

§ 4.1108

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

for the challenge of permitting decisions affecting mining operations located on Indian lands in those states: Regional Solicitor, Southwest Region, U.S. Department of the Interior, 505 Marquette Avenue, NW., Suite 1800, Albuquerque, NM 87102; Telephone: (505) 248-5600; FAX: (505) 248-5623.

(v) For the challenge of permitting decisions affecting mining operations located on Indian lands within Arizona, California, and New Mexico: 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.

(3) Any party or other person who subsequently files any other document with OHA in the proceeding shall simultaneously serve copies of that document on all other parties and persons participating in the proceeding.

(b) Copies of documents by which any proceeding is initiated shall be served on all statutory parties personally or by registered or certified mail, return receipt requested. All subsequent documents shall be served personally or by first class mail.

(c) Service of copies of all documents is complete at the time of personal service or, if service is made by mail, upon receipt.

(d) Whenever an attorney has entered an appearance for a party in a proceeding before an administrative law judge or the Board, service thereafter shall be made upon the attorney.

[43 FR 34386, Aug. 3, 1978, as amended at 45 FR 50753, July 31, 1980; 52 FR 39526, Oct. 22, 1987; 56 FR 2142, Jan. 22, 1991; 56 FR 5061, Feb. 7, 1991; 59 FR 1488, Jan. 11, 1994; 59 FR 42774, Aug. 19, 1994; 60 FR 58243, Nov. 27, 1995; 61 FR 40348, Aug. 2, 1996; 67 FR 61510, Oct. 1, 2002]

§4.1110 Intervention.

(a) Any person, including a State, or OSM may petition for leave to intervene at any stage of a proceeding in OHA under the act.

(b) A petitioner for leave to intervene shall incorporate in the petition a statement setting forth the interest of the petitioner and, where required, a showing of why his interest is or may be adversely affected.

(c) The administrative law judge or the Board shall grant intervention where the petitioner—

(1) Had a statutory right to initiate the proceeding in which he wishes to intervene; or

(2) Has an interest which is or may be adversely affected by the outcome of the proceeding.

(d) If neither paragraph (c)(1) nor (c)(2) of this section apply, the administrative law judge or the Board shall consider the following in determining whether intervention is appropriate—

(1) The nature of the issues;

(2) The adequacy of representation of petitioner's interest which is provided by the existing parties to the proceeding;

(3) The ability of the petitioner to present relevant evidence and argument; and

(4) The effect of intervention on the agency's implementation of its statutory mandate.

(e) Any person, including a State, or OSM granted leave to intervene in a proceeding may participate in such proceeding as a full party or, if desired, in a capacity less than that of a full party. If an intervenor wishes to participate in a limited capacity, the extent and the terms of the participation shall be in the discretion of the administrative law judge or the Board.

§4.1111 Voluntary dismissal.

Any party who initiated a proceeding before OHA may seek to withdraw by moving to dismiss at any stage of a proceeding and the administrative law judge or the Board may grant such a motion.

§4.1112 Motions.

(a) Except for oral motions made in proceedings on the record, or where the administrative law judge otherwise directs, each motion shall—

(1) Be in writing; and

(2) Contain a concise statement of supporting grounds.

(b) Unless the administrative law judge or the Board orders otherwise, any party to a proceeding in which a motion is filed under paragraph (a) of this section shall have 15 days from service of the motion to file a statement in response.