

§ 723.19

§ 723.19 Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the Office of Hearings and Appeals (to be held in escrow as provided in paragraph (b) of this section) within 30 days from receipt of the proposed assessment or reassessment or 30 days from the date of service of the conference officer's action, whichever is later. The fact of the violation may not be contested, if it has been decided in a review proceeding commenced under section 525 of the Act and 43 CFR part 4.

(b) The Office of Hearings and Appeals shall transfer all funds submitted under paragraph (a) of this section to the Office, which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 30 CFR 723.20.

[45 FR 58783, Sept. 4, 1980, as amended at 56 FR 10063, Mar. 8, 1991]

§ 723.20 Final assessment and payment of penalty.

(a) If the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided in 30 CFR 723.19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing.

(b) If any party requests judicial review of a final order of the Secretary, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to paragraph (c) of this section, the escrowed funds shall be transferred to the Office in payment of the penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order eliminating the proposed penalty assessed under this part, the Office shall within 30 days of receipt of the order refund to the person assessed all or part of the escrowed account, with interest from the date of payment

30 CFR Ch. VII (7-1-00 Edition)

into escrow to the date of the refund at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the Office within 15 days after the order is mailed to such person.

PART 724—INDIVIDUAL CIVIL PENALTIES

Sec.

724.1 Scope.

724.5 Definitions.

724.12 When an individual civil penalty may be assessed.

724.14 Amount of individual civil penalty.

724.17 Procedure for assessment of individual civil penalty.

724.18 Payment of penalty.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, Pub. L. 100-34, Pub. L. 101-410, and Pub. L. 104-134.

SOURCE: 53 FR 3674, Feb. 8, 1988, unless otherwise noted.

§ 724.1 Scope.

This part covers the assessment of individual civil penalties under section 518(f) of the Act.

§ 724.5 Definitions.

For purposes of this part:

Knowingly means that an individual knew or had reason to know in authorizing, ordering or carrying out an act or omission on the part of a corporate permittee that such act or omission constituted a violation, failure or refusal.

Violation, failure or refusal means—

(1) A violation of a condition of a permit issued pursuant to a Federal program, a Federal lands program, Federal enforcement pursuant to section 502 of the Act, or Federal enforcement of a State program pursuant to section 521 of the Act; or

(2) A failure or refusal to comply with any order issued under section 521 of the Act, or any order incorporated in a final decision issued by the Secretary under the Act, except an order incorporated in a decision issued under section 518(b) or section 703 of the Act.

Willfully means that an individual acted