

ANNUAL REPORT OF THE INTERIOR BOARD OF LAND APPEALS

Fiscal Year 2022



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U.S. DEPARTMENT OF THE INTERIOR

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INTRODUCTION

Welcome to the annual report of the Interior Board of Land Appeals for Fiscal Year 2022 (FY22).

The Board's mission is to provide an impartial forum within the Department of the Interior for the fair resolution of disputes involving public lands and natural resources under the Department's jurisdiction.

This report includes an overview of the Board's organization and function. It also contains statistics illustrating the Board's accomplishments in FY22, from October 1, 2021, to September 30, 2022. For more information about the Board, please see the links provided in the final section of this report.

Steven J. Lechner
Acting Chief Administrative Judge
Interior Board of Land Appeals

SUMMARY OF FY22 STATISTICS

The Board received 268 appeals in FY22 and resolved 234 appeals. Of those resolved appeals, the Board adjudicated 53 (23%) on the merits, dismissed 53 (23%) on jurisdictional or procedural grounds, and dismissed 128 (54%) appeals at the request of one or both of the parties. The 53 appeals adjudicated on merits had been pending an average of 18.1 months.

Petitions for stay were filed in 82 (30%) of the appeals the Board received in FY22. The Board resolved 99% of those petitions by the Department's 45-day regulatory deadline. The Board also ruled on 636 non-dispositive motions.

At the end of FY22, the Board had 460 pending appeals, with 125 (27%) of those appeals suspended from consideration to allow for settlement negotiations or other actions.

