judge in the Hearings Division of the Office of Hearings and Appeals appointed under 5 U.S.C. 3105 (1970).

(c) *Board* means the Board of Land Appeals in the Office of Hearings and Appeals.

(d) *OHA* means the Office of Hearings and Appeals, Department of the Interior.

§ 4.1101

(e) *OSM* and *OSMRE* mean the Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

[43 FR 34386, Aug. 3, 1978, as amended at 49 FR 7565, Mar. 1, 1984; 59 FR 1488, Jan. 11, 1994; 67 FR 61509, Oct. 1, 2002]

§ 4.1101 Jurisdiction of the Board.

(a) The jurisdiction of the Board, as set forth in § 4.1(b)(3), and subject to §§ 4.21(d) and 4.5, includes the authority to exercise the final decisionmaking power of the Secretary under the act pertaining to—

(1) Applications for review of decisions by OSM regarding determinations concerning permits for surface coal mining operations pursuant to section 514 of the act;

(2) Petitions for review of proposed assessments of civil penalties issued by OSM pursuant to section 518 of the act;

(3) Applications for review of notices of violation and orders of cessation or modifications, vacations, or terminations thereof, issued pursuant to section 521(a)(2) or section 521(a)(3) of the act;

(4) Proceedings for suspension or revocation of permits pursuant to section 521(a)(4) of the act;

(5) Applications for review of alleged discriminatory acts filed pursuant to section 703 of the act;

(6) Applications for temporary relief;

(7) Petitions for award of costs and expenses under section 525(e) of the act;

(8) Preliminary findings concerning a demonstrated pattern of willful violations under section 510(c) of the act;

(9) Suspension or rescission of im-providently-issued permits;

(10) Challenges to ownership or control listings or findings;

(11) Determinations under 30 CFR part 761;

(12) Appeals from orders or decisions of administrative law judges; and

(13) All other appeals and review procedures under the act which are permitted by these regulations.

(b) In performing its functions under paragraph (a) of this section, the Board is authorized to—

(1) Order hearings; and

43 CFR Subtitle A (10–1–02 Edition)

(2) Issue orders to secure the just and prompt determination of all proceedings.

[43 FR 34386, Aug. 3, 1978, as amended at 67 FR 61509, Oct. 1, 2002]

§ 4.1102 Construction.

These rules shall be construed to achieve the just, timely, and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved.

§ 4.1103 Eligibility to practice.

(a) An administrative law judge or the Board may determine the eligibility of persons to practice before OHA in any proceeding under the act pursuant to 43 CFR part 1.

(b) If an administrative law judge or the Board determines that any person is not qualified to practice before OHA, the administrative law judge or the Board shall disqualify the person and report the disqualification to the Director of OHA.

(c) Upon receipt of a report under paragraph (b) of this section, the Director of OHA may request the Solicitor to initiate a disciplinary proceeding under 43 CFR 1.6.

§ 4.1104 General rules relating to procedure and practice.

Proceedings in OHA under the act are subject to the general rules relating to procedures and practice in subpart B of this part.

§ 4.1105 Parties.

(a) All persons indicated in the act as parties to administrative review proceedings under the act shall be considered statutory parties. Such statutory parties include—

(1) In a civil penalty proceeding under § 4.1150, OSM, as represented by the Office of the Solicitor, Department of the Interior, and any person against whom a proposed assessment is made who files a petition;

(2) In a review proceeding under §§ 4.1160 through 4.1171, 4.1180 through 4.1187, 4.1300 through 4.1309, 4.1350 through 4.1356, 4.1360 through 4.1369, 4.1370 through 4.1377, 4.1380 through 4.1387 or 4.1390 through 4.1394 of this part, OSM, as represented by the Office