

being set, they may file an objection. This objection and the ALJ's response becomes part of the record. 40 CFR §164.82(c).

³⁶7 U.S.C. §136d(d).

³⁷Objections to these responses are dealt with as in footnote 34.

³⁸These facts are matters which are commonly noticed judicially by the federal courts, plus other facts specific to the knowledge and expertise of the agency. 40 CFR §164.8(e).

³⁹Id.

⁴⁰Id. at §164.91(a).

⁴¹Id. at §164.91(b). The accelerated decision has the same effect as an ordinary initial decision, and becomes the final decision and order unless appealed from by a party.

⁴²40 CFR §164.90(b).

⁴³7 U.S.C. §163d(d).

⁴⁴Within 20 days after the last evidence is taken, each party may file findings of fact and conclusions of law based solely on the record. Each party then is given the opportunity to file a reply brief. An extension of up to 30 days for filing these findings and briefs may be granted by the ALJ. 40 CFR §164.90(a). The ALJ's initial decision, findings of fact and conclusions of law, plus any briefs or exceptions to the initial decision, filed by any party, become part of the record for purposes of further review.

⁴⁵40 CFR §164.100. This appeal to the Administrator is a matter of right.

⁴⁶40 CFR §164.90(b).

⁴⁷40 CFR 164.101(a)(1).

⁴⁸This is the same procedure for appealing an accelerated decision. 40 CFR §164.102. In this same time period, each party appealing exceptions must file a brief concerning each of the exceptions being appealed with the hearing clerk. Within 7 days of service (transmission) of the exceptions and briefs, any other party or Amicus Curiae may file and serve a brief responding to exceptions or arguments raised by any other party. These briefs may not raise additional (not previously asserted) exceptions. 40 CFR §164.101(a)(2).

⁴⁹40 CFR §164.101(b).

⁵⁰Id.

⁵¹If a party desires to offer oral argument, a written statement to this effect is required. If the party fails to so state, the party is deemed to have waived such oral argument. 40 CFR §164.101(c)(1).

⁵²40 CFR §164.110(b).