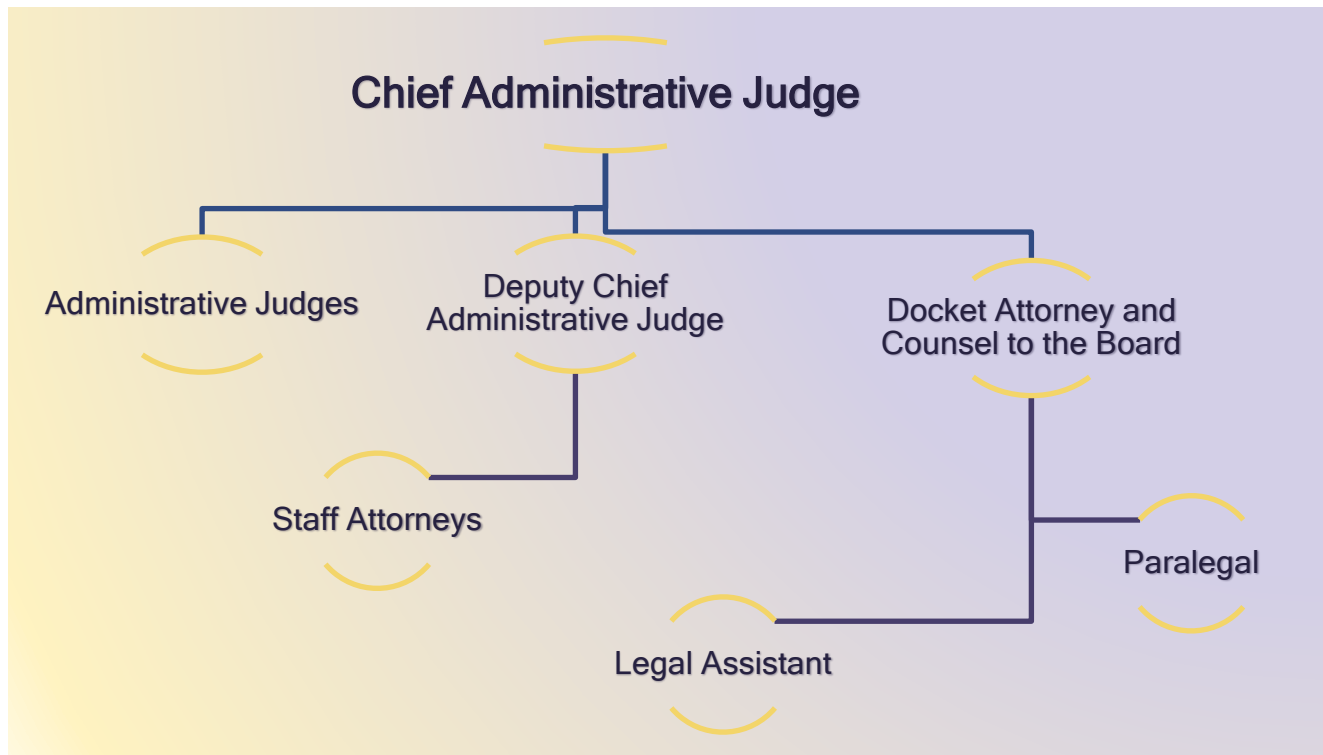
THE ORGANIZATION AND FUNCTION OF THE BOARD

Within the Department of the Interior, the Office of the Secretary is organized into multiple offices, including the Office of Policy, Management and Budget, which in turn houses the Office of Hearings and Appeals (OHA). In FY22, Director Shayla Freeman Simmons headed OHA. In addition to the Director's Office, OHA has four units, one of which is the Interior Board of Land Appeals.

The Board is an appellate review body that exercises the delegated authority of the Secretary of the Interior to issue final decisions for the Department of the Interior. The Board decides appeals from decisions relating to the use and disposition of public lands and resources, mineral resources in certain acquired lands, mineral and energy resources on the Outer Continental Shelf, and surface coal mining operations under the Surface Mining Control and Reclamation Act. The Board is separate and independent from the bureaus and offices whose decisions it reviews.

By regulation, the Board is managed by a Chief Administrative Judge and composed of Administrative Judges who serve as its members. During FY22, Jason A. Hill held the position of Chief Administrative Judge until November 2021, and then Steven J. Lechner, the appointed Deputy Chief Administrative Judge, stepped in as Acting Chief. Administrative Judge Silvia R. Idziorek has been serving as Acting Deputy Chief. The Board began the fiscal year with a Chief, a Deputy Chief, and five Administrative Judges. By January 1, 2022, the Board consisted of an Acting Chief, an Acting Deputy Chief, and two Administrative Judges, and that is how the Board finished the year.

The chart below shows the FY22 organizational structure of the Board and its staff.

