

the hearing consists of papers and documents submitted during the 30 calendar day comment period, the 10 working day review period, and any motions submitted before the hearing. For purposes of a formal review of a sourcing area, the written record also consists of the papers and documents submitted during the informal review.

(1) *Contents of the notice of hearing.* The Judge shall issue a notice of hearing regarding a particular sourcing area application or regarding formal review of a sourcing area application or regarding formal review of a sourcing area to all parties of record for that application or formal review. The notice of hearing shall contain a reference to the authority under which the sourcing area is proposed or formally reviewed; shall define the scope of the hearing; shall contain a reference to the sourcing area that is the subject of the hearing; and shall state the date, time and place of such hearing; and shall state the date, time and place of such hearing; which shall be set with due regard for the necessity and convenience of the parties of record or their representatives. The Judge shall schedule a hearing no later than 21 calendar days after the 10 working day period for reviewing written comments ends. The Judge may consolidate requests for a hearing regarding the same application.

(2) *Giving notice of hearing.* The notice of hearing shall be served upon the parties of record for the sourcing area application at issue by the Hearing Clerk.

**§ 1.418 Procedure upon no request for hearing.**

If no hearing is requested by a party of record, the Judge shall issue an initial decision based on the written record and without further procedure or hearing. If no hearing is requested, the written record consists of papers and documents submitted during the 30-day comment period, the 10-day review period, and includes motions submitted before the Judge issues an initial decision. For purposes of a formal review of a sourcing area, the written record also consists of the papers and documents submitted during the informal review. Copies of the decision shall

be served by the Hearing Clerk upon each of the parties of record.

**§ 1.419 Amendment of a sourcing area application.**

The sourcing area applicant may move to amend the sourcing area application with clarifying and technical amendments at any time prior to the Judge's initial determination if there is no hearing, or prior to the close of the hearing if there is a hearing.

**§ 1.420 Consent recommendation.**

Any time before the Judge files the decision, the parties of record may enter a consent recommendation. Such consent recommendation shall be filed with the Hearing Clerk, signed by the parties with appropriate space for signature by the Judge. The consent recommendation shall contain an admission of the jurisdictional facts, the factual and legal basis for the recommended sourcing area, the consent to the issuance of the recommended decision as the final decision of the agency without further procedure and such other admissions or statements as may be recommended by the parties. The Judge shall review the recommendation to determine whether such recommendation conforms with the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620, *et seq.*), 36 CFR 223.190, 36 CFR 223.191(e) and these procedures. If the recommendation conforms to the aforementioned Act, regulations, and procedures, the Judge may enter such decision without further procedure, unless an error is apparent on the face of the document. If the Judge enters the decision, such decision shall have the same force and effect as a decision issued after full hearing and shall become final upon issuance to become effective in accordance with the terms of the decision.

**§ 1.421 Prehearing conferences and procedures.**

(a) *Purpose and scope.* (1) Upon motion of a party of record or upon the Judge's own motion, the Judge may direct the parties or their counsel to attend a conference at any reasonable time, prior to or during the course of the hearing, when the Judge finds that

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the proceeding would be expedited by a prehearing conference. Reasonable notice of the time and place of the conference shall be given. The Judge may order each of the parties to furnish at or subsequent to the conference any or all of the following:

- (i) An outline of a party's position;
- (ii) The facts upon which the party will rely;
- (iii) The legal theories upon which the party will rely;
- (iv) Copies of or a list of documents which the party anticipates introducing at the hearing; and
- (v) A list of anticipated witnesses who will testify on behalf of the party. At the discretion of the party furnishing such list of witnesses, the names of the witnesses need not be furnished if they are otherwise identified in some meaningful way such as a short statement of the type of evidence they will offer.

(2) The Judge shall not order any of the foregoing procedures that a party can show is inappropriate or unwarranted under the circumstances of the particular determination.

(3) At the conference, the following matters shall be considered:

- (i) The simplification of issues;
- (ii) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;
- (iii) The limitation of the number of expert or other witnesses;
- (iv) Negotiation, compromise, or settlement of issues;
- (v) The exchange of copies of proposed exhibits;
- (vi) The identification of documents or matters of which official notice may be requested;
- (vii) A schedule to be followed by the parties for completion of the actions decided at the conference; and
- (viii) Such other matters as may expedite and aid in the disposition of the proceeding.

(b) *Reporting.* A prehearing conference will not be stenographically reported unless so directed by the Judge.

(c) *Action in lieu of personal attendance at a conference.* In the event the Judge concludes that personal attendance by the Judge and the parties or

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counsel at a prehearing conference is unwarranted or impracticable, but determines that a conference would expedite the proceeding, the Judge may conduct such conference by telephone or correspondence.

(d) *Order.* Actions taken as a result of a conference shall be reduced to an appropriate written order, unless the Judge concludes that a stenographic report shall suffice, or if the Judge elects to make a statement on the record at the hearing summarizing the actions taken.

### § 1.422 Conduct of the hearing.

(a) *Time and place.* The hearing shall be held at the time and place fixed in the notice of hearing. If any change in the time or place of the hearing is made, the Judge shall file with the Hearing Clerk a notice of such change, which notice shall be served upon the parties, unless it is made during the course of an oral script, or actual notice is given to the parties.

(b) *Appearances.* The parties may appear in person or by attorney of record in the proceeding. Any party who desires to be heard in person shall, before proceeding to testify, state his name, address, and occupation. If any such person is appearing through counsel, such person or such counsel shall, before proceeding to testify or otherwise to participate in the hearing, state for the record the authority to act as such counsel or representative, and the names, addresses, and occupations of such person and such counsel. Any such person or such counsel shall give such other information respecting his appearance as the Judge may request. Any person who appears as counsel must conform to the standards of ethical conduct required of practitioners before the courts of the United States.

(c) *Failure to appear.* A party of record who, after being duly notified, fails to appear at the hearing without good cause, shall be deemed to have waived the right to an oral hearing in the proceeding. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the Judge's decision.

(d) *Order of proceeding.* The Judge shall determine the order in which the parties shall proceed.