

## § 580.11

determination in an administrative proceeding as provided herein. A copy of the notice of administrative determination and of the request for hearing shall be attached to the Order of Reference and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment that may be permitted under this subpart and 29 CFR part 18.

(b) A copy of the Order of Reference and attachments thereto, together with a copy of this part, shall be served by counsel for the Administrator upon the person requesting the hearing, in the manner provided in § 580.8 of this subpart.

### **§ 580.11 Appointment of Administrative Law Judge and notification of prehearing conference and hearing date.**

Upon receipt from the Administrator of an Order of Reference, the Chief Administrative Law Judge shall appoint an Administrative Law Judge to hear the case. The Administrative Law Judge shall notify all interested parties of the time and place of a prehearing conference and of the hearing.

### **§ 580.12 Decision and Order of Administrative Law Judge.**

(a) The Administrative Law Judge shall render a decision on the issues referred by the Administrator.

(b) The decision of the Administrative Law Judge shall be limited to a determination of whether the respondent has committed a violation of section 12, or a repeated or willful violation of section 6 or section 7 of the Act, and the appropriateness of the penalty assessed by the Administrator. The Administrative Law Judge shall not render determinations on the legality of a regulatory provision or the constitutionality of a statutory provision.

(c) The decision of the Administrative Law Judge shall include a statement of findings and conclusions, with reasons and basis therefor, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator.

## 29 CFR Ch. V (7-1-05 Edition)

(d) The Administrative Law Judge shall serve copies of the decision on each of the parties.

(e) The decision of the Administrative Law Judge shall constitute the final order of the Secretary unless, pursuant to § 580.13 of this part, there is an appeal to the Secretary.

### **§ 580.13 Procedures for appeals to the Administrative Review Board.**

(a) Any party desiring review of a decision of the Administrative Law Judge, including judicial review, must file a petition for review with the Department's Administrative Review Board (Board). To be effective, such petition must be received by the Board within 30 days of the date of the decision of the Administrative Law Judge. Copies of the appeal shall be served on all parties and on the Chief Administrative Law Judge. If such a petition for review is timely filed, the decision of the Administrative Law Judge shall be inoperative unless and until the Board dismisses the appeal or issues a decision affirming the decision of the Administrative Law Judge.

(b) All documents submitted to the Board shall be filed with the Administrative Review Board, Room S-4309, U.S. Department of Labor, Washington, DC 20210. An original and two copies of all documents must be filed.

(c) Documents are not deemed filed with the Board until actually received by the Board, either on or before the due date. No additional time shall be added where service of a document requiring action within a prescribed time was made by mail.

(d) A copy of each document filed with the Board shall be served upon all other parties involved in the proceeding. Such service shall be by personal delivery or by mail. Service by mail is deemed effected at the time of mailing to the last known address of the party.

[69 FR 75405, Dec. 16, 2004]

### **§ 580.14 [Reserved]**

### **§ 580.15 Responsibility of the Office of Administrative Law Judges for the administrative record.**

Upon receipt of a petition seeking review of the Decision and Order of an