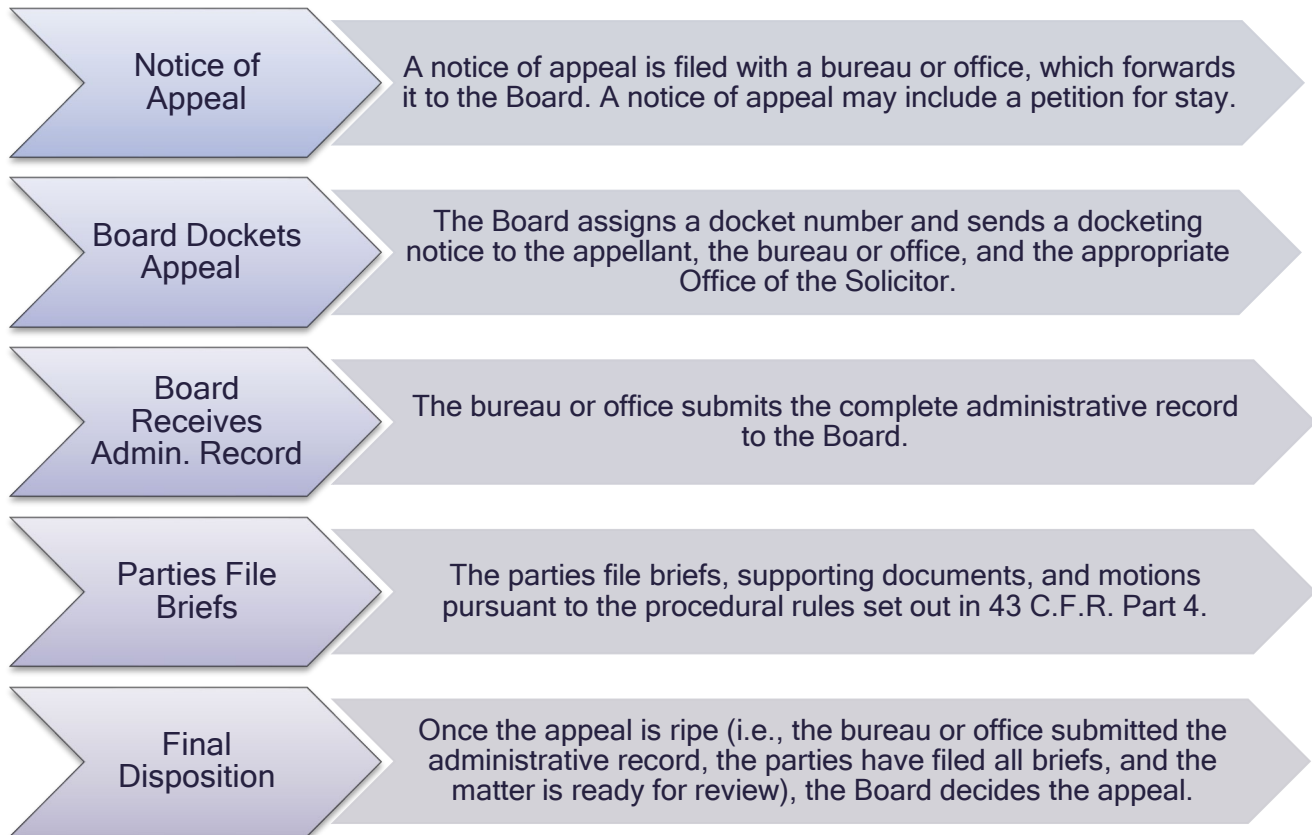


The Board has the authority to consider appeals from:

- **Bureau of Land Management (BLM)** decisions, including but not limited to decisions related to mining, grazing, energy development, royalty management, timber harvesting, wildfire management, recreation, wild horse and burro management, cadastral surveys, Alaska land conveyances, rights-of-way, land exchanges, and trespass actions;
- **Bureau of Ocean Energy Management (BOEM)** decisions primarily concerning bonding for offshore facilities;
- **Bureau of Safety and Environmental Enforcement (BSEE)** decisions primarily concerning offshore decommissioning orders, notices of incidents of noncompliance, and civil penalties;
- **Departmental Cases Hearings Division (DCHD)** decisions made by Administrative Law Judges in the Office of Hearings and Appeals;
- **Office of Natural Resources Revenue (ONRR)** decisions regarding royalties owed from Federal or Indian leases; and
- **Office of Surface Mining Reclamation and Enforcement (OSMRE)** decisions regarding surface coal mining operations.

THE APPEALS PROCESS

The appeals process is governed by the regulations set forth in 43 C.F.R. Part 4.



The Board's docket is very diverse; the subject matter and complexity is different for each appeal. The unique circumstances of each appeal determine when the appeal is ready for review and final resolution. For example, the Board concludes appeals quickly if it determines that it does not have jurisdiction to decide the appeal. Other appeals take months just to become ready for review, as the parties file documents, seek extensions, or engage in settlement negotiations.

Once an appeal becomes ripe for review, it is assigned to a two-judge panel of Administrative Judges for adjudication. The panel, assisted by the Board's staff attorneys, reviews the briefs and the administrative record, conducts legal research, and prepares an order or decision resolving the appeal. After all the Administrative Judges review the draft, the two-judge panel issues a final order or decision resolving the appeal.

