

"REVIEW BY BOARD

Sec. 14. (a) A state or an operator notified of an order of the Secretary made pursuant to Sec. 7 or Sec. 8 may apply to the Federal Surface Mining Reclamation Board of Review for annulment or revision of such order.

(b) The state or operator shall be designated as the applicant in such proceeding, and the application shall recite the order complained of and other facts sufficient to advise the Board of the nature of the proceeding. The application may allege: the Secretary's failure to approve a state plan, or his withdrawal of such approval, is arbitrary, capricious, or unreasonable within the intent and spirit of Sec. 7 of this Act; that the state plan submitted to the Secretary substantially complies with the provision of Sec. 7 and should be approved; that the state, in administering a plan previously approved by the Secretary, has complied substantially with it and has enforced it adequately, and a revision of the state's previously approved plan is not appropriate or necessary to effectuate the purposes of this Act; that denial or revocation of a permit made by the Secretary pursuant to Sec. 8 is arbitrary, capricious, or unreasonable; or that the action of the Secretary in denying or revoking such permit is not supported by a failure of the applicant to comply with the spirit and intent of this Act or the regulations issued by the Secretary pursuant to Sec. 8. The Secretary shall be the respondent in such proceeding, and the applicant shall send a copy of such application by registered mail or by certified mail to the Secretary at Washington, District of Columbia.

(c) Immediately upon the filing of such an application the Board shall fix the time for a prompt hearing thereof.

(d) Pending such hearing the applicant may file with the Board a written request that the Board grant such temporary relief from such order as the Board may deem just and proper. Such temporary relief may be granted by the Board only after a hearing by the Board at which both the applicant and the respondent were afforded an opportunity to be heard, and only if respondent was given ample notice of the filing of applicant's request and of the time and place of the hearing thereon as fixed by the Board.

(e) The Board shall not be bound by any previous findings of fact by the respondent. Evidence relating to the action complained of and relating to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by both parties to the proceeding. If the respondent claims that the action complained of is substantially in compliance with Sec. 7 or Sec. 8 of this Act, as the case may be, the burden of proving such claim shall be upon the respondent, and the respondent shall present his evidence first to prove such claim.

(f) If the Board finds that the allegations of the applicant, as described in Sec. 14(b) are correct, the Board shall make an order, consistent with its findings, revising or annulling the act of the respondent under review, or shall order the respondent to take action in accordance with its findings. If the Board finds that the allegations of the applicant are not correct, the Board shall make an order denying such application.

(g) Each finding and order made by the Board shall be in writing. It shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon making a finding and order the Board shall cause a true copy thereof to be sent by registered mail or by certified mail to all parties or their attorneys of record. The Board shall cause each such finding and order to be entered on its official record, together with any written opinion prepared by any members in support of, or dissenting from, any such finding or order.

(h) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all action which the Board is required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved."

"JUDICIAL REVIEW

Sec. 15. (a) Any final order issued by the Board under Section 14: shall be subject to judicial review by the United States court of appeals for the circuit in which the state or mine affected is located, upon the filing in such court of a notice of appeal by the Secretary, or the state or operator aggrieved by such final order, within thirty days from the date of the making of such final order.

(b) The party making such appeal shall forthwith send a copy of such notice