

Office of the Secretary, Interior

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of the Solicitor, Department of the Interior, and—

(i) If an applicant, operator, or permittee files an application or request for review, the applicant, operator, or permittee; and

(ii) If any other person having an interest which is or may be adversely affected files an application or request for review, the applicant, operator, or permittee and the person filing such application or request;

(3) In a proceeding to suspend or revoke a permit under § 4.1190 *et seq.* OSM, as represented by the Office of the Solicitor, Department of the Interior, and the permittee who is ordered to show cause why the permit should not be suspended or revoked; and

(4) In a discriminatory discharge proceeding under § 4.1200 *et seq.* OSM, as represented by the Office of the Solicitor, Department of the Interior, any employee or any authorized representative of employees who files an application for review, and the alleged discriminating party, except where the applicant files a request for the scheduling of a hearing under § 4.1201(c) only such applicant and the alleged discriminating party.

(5) In an appeal to the Board in accordance with 43 CFR 4.1280 through 4.1286 from a determination of the Director of OSM or his or her designee under 30 CFR 842.15(d) or a determination of an authorized representative under 30 CFR 843.12(i), the permittee of the operation that is the subject of the determination and any person whose interests may be adversely affected by the outcome on appeal and who participated before OSM. A person who wishes his or her identity kept confidential under 30 CFR 842.12(b) is responsible for maintaining that confidentiality when serving documents in accordance with § 4.1109.

(b) Any other person claiming a right to participate as a party may seek leave to intervene in a proceeding by filing a petition to do so pursuant to § 4.1110.

(c) If any person has a right to participate as a full party in a proceeding under the act and fails to exercise that right by participating in each stage of the proceeding, that person may become a participant with the rights of a

party by order of an administrative law judge or the Board.

[43 FR 34386, Aug. 3, 1978, as amended at 56 FR 2142, Jan. 22, 1991; 59 FR 1488, Jan. 11, 1994; 59 FR 54362, Oct. 28, 1994]

§ 4.1106 Hearing sites.

Unless the act requires otherwise, hearings shall be held in a location established by the administrative law judge; however, the administrative law judge shall give due regard to the convenience of the parties or their representatives and witnesses.

§ 4.1107 Filing of documents.

(a) Any initial pleadings in a proceeding to be conducted or being conducted by an administrative law judge under these rules shall be filed, by hand or by mail, with the Hearings Division, Office of Hearings and Appeals, Department of the Interior, 801 North Quincy Street, Arlington, Va. 22203.

(b) Where a proceeding has been assigned to an administrative law judge, the parties will be notified by the Chief Administrative Law Judge of the name and address of the administrative law judge assigned to the case and thereafter all further documents shall be filed with the Administrative Law Judge, Office of Hearings and Appeals, at the address designated in the notice.

(c) Any notice of appeal, petition for review or other documents in a proceeding to be conducted or being conducted by the Board shall be filed, by hand or by mail, with the Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Va. 22203.

(d) Any person filing initial pleadings with the Hearings Division or a notice of appeal with the Board shall furnish an original and one copy. Any person filing other documents with OHA shall furnish only an original.

(e) Any person who has initiated a proceeding under these rules before the Hearings Division or filed a notice of appeal with the Board shall file proof of service with the same in the form of a return receipt where service is by registered or certified mail, or an acknowledgement by the party served or a verified return where service is made personally. A certificate of service

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shall accompany all other documents filed by a party in any proceeding.

(f) The effective filing date for documents initiating proceedings before the Hearings Division, OHA, Arlington, VA, shall be the date of receipt in that office, if filed by hand, or the date such document is postmarked, if filed by mail.

(g) The effective filing date for a notice of appeal or a petition for discretionary review filed with the Board shall be the date of mailing or the date of personal delivery, except the effective filing date for a notice of appeal from a decision in an expedited review of a cessation order proceeding or from a decision in a suspension or revocation proceeding shall be the date of receipt of the document by the Board. The burden of establishing the date of mailing shall be on the person filing the document.

(h) The effective filing date for all other documents filed with an administrative law judge or with the Board shall be the date of mailing or personal delivery. The burden of establishing the date of mailing shall be on the person filing the document.

[43 FR 34386, Aug. 3, 1978, as amended at 45 FR 50753, July 31, 1980; 46 FR 6942, Jan. 22, 1981; 49 FR 7565, Mar. 1, 1984; 67 FR 4368, Jan. 30, 2002]

§ 4.1108 Form of documents.

(a) Any document filed with OHA in any proceeding brought under the act shall be captioned with—

(1) The names of the parties;

(2) The name of the mine to which the document relates; and

(3) If review is being sought under section 525 of the act, identification by number of any notice or order sought to be reviewed.

(b) After a docket number has been assigned to the proceeding by OHA, the caption shall contain such docket number.

(c) The caption may include other information appropriate for identification of the proceeding, including the permit number or OSM identification number.

(d) Each document shall contain a title that identifies the contents of the document following the caption.

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(e) The original of any document filed with OHA shall be signed by the person submitting the document or by that person's attorney.

(f) The address and telephone number of the person filing the document or that person's attorney shall appear beneath the signature.

§ 4.1109 Service.

(a)(1) Any party initiating a proceeding in OHA under the Act shall, on the date of filing, simultaneously serve copies of the initiating documents on the officer in the Office of the Solicitor, U.S. Department of the Interior, representing OSMRE in the state in which the mining operation at issue is located, and on any other statutory parties specified under § 4.1105 of this part.

(2) The jurisdictions, addresses, and telephone numbers of the applicable officers of the Office of the Solicitor to be served under paragraph (a)(1) of this section are:

(i) For mining operations in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, Tennessee, Texas, and Virginia: Field Solicitor, U.S. Department of the Interior, 530 S. Gay Street, Room 308, Knoxville, Tennessee 37902; Telephone: (865) 545-4294; FAX: (865) 545-4314.

(ii) For mining operations in Maryland, Massachusetts, Michigan, Ohio, Pennsylvania, Rhode Island, and West Virginia: Field Solicitor, U.S. Department of the Interior, Three Parkway Center, Suite 385, Pittsburgh, Pennsylvania 15220; Telephone: (412) 937-4000; FAX: (412) 937-4003.

(iii) For mining operations in Alaska, Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, including mining operations located on Indian lands within those states: Regional Solicitor, Rocky Mountain Region, U.S. Department of the Interior, 755 Parfet Street, Suite 151, Lakewood, CO 80215; Telephone: (303) 231-5353; FAX: (303) 231-5363 or 231-5360.

(iv) For mining operations in Arizona, California, and New Mexico, including mining operations located on Indian lands within those states except