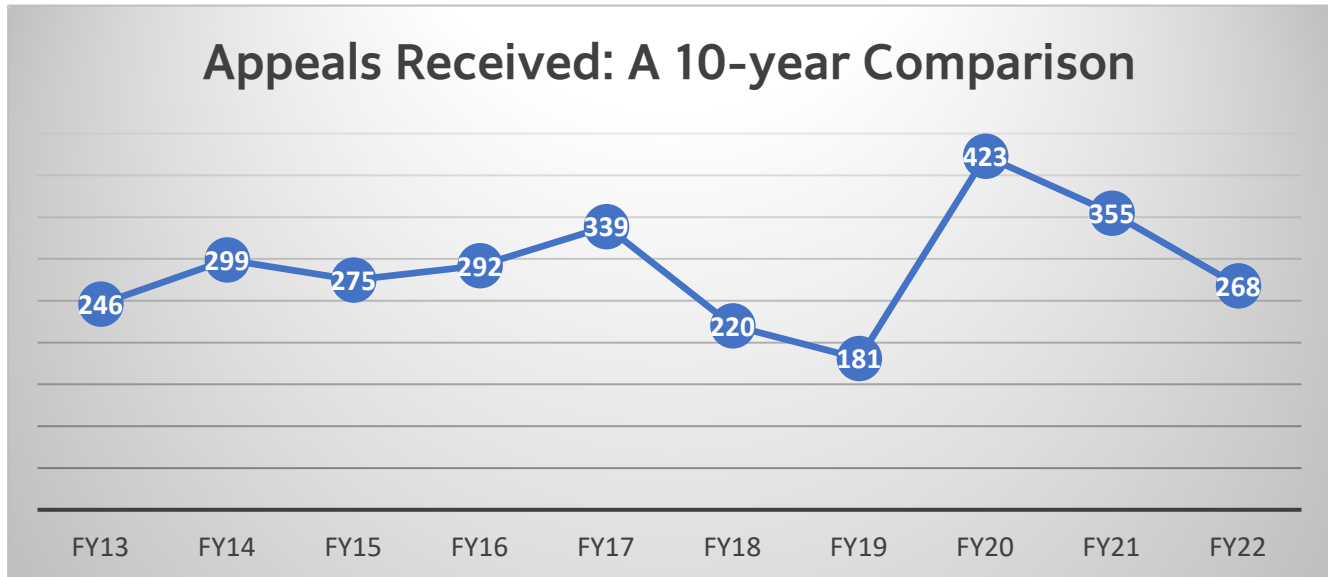
One factor affecting how quickly appeals are decided is the number of petitions for stay the Board receives. An appellant may file a petition for stay when it files its appeal, requesting that the Board stay the effect of the decision while the appeal is pending. By regulation, the Board is generally required to rule on the petition within 45 days. Because a considerable number of appeals are accompanied by a petition for stay, the Board must devote substantial time and resources resolving them.

THE BOARD'S FY22 DOCKET

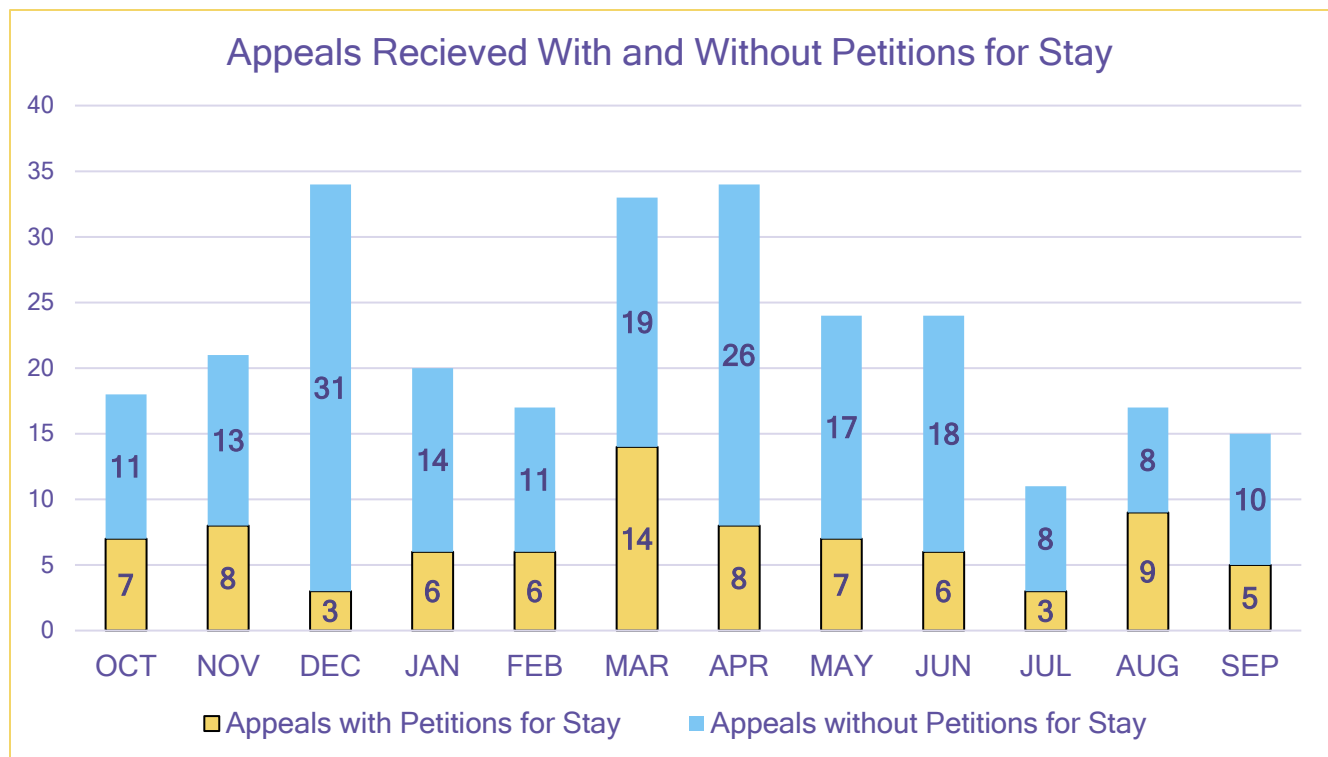
This section discusses and illustrates the appeals the Board received, the appeals the Board concluded, and the appeals that remained pending at the end of FY22.

