

## CHAPTER XXVII—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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<i>Part</i>		<i>Page</i>
2700	Procedural rules .....	677
2701	Government in the Sunshine Act regulations .....	696
2702	Regulations implementing the Freedom of Information Act .....	698
2703	Employee responsibilities and conduct .....	702
2704	Implementation of the Equal Access to Justice Act in Commission proceedings .....	702
2705	Privacy Act implementation .....	710
2706	Enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by the Federal Mine Safety and Health Review Commission .....	712



## **PART 2700—PROCEDURAL RULES**

### **Subpart A—General Provisions**

- Sec.  
2700.1 Scope; applicability of other rules; construction.  
2700.2 Definitions.  
2700.3 Who may practice.  
2700.4 Parties, intervenors, and amici curiae.  
2700.5 General requirements for pleadings and other documents; status or informational requests.  
2700.6 Signing of documents.  
2700.7 Service.  
2700.8 Computation of time.  
2700.9 Extensions of time.  
2700.10 Motions.  
2700.11 Withdrawal of pleading.  
2700.12 Consolidation of proceedings.

### **Subpart B—Contests of Citations and Orders**

- 2700.20 Notice of contest of a citation or order issued under section 104 of the Act.  
2700.21 Effect of failure to file notice of contest of citation.  
2700.22 Notice of contest of imminent danger withdrawal orders under section 107 of the Act.  
2700.23 Review of a subsequent citation or order.

### **Subpart C—Contests of Proposed Penalties**

- 2700.25 Proposed penalty assessment.  
2700.26 Notice of contest of proposed penalty assessment.  
2700.27 Effect of failure to contest proposed penalty assessment.  
2700.28 Filing of petition for assessment of penalty with the Commission.  
2700.29 Answer.  
2700.30 Assessment of penalty.  
2700.31 Penalty settlement.

### **Subpart D—Complaints for Compensation**

- 2700.35 Time to file.  
2700.36 Contents of complaint.  
2700.37 Answer.

### **Subpart E—Complaints of Discharge, Discrimination or Interference**

- 2700.40 Who may file.  
2700.41 Time to file.  
2700.42 Contents of complaint.  
2700.43 Answer.  
2700.44 Petition for assessment of penalty in discrimination cases.  
2700.45 Temporary reinstatement proceedings.

### **Subpart F—Applications for Temporary Relief**

- 2700.46 Procedure.  
2700.47 Contents of application.

### **Subpart G—Hearings**

- 2700.50 Assignment of Judges.  
2700.51 Hearing sites.  
2700.52 Expedition of proceedings.  
2700.53 Prehearing conferences and statements.  
2700.54 Notice of hearing.  
2700.55 Powers of Judges.  
2700.56 Discovery; general.  
2700.57 Depositions.  
2700.58 Interrogatories, requests for admissions and requests for production of documents.  
2700.59 Failure to cooperate in discovery; sanctions.  
2700.60 Subpoenas.  
2700.61 Name of miner informant.  
2700.62 Name of miner witness.  
2700.63 Evidence; presentation of case.  
2700.64 Retention of exhibits.  
2700.65 Proposed findings, conclusions and orders.  
2700.66 Summary disposition of proceedings.  
2700.67 Summary decision of the Judge.  
2700.68 Substitution of the Judge.  
2700.69 Decision of the Judge.

### **Subpart H—Review by the Commission**

- 2700.70 Petitions for discretionary review.  
2700.71 Review by the Commission on its own motion.  
2700.72 Unreviewed decisions.  
2700.73 Procedure for intervention.  
2700.74 Procedure for participation as amicus curiae.  
2700.75 Briefs.  
2700.76 Interlocutory review.  
2700.77 Oral argument.  
2700.78 Reconsideration.  
2700.79 Correction of clerical errors.

### **Subpart I—Miscellaneous**

- 2700.80 Standards of conduct; disciplinary proceedings.  
2700.81 Recusal and disqualification.  
2700.82 Ex parte communications.  
2700.83 Authority to sign orders.  
2700.84 Effective date.

AUTHORITY: 30 U.S.C. 815, 820 and 823.

SOURCE: 58 FR 12164, Mar. 3, 1993, unless otherwise noted.

### Subpart A—General Provisions

#### § 2700.1 Scope; applicability of other rules; construction.

(a) *Scope.* This part sets forth rules applicable to proceedings before the Federal Mine Safety and Health Review Commission and its Administrative Law Judges.

(b) *Applicability of other rules.* On any procedural question not regulated by the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (“the Act”), these Procedural Rules, or the Administrative Procedure Act (particularly 5 U.S.C. 554 and 556), the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure.

(c) *Construction.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings, and to encourage the participation of miners and their representatives. Wherever the masculine gender is used in these rules, the feminine gender is also implied.

#### § 2700.2 Definitions.

For purposes of this part, the definitions contained in section 3 of the Act, 30 U.S.C. 802, apply.

#### § 2700.3 Who may practice.

(a) *Attorneys.* Attorneys admitted to practice before the highest court of any State, Territory, District, Commonwealth or possession of the United States are permitted to practice before the Commission.

(b) *Other persons.* A person who is not authorized to practice before the Commission as an attorney under paragraph (a) of this section may practice before the Commission as a representative of a party if he is:

- (1) A party;
- (2) A representative of miners;
- (3) An owner, partner, officer or employee of a party when the party is a labor organization, an association, a partnership, a corporation, other business entity, or a political subdivision; or

(4) Any other person with the permission of the presiding judge or the Commission.

(c) *Entry of appearance.* A representative of a party shall enter an appearance in a proceeding under the Act or these procedural rules by signing the first document filed on behalf of the party with the Commission or Judge; filing a written entry of appearance with the Commission or Judge; or, if the Commission or Judge permits, by orally entering an appearance in open hearing.

(d) *Withdrawal of appearance.* Any representative of a party desiring to withdraw his appearance shall file a motion with the Commission or Judge. The motion to withdraw may, in the discretion of the Commission or Judge, be denied where it is necessary to avoid undue delay or prejudice to the rights of a party.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48712, Sept. 8, 1999]

#### § 2700.4 Parties, intervenors, and amici curiae.

(a) *Party status.* A person, including the Secretary or an operator, who is named as a party or who is permitted to intervene, is a party. In a proceeding instituted by the Secretary under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), the complainant on whose behalf the Secretary has filed the complaint is a party and may present additional evidence on his own behalf. A miner, applicant for employment, or representative of a miner who has filed a complaint with the Commission under section 105(c)(3) or 111 of the Act, 30 U.S.C. 815(c)(3) and 821, and an affected miner or his representative who has become a party in accordance with paragraph (b) of this section, are parties.

(b) *Intervention—(1) Intervention by affected miners and their representatives.* Before a case has been assigned to a Judge, affected miners or their representatives shall be permitted to intervene upon filing a written notice of intervention with the Executive Director, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001. If the case has been assigned to a Judge, the notice of intervention shall be filed with the Judge. The Commission or the Judge shall mail forthwith a copy of the notice to all parties.