

§ 60-30.24

41 CFR Ch. 60 (7-1-05 Edition)

(f) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

[43 FR 49259, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

§ 60-30.24 Participation by interested persons.

(a)(1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative order could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this section shall file with the Administrative Law Judge and serve on all parties a petition within 25 days after the commencement of the action or at such other time as ordered by the Administrative Law Judge, so long as it does not disrupt the proceeding. Such petition shall concisely state: (i) Petitioner's interest in the proceedings; (ii) who will appear for petitioner; (iii) the issues on which petitioner wishes to participate; and (iv) whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: *Provided*, That the representative of a labor organization qualifying to participate under paragraph (a)(1) of the section must be permitted to participate in the proceedings. The Administrative Law Judge shall give each petitioner written notice of the decision on his petition; and 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.

(b)(1) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the Administrative Law Judge. Such petition shall concisely state: (i) The petitioner's interest in the hearing; (ii) who will represent the petitioner; and (iii) the issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this section.

(2) An amicus curiae may present a brief oral statement at the hearing at the point in the proceeding specified by the Administrative Law Judge. He may submit a written statement of position to the Administrative Law Judge prior to the beginning of a hearing and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and he shall serve a copy on each party.

[43 FR 49259, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

POST-HEARING PROCEDURES

§ 60-30.25 Proposed findings of fact and conclusions of law.

Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the Administrative Law Judge. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

§ 60-30.26 Record for recommended decision.

The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

§ 60-30.27 Recommended decision.

Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended findings, conclusions, and decision shall be served on all parties and amici to the proceeding.

[61 FR 19988, May 3, 1996]

§ 60-30.28 Exceptions to recommended decisions.

Within 14 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 14 days of their receipt by said parties. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Service of such briefs or exceptions and responses

shall be made simultaneously on all parties to the proceeding. Requests to the Administrative Review Board, United States Department of Labor, for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

[61 FR 19988, May 3, 1996]

§ 60-30.29 Record.

After expiration of the time for filing briefs and exceptions, the Administrative Review Board, United States Department of Labor, shall make a final decision, which shall be the final Administrative order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

[61 FR 19988, May 3, 1996]

§ 60-30.30 Final Administrative Order.

After expiration of the time for filing, the Administrative Review Board, United States Department of Labor, shall make a final Administrative order which shall be served on all parties. If the Administrative Review Board, United States Department of Labor, concludes that the defendant has violated the Executive Order, the equal opportunity clause, or the regulations, an Administrative order shall be issued enjoining the violations, and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative order shall result in the immediate cancellation, termination and suspension of the respondent's contracts and/or debarment of the respondent from further contracts.

[61 FR 19988, May 3, 1996]