

§ 4.803

the Office of Hearings and Appeals, Office of the Secretary, in accordance with 5 U.S.C. 3105 and 3344.

(d) *Notice* means a notice of hearing in a proceeding instituted under Part 17 of this title and these regulations.

(e) *Party* means a recipient or applicant; the Director; and any person or organization participating in a proceeding pursuant to § 4.808.

§ 4.803 Computation of time.

Except as otherwise provided by law, in computing any period of time under these rules or in any order issued hereunder, the time begins with the day following the act or event, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, or other nonbusiness day, in which event it includes the next following day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays and other nonbusiness days shall be excluded in the computation.

§ 4.804 Extensions of time.

A request for extension of time should be made to the designated administrative law judge or other appropriate Departmental official with respect to matters pending before him. Such request shall be served on all parties and set forth the reasons for the request. Extensions may be granted upon a showing of good cause by the applicant. Answers to such requests are permitted if made promptly.

§ 4.805 Reduction of time to file documents.

For good cause, the responsible Departmental official or the administrative law judge, with respect to matters pending before him, may reduce any time limit prescribed by the rules in this part, except as provided by law or in part 17 of this title.

43 CFR Subtitle A (10-1-03 Edition)

DESIGNATION AND RESPONSIBILITIES OF ADMINISTRATIVE LAW JUDGE

§ 4.806 Designation.

Hearings shall be held before an administrative law judge designated by the Office of Hearings and Appeals.

§ 4.807 Authority and responsibilities.

The administrative law judge shall have all powers necessary to preside over the parties and the proceedings, conduct the hearing, and make decisions in accordance with 5 U.S.C. 554 through 557. His powers shall include, but not be limited to, the power to:

(a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(b) Require parties to state their position with respect to the various issues in the proceedings.

(c) Establish rules for media coverage of the proceedings.

(d) Rule on motions and other procedural items in matters before him.

(e) Regulate the course of the hearing, the conduct of counsel, parties, witnesses, and other participants.

(f) Administer oaths, call witnesses on his own motion, examine witnesses, and direct witnesses to testify.

(g) Receive, rule on, exclude, or limit evidence.

(h) Fix time limits for submission of written documents in matters before him.

(i) Take any action authorized by these regulations, by 5 U.S.C. 556, or by other pertinent law.

APPEARANCE AND PRACTICE

§ 4.808 Participation by a party.

Subject to the provisions contained in part 1 of this subtitle, a party may appear in person, by representative, or by counsel, and participate fully in any proceeding held pursuant to part 17 of this title and these regulations. A State agency or any instrumentality thereof, a political subdivision of the State or instrumentality thereof, or a

corporation may appear by any of its officers or employees duly authorized to appear on its behalf.

§ 4.809 Determination of parties.

(a) The affected applicant or recipient to whom a notice of hearing or a notice of an opportunity for hearing has been mailed in accordance with part 17 of this title and §4.815, and the Director, are the initial parties to the proceeding.

(b) Other persons or organizations shall have the right to participate as parties if the final decision could directly and adversely affect them or the class they represent, and if they may contribute materially to the disposition of the proceedings.

(c) A person or organization wishing to participate as a party under this section shall submit a petition to the administrative law judge within 15 days after the notice has been served. The petition should be filed with the administrative law judge and served on the affected applicant or recipient, on the Director, and on any other person or organization who has been made a party at the time of filing. Such petition shall concisely state: (1) Petitioner's interest in the proceeding, (2) how his participation as a party will contribute materially to the disposition of the proceeding, (3) who will appear for petitioner, (4) the issues on which petitioner wishes to participate, and (5) whether petitioner intends to present witnesses.

(d) The administrative law judge shall promptly ascertain whether there are objections to the petition. He shall then determine whether petitioners have the requisite interest to be a party in the proceedings, as defined in paragraphs (a) and (b) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners. The administrative law judge shall give each such petitioner written notice of the decision on his petition. If the petition is denied, he shall briefly state the

grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The administrative law judge shall give written notice to each party of each petition granted.

(e) Persons or organizations whose petition for party participation is denied may appeal the decision to the Director, Office of Hearings and Appeals, within 7 days of receipt of denial. The Director, Office of Hearings and Appeals, will make the final decision for the Department to grant or deny the petition.

§ 4.810 Complainants not parties.

A person submitting a complaint pursuant to §17.6 of this title is not a party to the proceedings governed by part 17 of this title and these regulations, but may petition, after proceedings are initiated, to become an amicus curiae. In any event a complainant shall be advised of the time and place of the hearing.

§ 4.811 Determination and participation of amici.

(a) Any interested person or organization wishing to participate as amicus curiae in the proceeding shall file a petition before the commencement of the hearing. Such petition shall concisely state the petitioner's interest in the hearing and who will represent petitioner.

(b) The administrative law judge will grant the petition if he finds that the petitioner has an interest in the proceedings and may contribute materially to the disposition of the proceedings. The administrative law judge shall give the petitioner written notice of the decision on his petition.

(c) An amicus curiae is not a party and may not introduce evidence at a hearing but may only participate as provided in paragraph (d) of this section.

(d) An amicus curiae may submit a written statement of position to the administrative law judge at any time prior to the beginning of a hearing, and shall serve a copy on each party. He may also file a brief or written statement on each occasion a decision is to be made or a prior decision is subject to review. His brief or written statement shall be filed and served on each