Appeals and Petitions for Stay Received

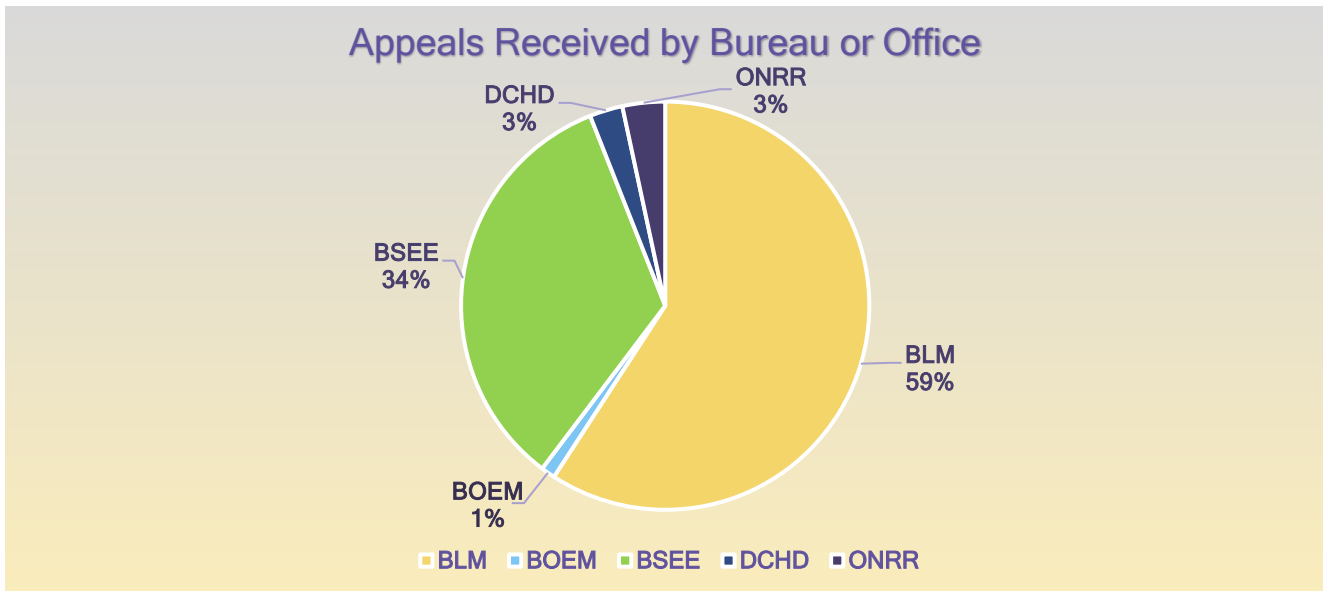
During FY22, the Board received 268 new appeals, which was approximately 7.5% fewer appeals than the 10-year average of 290.



Eighty-two (30%) of the Board's FY22 appeals included petitions for stay.



