

#### § 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

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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.