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MMS after August 13, 1996, under 30 CFR part 290, in effect prior to May 13, 1999 and contained in the 30 CFR, parts 200 to 699, edition, revised as of July 1, 1998, your appeal commenced on the date MMS received your Notice of Appeal, or if later, the date MMS received your initial Statement of Reasons;

(c) If you filed your Notice of Appeal under 30 CFR part 290, subpart B, your appeal commenced on the date MMS received your Notice of Appeal.

(d) Your appeal ends on the same day of the month of the 33rd calendar month after your appeal commenced under paragraph (a), (b), or (c) of this section, plus the number of days of any applicable time extensions under § 4.909 or 30 CFR 290.109. If the 33rd calendar month after your appeal commenced does not have the same day of the month as the day of the month your appeal commenced, then the initial 33-month period ends on the last day of the 33rd calendar month.

§ 4.905 What if a due date falls on a day the Department or relevant office is not open for business?

If a due date under this subpart falls on a day the relevant office is not open for business (such as a weekend, Federal holiday, or shutdown), the due date is the next day the relevant office is open for business.

§ 4.906 What if the Department does not issue a decision by the date my appeal ends?

(a) If the IBLA or an Assistant Secretary (or the Secretary or the Director of OHA) does not issue a final decision by the date an appeal ends under § 4.904(d), then under 30 U.S.C. 1724(h)(2), the Secretary will be deemed to have decided the appeal:

(1) In favor of the appellant for any nonmonetary obligation at issue in the appeal, or any monetary obligation at issue in the appeal with a principal amount of less than $10,000;

(2) In favor of the Secretary for any monetary obligation at issue in the appeal with a principal amount of $10,000 or more.

(b)(1) If your appeal ends before the MMS Director issues a decision in your appeal, then the provisions of paragraph (a) of this section apply to the monetary and nonmonetary obligations in the order that you contested in your appeal to the Director.

(2) If the MMS Director issues a decision in your appeal before your appeal ends, and if you appealed the Director's decision to IBLA under 43 CFR part 4, subpart E, then the provisions of paragraph (a) of this section apply to the monetary and nonmonetary obligations in the Director's decision that you contested in your appeal to IBLA.

(3) If the MMS Director issues a decision in your appeal, and if you did not appeal the Director's decision to IBLA within the time required under 30 CFR part 290 in effect prior to May 13, 1999 and contained in the 30 CFR, parts 200 to 699, edition revised as of July 1, 1998 (for appeals filed before May 13, 1999 or 30 CFR part 290 subpart B (for appeals filed on or after May 13, 1999 and 43 CFR part 4, subpart E, then the MMS Director's decision is the final decision of the Department and 30 U.S.C. 1724(h)(2) has no application.

(c) If the IBLA issues a decision before the date your appeal ends, that decision is the final decision of the Department and 30 U.S.C. 1724(h)(2) has no application. A petition for reconsideration does not extend or renew the 33-month period.

(d) If any part of the principal amount of any monetary obligation is not specifically stated in an order or MMS Director's decision and must be computed to comply with the order or MMS Director's decision, then the principal amount referred to in paragraph (a) of this section means the principal amount MMS estimates you would be required to pay as a result of the computation required under the order, plus any amount due stated in the order.

§ 4.907 What if an IBLA decision requires MMS or a delegated State to recalculate royalties or other payments?

(a) An IBLA decision modifying an order or an MMS Director's decision and requiring MMS or a delegated State to recalculate royalties or other payments is a final decision in the administrative proceeding for purposes of 30 U.S.C. 1724(h).

(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, 4015 Wilson Boulevard, 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.

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.

(e) *OSM* means 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]