In FY22, 158 (59%) of all appeals received were from BLM decisions. Of those appeals, 69 (44%) dealt with matters concerning oil and gas, hard rock mining, and other minerals, while 89 (56%) involved non-mineral issues, such as vegetation management, timber sales, recreation, rights-of-way, and other land-use authorizations.

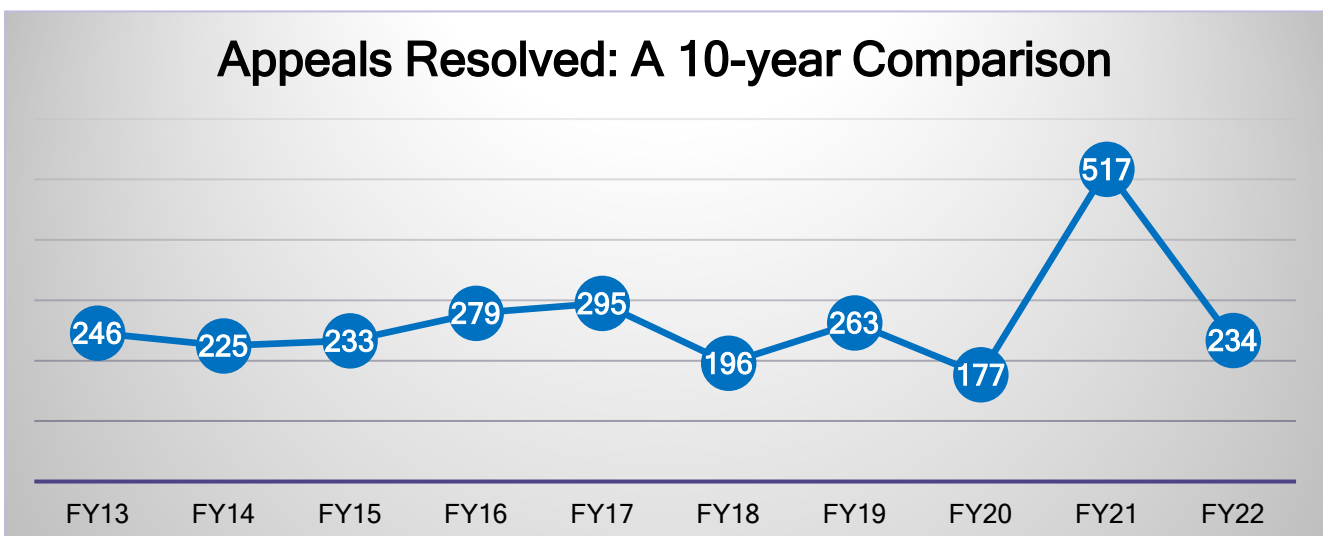


OSMRE is not represented because the percentage of appeals received from OSMRE was less than one percent.

Appeals from BSEE decisions were the next highest percentage of appeals the Board received during FY22, at 90 (34%). Those appeals concerned decommissioning orders, notices of incidents of non-compliance, and civil penalty assessments. The Board received 9 appeals from ONRR (3%), which dealt with royalty assessments; 7 appeals from DCHD (3%), which concerned BLM grazing authorizations; and 3 appeals from BOEM (1%), which concerned supplemental bonding for offshore oil and gas leases. Only 1 appeal, a citizen's complaint, came from OSMRE.

Appeals Resolved

During FY22, the Board resolved 234 appeals, which was approximately 12% fewer appeals than the 10-year average of 267.



