

# DEPARTMENTAL MANUAL



## TRANSMITTAL SHEET

PART	SUBJECT  Organization and Delegation Office of Hearings and Appeals	RELEASE NUMBER
112 DM 13 & 212 DM 13		3945 - 3946
FOR FURTHER INFORMATION, CONTACT		DATE
Office of Hearings and Appeals		June 1, 2012

### EXPLANATION OF MATERIAL TRANSMITTED:

This Departmental Manual Release updates the organization and delegation for the Office of Hearings and Appeals (112 DM 13 and 212 DM 13). The significant changes include:

#### 112 DM 13

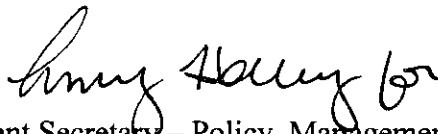
- In 13.3B, the reference to “the Interior Board of Indian Appeals and the Interior Board of Land Appeals” is expanded to “Appeals Boards of the Office of Hearings and Appeals” because the Director is also an ex officio member of Ad Hoc Boards of Appeals.
- In 13.3C, the reference to “staff of the Office of the Director” is expanded to “Judges and staff of the Office of Hearings and Appeals designated by the Director” because the Director may occasionally assign cases to employees outside the Office of the Director, e.g., judges in the Departmental Cases Hearings Division.
- In 13.4, the text is revised to reflect the closing of the OHA field offices in Aberdeen, South Dakota, and Anchorage, Alaska, and the impending move of the Chief Administrative Law Judge from the Arlington, Virginia, office to the Albuquerque, New Mexico, office.
- In both 13.7 and 13.8, the text is simplified by substituting references to the applicable provisions of the OHA delegations chapter for longer descriptions of the jurisdiction of the two Appeals Boards.

#### 212 DM 13

- In 13.3, paragraph E has been added to cover determinations made under the Stipulated Order in *Aguilar v. United States*. The Bureau of Land Management has several of these cases to refer to OHA, but no regulation or DM provision currently provides OHA the authority to hear and decide them.
- In 13.4A(5), a reference has been added to decisions of bureaus and offices under the Indian Self-Determination and Education Assistance Act, since not all cases first go to a hearing before an Administrative Law Judge.
- In 13.4A, paragraph (7) has been added to cover appeals from determinations made under the Stipulated Order in *Aguilar v. United States*.
- In 13.4, paragraph B has been added to cover requests for reconsideration under 25 CFR Part 83 involving the recognition of a group as an Indian tribe. The Assistant Secretary –

Indian Affairs is considering changes to these regulations, but pending rulemaking, the existing authority should be included in the delegations to the Interior Board of Indian Appeals.

- In 13.8, exception language has been included in case the Secretary or his or her designee (or a future regulation) specifically authorizes OHA to consider some matter that would otherwise be excluded from its jurisdiction or authority.
- In 13.8C, language has been added to recognize the potential for a Deputy Solicitor to issue a binding M-Opinion under 209 DM 3.3.



Assistant Secretary – Policy, Management and Budget

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**FILING INSTRUCTIONS:**

**Remove:**

112 DM 13  
(3 sheets)

212 DM 13  
(2 sheets)

**Insert:**

112 DM 13  
(2 sheets)

212 DM 13  
(2 sheets)