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of ADR most suitable for mid-performance disputes are often the non-dispositive forms such as mediation, facilitation and fact-finding, mini-trials, or non-binding arbitration, although binding arbitration is also available.

(d) *Availability of Information on ADR.* Parties are encouraged to consult with the Board regarding the Board's ADR services at the earliest possible time. A handbook describing Board ADR is available from the Board upon request.

§ 1023.9 General guidelines.

(a) The principles of this Overview shall apply to all Board functions unless a specific provision of the relevant rules of practice applies. It is, however, impractical to articulate a rule to fit every circumstance. Accordingly, this part, and the other Board Rules referenced in it, will be interpreted and applied consistent with the Board's responsibility to provide just, expeditious, and inexpensive resolution of cases before it. When Board rules of procedure do not cover a specific situation, a party may contend that the Board should apply pertinent provisions from the Federal Rules of Civil Procedure. However, while the Board may refer to the Federal Rules of Civil Procedure for guidance, such Rules are not binding on the Board absent a ruling or order to the contrary.

(b) The Board is responsible to the parties, the public, and the Secretary for the expeditious resolution of cases before it. Accordingly, subject to the objection of a party, the procedures and time limitations set forth in rules of procedure may be modified, consistent with law and fairness. Presiding judges and hearing officers may issue prehearing orders varying procedures and time limitations if they determine that purposes of the CDA or the interests of justice would be advanced thereby and provided both parties consent. Parties should not consume an entire period authorized for an action if the action can be sooner completed. Informal communication between parties is encouraged to reduce time periods whenever possible.

(c) The Board shall conduct proceedings in compliance with the security regulations and requirements of the Department or other agency involved.

Subpart A—Rules of the Board of Contract Appeals

AUTHORITY: Pub. L. 95–91, sec. 301, 91 Stat. 577; Pub. L. 95–563; EO 10789.

SOURCE: 44 FR 64270, Nov. 6, 1979, unless otherwise noted.

§ 1023.101 Scope and purpose.

The rules of the Board of Contract Appeals are intended to govern all appeal procedures before the Department of Energy Board of Contract Appeals (Board) which are within the scope of the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*). The rules, with modifications determined by the Board to be appropriate to the nature of the dispute, also apply to all other contract and subcontract related appeals which are properly before the Board.

[62 FR 24808, May 7, 1997]

§ 1023.102 Effective date.

The rules of the Board of Contract Appeals shall apply to all proceedings filed on or after June 6, 1997, except that Rule 1 (a) and (b) of § 1023.120 shall apply only to appeals filed on or after October 1, 1995.

[62 FR 24808, May 7, 1997]

§ 1023.120 Rules of practice.

The following rules of practice shall govern the procedure as to all contract disputes appealed to this Board in accordance with this subpart:

PRELIMINARY PROCEDURES

Rule

1 Appeals, how taken.
2 Notice of appeal, contents.
3 Docketing of appeals.
4 Contracting officer appeal file.
5 Motions.
6 Appellants election of procedure.
7 Pleadings.
8 Amendments of pleadings or record.
9 Hearing election.
10 Submission of appeal without a hearing.
11 Prehearing briefs.
12 Prehearing conference.
13 Optional Small Claims (Expedited) procedure.
14 Optional Accelerated procedure.
15 Settling the record.