

stay the effectiveness of the decision while the appeal procedure is ongoing.

§ 1720.530 Decision of administrative law judge—content.

The administrative law judge's decision shall include a statement of:

(a) Findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of fact, law or discretion presented on the record, and

(b) An appropriate order.

The administrative law judge's decision shall be based upon a consideration of the whole record and supported by reliable, probative and substantial evidence.

§ 1720.535 Reopening of proceeding; termination of jurisdiction.

(a) At any time prior to the filing of the decision, the administrative law judge may reopen the proceeding for the reception of further evidence.

(b) The jurisdiction of the administrative law judge is terminated when the decision becomes effective unless and until the proceeding is remanded to the judge by the appeals officer or a court of appropriate jurisdiction. The administrative law judge may *sua sponte* or on motion of a party file corrections of clerical errors.

APPEALS

§ 1720.605 Appeal from decision of administrative law judge.

(a) *Petition for appeal.* The administrative law judge's decision may be appealed by filing a written petition for appeal with the Docket Clerk for Administrative Proceedings within 10 days after service of the decision appealed from. Copies of the petition for appeal shall be served on all interested parties. The petition shall be limited to specifying the findings and conclusions to which exceptions are taken, together with a summary of the reasons in support of such exceptions.

(b) *Denial of petition.* A petition for appeal of the decision of the administrative law judge may be denied by the appeals officer. The petition shall be ruled on by the appeals officer within

10 days after filing. A denial of the petition shall be final agency action and shall render the administrative law judge's decision immediately effective.

(c) *Appeal brief.* If the appeals officer grants the petition, the appeal shall be perfected by filing within 30 days after service of the decision granting the petition a brief conforming to § 1720.620. In addition, the appellant shall submit a proposed order for the consideration of the appeals officer.

§ 1720.610 Answering brief.

Within 20 days after service of an appeal brief upon a party, such party may file an answering brief conforming to the requirements of § 1720.620.

§ 1720.615 Reply brief.

A brief in reply to an answering brief, limited to rebuttal of matters in the answering brief, may be filed and served by a party within 7 days after receipt of the answering brief or the day preceding oral argument whichever is earlier. No answer to a reply brief will be permitted.

§ 1720.620 Length and form of briefs.

No brief shall exceed 60 pages in length except with the permission of the administrative law judge or the appeals officer on the Interstate Land Sales Board and shall contain, in the order indicated, the following:

(a) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of the attorney in the matter on the front cover or title page.

(b) Subject index with page references.

(c) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(d) A concise statement of the facts of the case, without argument.

(e) A concise statement of the questions sought to be raised.

(f) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other

§ 1720.625

material relied upon in support of statements contained in the argument.

§ 1720.625 Oral argument.

Oral arguments will not be heard in cases on appeal to the appeals officer unless the officer otherwise orders, and stenographic or mechanical record of such oral argument may be made, in the officer's discretion. The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs and to answer questions.

§ 1720.630 Decision on appeal or review.

(a) Upon appeal from or review of an administrative law judge's decision, the appeals officer will consider such parts of the record as are cited or as may be necessary to resolve the issues and, in addition, to the extent necessary or desirable, will exercise all the powers which could have been exercised had the appeals officer made the initial decision. Unless exceptional circumstances are present, however, all appeals and reviews will be determined upon the record made before the administrative law judge.

(b) The appeals officer may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in

24 CFR Ch. X (4-1-11 Edition)

part, the administrative law judge's decision. The appellate order shall set forth the reasons upon which the decision is based.

(c) In those cases where the appeals officer believes that further information or additional arguments of the parties are needed as to the form and content of the rule or order to be issued, the appeals officer may withhold final decision pending the receipt of such additional information or argument under procedures specified.

(d) The decision of the appeals officer shall be final 10 days after service upon the parties.

(e) The appeals officer shall render a decision within 30 days after the date of receipt of the reply brief or the taking of additional information and evidence, whichever is later.

§ 1720.635 Appeals officer.

The Secretary shall hear, consider and determine fully and finally all appeals from decisions made pursuant to the rules in this part by the administrative law judge; provided, however, that the Secretary may, upon lawful delegation, designate a staff member or other person to serve as the appeals officer.