of ADR most suitable for mid-performance disputes are often the non-disposi-
tive forms such as mediation, facilita-
tion and fact-finding, mini-trials, or
non-binding arbitration, although bind-
ing arbitration is also available.

(d) Availability of Information on ADR. Parties are encouraged to consult with
the Board regarding the Board’s ADR
services at the earliest possible time. A
handbook describing Board ADR is
available from the Board upon request.

§ 1023.9 General guidelines.

(a) The principles of this Overview
shall apply to all Board functions un-
less a specific provision of the relevant
rules of practice applies. It is, however,
impractical to articulate a rule to fit
every circumstance. Accordingly, this
part, and the other Board Rules ref-
erenced in it, will be interpreted and
applied consistent with the Board’s re-
ponsibility to provide just, expedi-
tious, and inexpensive resolution of
cases before it. When Board rules of
procedure do not cover a specific situa-
tion, a party may contend that the
Board should apply pertinent provi-
sions from the Federal Rules of Civil
Procedure. However, while the Board
may refer to the Federal Rules of Civil
Procedure for guidance, such Rules are
not binding on the Board absent a rul-
ing or order to the contrary.

(b) The Board is responsible to the
parties, the public, and the Secretary
for the expeditious resolution of cases
before it. Accordingly, subject to the
objection of a party, the procedures
and time limitations set forth in rules
of procedure may be modified, con-
sistent with law and fairness. Presiding
judges and hearing officers may issue
prehearing orders varying procedures
and time limitations if they determine
that purposes of the CDA or the inter-
est of justice would be advanced there-
by and provided both parties consent.
Parties should not consume an entire
period authorized for an action if the
action can be sooner completed. Infor-
mal communication between parties is
encouraged to reduce time periods
whenever possible.

(c) The Board shall conduct pro-
cceedings in compliance with the secu-
rity regulations and requirements of
the Department or other agency in-
olved.

Subpart A—Rules of the Board of
Contract Appeals

577; Pub. L. 95–563; EO 10789.

SOURCE: 44 FR 64270, Nov. 6, 1979, unless
otherwise noted.

§ 1023.101 Scope and purpose.

The rules of the Board of Contract
Appeals are intended to govern all ap-
peal procedures before the Department
of Energy Board of Contract Appeals
(Board) which are within the scope of
the Contract Disputes Act of 1978 (41
U.S.C. 601 et seq.). The rules, with modi-
fications determined by the Board to
be appropriate to the nature of the dis-
pute, also apply to all other contract
and subcontract related appeals which
are properly before the Board.


§ 1023.102 Effective date.

The rules of the Board of Contract
Appeals shall apply to all proceedings
filed on or after June 6, 1997, except
that Rule 1 (a) and (b) of § 1023.120 shall
apply only to appeals filed on or after
October 1, 1995.


§ 1023.120 Rules of practice.

The following rules of practice shall
govern the procedure as to all contract
disputes appealed to this Board in ac-
cordance with this subpart:

Preliminary Procedures

Rule
1. Appeals, how taken.
3. Docketing of appeals.
5. Motions.
6. Appellants election of procedure.
7. Pleadings.
8. Amendments of pleadings or record.
10. Submission of appeal without a hearing.
11. Prehearing briefs.
13. Optional Small Claims (Expedited) proce-
dure.
15. Settling the record.