

## PART 501—RULES OF PROCEDURE

Sec.

- 501.1 Definitions.
- 501.2 Scope and applicability of rules; composition and jurisdiction of the Board.
- 501.3 Application for review.
- 501.4 Transmittal of record.
- 501.5 Oral argument.
- 501.6 Decisions.
- 501.7 Petition for reconsideration.
- 501.8 Docket of proceedings; inspection of docket and records.
- 501.9 Regulation of proceedings.
- 501.10 Number of copies of pleadings and related documents; service; computation of time.
- 501.11 Appearances.
- 501.12 Intervention.
- 501.13 Place of proceedings.

AUTHORITY: Sec. 32, 39 Stat. 749, 5 U.S.C. 8145; sec. 3, Reorganization Plan No. 2 of 1946, 60 Stat. 1095; 3 CFR 1943-48 Comp., p. 1064; sec. 2, Reorganization Plan No. 19 of 1950, 64 Stat. 1272; 3 CFR 1949-53 Comp., p. 1010.

SOURCE: 27 FR 12186, Dec. 8, 1962, unless otherwise noted.

### § 501.1 Definitions.

(a) *Act* means the Federal Employees' Compensation Act and any statutory extension or application thereof.

(b) *Board* means the Employees' Compensation Appeals Board.

(c) *Office* means the Office of Workers' Compensation Programs and in the case of employees of the Canal Zone Government and of the Panama Canal Company, the Governor of the Canal Zone.

(d) *Director* means the Director of the Office and in the case of employees of the Canal Zone Government and of the Panama Canal Company, the Governor of the Canal Zone.

(e) *Party* means any person admitted and named as a party on the docket of the Board, including any intervenors.

(f) *Counsel* includes any person who is a member in good standing of the bar of the Supreme Court of the United States or the highest court of any State, territory, or the District of Columbia.

[27 FR 12186, Dec. 8, 1962, as amended at 29 FR 13519, Oct. 1, 1964]

### § 501.2 Scope and applicability of rules; composition and jurisdiction of the Board.

(a) The regulations in this part provide the rules of practice of the Board in hearing and deciding appeals from final decisions of the Office.

(b) The Board consists of three members appointed by the Secretary of Labor, one of whom is designated as Chairman of the Board and administrative officer.

(c) The Board has jurisdiction to consider and decide appeals from the final decision of the Office in any case arising under the Act. The Board may review all relevant questions of law, fact, and discretion in such cases. There shall be no appeal with respect to any interlocutory matter disposed of by the Office during the pendency of a case. The review of a case shall be limited to the evidence in the case record which was before the Office at the time of its final decision.

### § 501.3 Application for review.

(a) *Who may file.* Any person adversely affected by a final decision of the Director, or his duly authorized representative, may file an application for review of such decision by the Board.

(b) *Place of filing.* Any application for review shall be filed with the Clerk of the Board, Employees' Compensation Appeals Board, U.S. Department of Labor, Washington, DC 20210.

(c) *Form of application; contents.* An application for review should be filed with the Board upon Form AB-1 (Application for Review). Any application made without the use of the form shall contain the following information: The full name and address of the applicant, the name of the injured or deceased employee, the employing establishment, the case file number assigned to the case by the Office, a description of the particular injury involved, the date of the injury, the place of injury, and the date of the decision being appealed. If the applicant is being represented by another person in the proceeding, the name and address of such representative should be stated. Each application shall include a succinct statement indicating the contentions of the applicant and describing with particularity

#### § 501.4

any findings of fact, conclusions of law, or exercise of (or failure to exercise) discretion complained of. Any application containing incomplete information shall be returned to the applicant with a description of the additional information needed and a reasonable opportunity for furnishing any such information shall be allowed.

(d) *Time for filing.* (1) Except as provided in paragraph (d)(2) of this section, any application for review by a person residing within the United States or Canada must be filed within 90 days from the date of issuance of the final decision of the Director, and any application for review by a person residing outside the United States or Canada must be filed within 180 days from the date of issuance.

(2) For good cause shown, the Board may in its discretion waive a failure to file an application within the time limitations provided in paragraph (d)(1) of this section, but for no longer than one year from the date of issuance of the final decision of the Director.

(3) *Date of filing*—(i) *Date or receipt.* Except as otherwise provided in this section, a notice of appeal is considered to have been filed only as of the date it is received in the office of the clerk of the Board.

(ii) *Date of mailing.* If the notice is sent by mail and the fixing of the date of delivery as the date of filing would render the appeal untimely, it will be considered to have been filed as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing. If there is no postmark or it is not legible, other evidence, such as, but not limited to, certified mail receipts, certificate of service and affidavits, may be used to establish the date of mailing.

(e) *Briefs and supporting statements.* Any application for review may be accompanied by a brief or supporting statement.

[27 FR 12186, Dec. 8, 1982, as amended at 53 FR 49491, Dec. 7, 1988]

#### § 501.4 Transmittal of record.

(a) The Board shall serve upon the Director a copy of each application for review and any brief or supporting statement accompanying it. Within 60

#### 20 CFR Ch. IV (4-1-08 Edition)

days from the date of such service, the Director, through his legal representative, the Solicitor of Labor, shall transmit to the Board the record of the proceeding to which the application refers and a statement in support of his decision, or other pleading, as appropriate, signed on his behalf by his legal representative.

(b) On application of the Director, the Board may in its discretion extend the 60-day time for submittal to the Board of the record of proceedings and accompanying statement or pleading.

[42 FR 62471, Dec. 13, 1977]

#### § 501.5 Oral argument.

(a) *Notice.* Whenever any party requests an opportunity to present oral argument the Board shall schedule the case for argument. Each party shall be notified at least 10 days before the date of argument. The notice shall state the issues to be heard, as determined by the Board.

(b) *Time allowed.* Generally not more than 1 hour shall be allowed for oral argument by any party although in appropriate cases the Board may in its discretion extend or shorten the time allowed.

(c) *Failure to respond to notice.* Failure to respond to a notice of oral argument shall not prejudice the rights of any party to the proceeding. The Board in its discretion may set the case for further argument upon notice or it may proceed to dispose of the appeal pursuant to § 501.6.

#### § 501.6 Decisions.

(a) The decision of the Board shall contain a written opinion setting forth the reasons for the action taken and an appropriate order. The decision may consist of affirmance, reversal, remand for further development of the evidence, or other appropriate action. A copy of the decision shall be sent by the Board to all parties in interest. The case record shall be returned to the Director with a copy of the decision.

(b) A decision of not less than two members shall be the decision of the Board.

(c) The decision of the Board shall be final as to the subject matter appealed and such decision shall not be subject to review, except by the Board.