- Appeals adjudicated on the merits

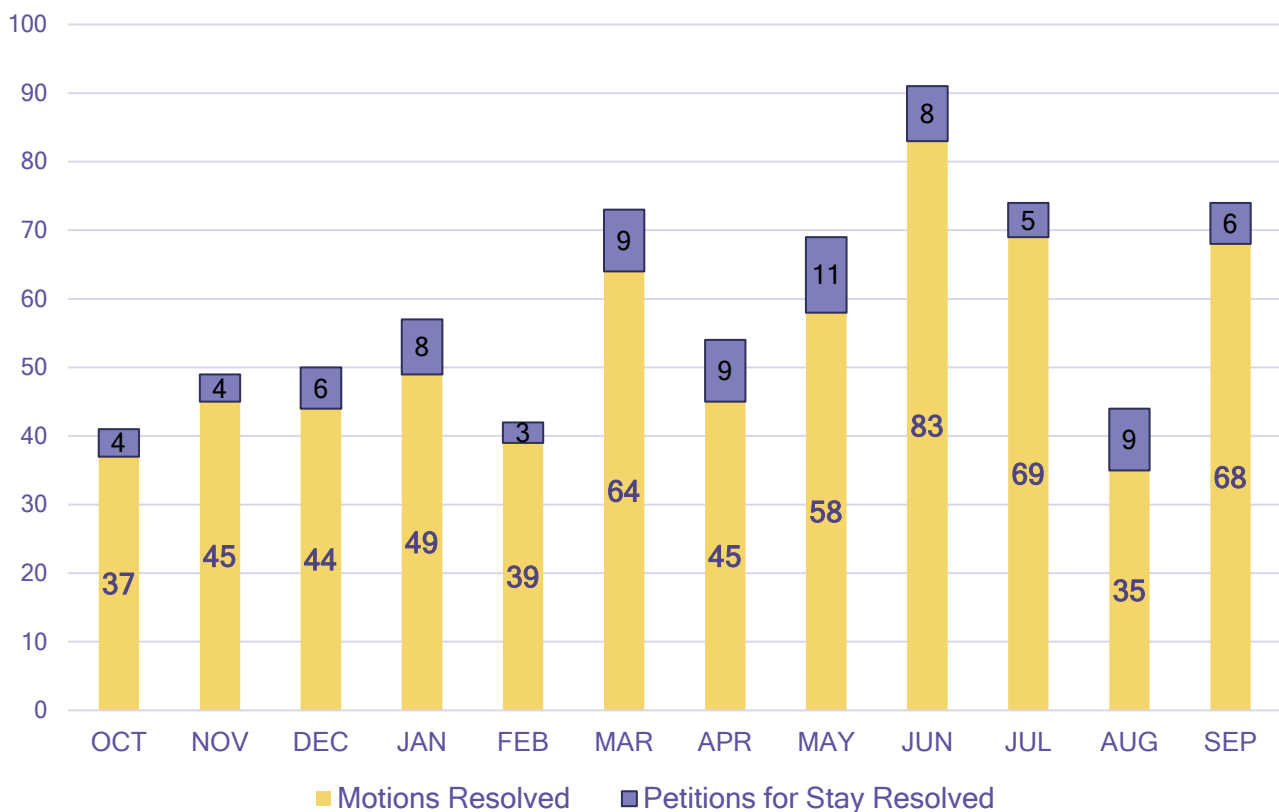
The Board resolved 234 appeals in FY22. The Board decided 53 (23%) of those appeals on the merits. Of the appeals decided on the merits, the Board affirmed 43 bureau and office decisions (81% of all appeals decided on the merits); vacated, reversed, or set aside 7 decisions (13% of all appeals decided on the merits); and granted 3 motions for reconsideration (6% of all appeals decided on the merits).

- Appeals not adjudicated on the merits

Of the 234 appeals the Board resolved in FY22, 181 (77%) were decided on grounds other than the merits, including jurisdictional and procedural grounds. The Board dismissed 50 appeals for lack of jurisdiction (i.e., untimely filed appeals, appeals filed from interlocutory decisions, lack of standing, and mootness) and 3 appeals for the failure to state reasons for the appeal. The Board also dismissed 49 appeals at the request of the bureau or office, 45 appeals at the request of the appellant, and 34 appeals at the request of both parties.

Petitions for Stay and Motions Resolved

The Board received 82 petitions for stay and resolved 99% of those petitions by the Department's 45-day regulatory deadline. The Board also ruled on 636 non-dispositive motions.

