

FEDERAL REGISTER: 49 FR 7564 (March 1, 1984)

DEPARTMENT OF THE INTERIOR

AGENCY: Office of Hearings and Appeals (OHA)

43 CFR Part 4

Hearings and Appeals Procedures

ACTION: Final rule.

SUMMARY: This final rulemaking implements Secretarial Order No. 3092, dated April 26, 1983, which abolished the Board of Surface Mining and Reclamation Appeals and transferred its functions to the Board of Land Appeals. Secretarial Order No. 3092 was published on May 18, 1983, at *48 FR 22370*. This rulemaking also notifies the public of organizational changes in the Office of the Solicitor, Division of Surface Mining, and the Office of Surface Mining Reclamation and Enforcement pertinent to service and notice requirements in administrative hearings and appeals under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

EFFECTIVE DATE: March 1, 1984.

ADDRESS: Inquiries or suggestions may be sent to: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Alfred F. Jahns, 703-235-3750.

SUPPLEMENTARY INFORMATION:

This final rulemaking implements internal organizational changes only and does not affect any substantive changes in the opportunities for administrative review provided under SMCRA. Because of the limited, procedural purpose of the rulemaking, the Department did not propose the rulemaking for public comment, and the rule shall be effective on the date of its publication (see U.S.C. 553).

The author of this rulemaking is Alfred F. Jahns, Office of Hearings and Appeals. Classification

The Department of the Interior has determined that this rulemaking is not "major" for the purposes of E.O. 12291 and certifies that the rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (*5 U.S.C. 601 et seq.*). Paperwork Reduction

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (*44 U.S.C. 3501 et seq.*). Environmental Impact Statement

This rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, no detailed statement is required under section 102(2)(c) of the National Environmental Policy Act (*42 U.S.C. 4332(2)(c)*).

LIST OF SUBJECTS IN 43 CFR PART 4

Administrative practice and procedures, Surface mining.

Under the authority of section 525 of the Surface Mining Control and Reclamation Act of 1977, *30 U.S.C. 1275*, and section 301 of the Administrative Procedure Act, *5 U.S.C. 301*, the provisions of 43 CFR Part 4, Subparts A and L, are amended as set forth below.

Dated: February 14, 1984.

J. J. Simmons III, Under Secretary.

PART 4 -- [AMENDED]

SUBPART A -- GENERAL; OFFICE OF HEARINGS AND APPEALS

1. In Section 4.1, paragraph (b)(3) is revised paragraph (b)(4) is removed and paragraph (b)(5) is redesignated as (b)(4) to read as follows:

SECTION 4.1 - SCOPE OF AUTHORITY; APPLICABLE REGULATIONS.

* * * * *

(b) * * *

(3) Board of Land Appeals. The Board decides finally for the Department appeals to the head of the Department from decisions rendered by Departmental officials relating to: (i) The use and disposition of public lands and their resources, including land selections arising under the Alaska Native Claims Settlement Act, as amended; (ii) the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf; and (iii) the conduct of surface coal mining under the Surface Mining Control and Reclamation Act of 1977. Special procedures for hearings, appeals and contests in public land cases are contained in Subpart E of this part; special procedures for hearings and appeals under the Surface Mining Control and Reclamation Act of 1977 are contained in Subpart L of this part.

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SUBPART L -- SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

2. In Section 4.1100, paragraph (c) is revised to read as follows:

SECTION 4.1100 - DEFINITIONS.

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

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3. In Section 4.1107, paragraph (c) is revised to read as follows:

SECTION 4.1107 - FILING OF DOCUMENTS.

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(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, 4015 Wilson Boulevard, Arlington, Va. 22203.

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4. In Section 4.1109, paragraph (a) is revised to read as follows:

SECTION 4.1109 - SERVICE.

(a) Any party initiating a proceeding in OHA under the Act shall serve copies of the initiating documents on the Field or Regional Solicitor, Division of Surface Mining, U.S. Department of the Interior, representing OSM in the state in which the minesite is located and on any other statutory parties under Section 4.1105. The addresses and telephone numbers of the field and regional solicitors follow.

For cases arising in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia: Office of the Field Solicitor, U.S. Department of the Interior, 1000 Liberty, Avenue, Pittsburgh, Pennsylvania 15222, 412-644-4455.

For cases arising in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia: Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 15006, Knoxville, Tennessee 37901, 615-673-4216.

For cases arising in Arkansas, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas: Office of the Regional Solicitor, U.S. Department of the Interior, P.O. Box 3156, Tulsa, Oklahoma 74101, 918-581-7502.

For cases arising in Alaska, Hawaii, Idaho, Oregon, Montana, Minnesota, North Dakota, South Dakota, Washington, Wisconsin, and Wyoming: Office of the Regional Solicitor, U.S. Department of the Interior, Denver Federal Center, P.O. Box 25007, Denver, Colorado 80225, 303-234-6781.

For cases arising in Arizona, California, Colorado, Nevada, New Mexico, and Utah: Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 1042, Santa Fe, New Mexico 87504, 505-988-6200.

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5. In Section 4.1266, paragraph (b)(2) is revised to read as follows:

SECTION 4.1266 - DETERMINATION ON APPLICATION CONCERNING AN ORDER OF CESSATION ISSUED PURSUANT TO SECTION 521(a)(2) OR SECTION 521(a)(3) OF THE ACT.

* * * * *

(b)* * *

(2) The application shall include an affidavit stating that telephone notice has been given to the field office of OSM serving the state in which the minesite subject to the order is located. The telephone notice shall identify the mine, the mine operator, the date and number of the order from which relief is requested, the name of the OSM inspector involved, and the name and telephone number of the applicant. OSM's field offices and their telephone numbers follow.

Alabama Field Office (also serving Georgia): 205-254-0913.

Illinois Field Office: 217-492-4486.

Indiana Field Office: 317-269-2600.

Kentucky Field Office: 606-233-7327.

Missouri Field Office (also serving Iowa, Kansas and Nebraska): 816-374-5527.

New Mexico Field Office: 505-766-1486.

Ohio Field Office (also serving Michigan): 614-866-0578.

Oklahoma Field Office (also serving Arkansas, Louisiana and Texas): 918-581-7927.

Pennsylvania Field Office (also serving Massachusetts and Rhode Island): 717-782-4036.

Tennessee Field Office: 615-673-4504.

Virginia Field Office: 703-523-4303.

West Virginia Field Office: 304-347-7158.

Wyoming Field Office (also serving Alaska, Idaho, Montana, North Dakota, Oregon, South Dakota and Washington): 307-261-5824.

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6. In Section 4.1282, paragraph (a) is revised to read as follows:

SECTION 4.1282 - APPEALS; HOW TAKEN.

(a) A person appealing under this section shall file a written notice of appeal with the office of the OSM official whose decision is being appealed and at the same time shall send a copy of the notice to the Board of Land Appeals, 4015 Wilson Boulevard, Arlington, Va. 22203.

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