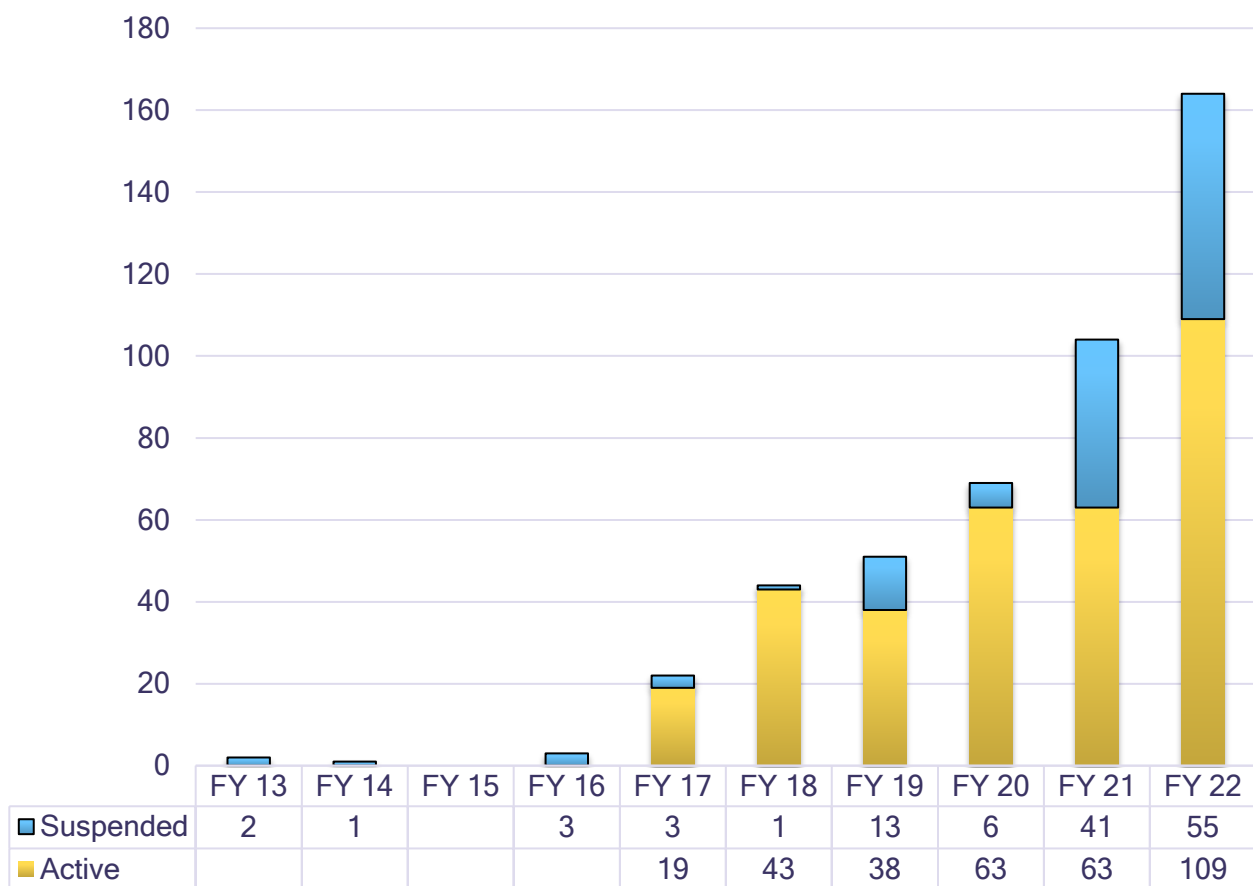


Appeals Pending

The Board works hard to decide as many appeals as it can with the resources that it has and cannot resolve every appeal that is filed each fiscal year. The Board consistently has an inventory of appeals from previous years.

The Board ended FY22 with 460 appeals in its inventory. Of those appeals, 335 (73%) are on the Board's active docket. The remaining 125 appeals are on the suspended docket. The Board generally suspends appeals at the parties' request to facilitate settlement discussions or to await a Federal court ruling that could affect the outcome of the pending appeal.

Inventory of Appeals at End of FY22



FOR MORE INFORMATION

Please visit the Board's website to learn more. The Board's resources can be found by clicking the links below:

[ABOUT IBLA](#)

[IBLA FAQs](#)

[IBLA DECISIONS](#)

[IBLA DISPOSITIVE ORDERS](#)

[IBLA PENDING APPEALS](#)

[IBLA PROCEDURAL REGULATIONS](#)

[IBLA PROCEDURES AND PRACTICES MANUAL](#)

[IBLA INTERNSHIPS](#)