

§ 2700.6

return receipt requested. All subsequent documents that are filed with a Judge or the Commission may be filed by first class mail, express mail, or personal delivery. Express mail includes delivery by a third-party commercial carrier. When filing is by personal delivery, filing is effective upon receipt. When filing is by mail, filing is effective upon mailing, except that the filing of a petition for discretionary review, a petition for review of a temporary reinstatement order, a motion for extension of time, and a motion to exceed page limit is effective upon receipt. See §§ 2700.9, 2700.45(f), 2700.70(a), (f), and 2700.75(f). Filing by facsimile transmission is permissible only when specifically permitted by these rules (see §§ 2700.9, 2700.45(f), 2700.52, 2700.70(a), (f), and 2700.75(f)), or when otherwise allowed by a Judge or the Commission. Filing by facsimile transmission is effective upon receipt.

(e) *Number of copies.* In cases before a Judge, two copies shall be filed for each docket; in cases before the Commission, seven copies shall be filed; but if the filing party is not represented by a lawyer or other representative, one copy shall be sufficient. When filing is by facsimile transmission, the appropriate number of non-facsimile copies must be filed with the Judge or Commission within 3 days of the facsimile transmission.

(f) *Form of pleadings.* All printed material shall appear in at least 12 point type on paper 8½ by 11 inches in size, with margins of at least one inch on all four sides. Text and footnotes shall appear in the same size type. Text shall be double spaced. Headings and footnotes may be single spaced. Quotations of 50 words or more may be single spaced and indented left and right. Excessive footnotes are prohibited. The failure to comply with the requirements of this paragraph or the use of compacted or otherwise compressed printing features will be grounds for rejection of a brief.

(g) *Status or informational requests.* Any inquiries concerning filing requirements, the status of cases before the Commission, or docket information shall be directed to the Office of General Counsel or the Docket Office of the Federal Mine Safety and Health Re-

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view Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001.

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§ 2700.6 Signing of documents.

When a person who appears in a representative capacity signs a document, that person's signature shall constitute his certificate:

(a) That under the provisions of the law, including these rules and all federal conflict of interest statutes, he is authorized and qualified to represent the particular party in the matter; and

(b) That he has read the document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

§ 2700.7 Service.

(a) *Generally.* A copy of each document filed with the Commission shall be served on all parties. In addition, a copy of a notice of contest of a citation or order, a petition for assessment of penalty, a discrimination complaint, a complaint for compensation, and an application for temporary relief shall be served upon the representative of miners, if known.

(b) *Posting.* A copy of an order, citation, notice, or decision required under section 109 of the Act, 30 U.S.C. 819, to be posted on a mine bulletin board shall, upon receipt, be immediately posted on such bulletin board by the operator.

(c) *Methods of service.* A notice of contest of a citation or order, a proposed penalty assessment, a petition for assessment of penalty, a complaint for compensation, a complaint of discharge, discrimination or interference, an application for temporary reinstatement, and an application for temporary relief shall be served by personal delivery, including courier service, or by

registered or certified mail, return receipt requested. All subsequent papers may be served by first class mail, express mail, or personal delivery, except as specified in §§ 2700.9, 2700.45, 2700.70(f), and 2700.75(f) (extensions of time, temporary reinstatement proceedings, and extensions of page limit). Express mail includes delivery by a third-party commercial carrier. Service by mail, including first class, express, or registered or certified mail, return receipt requested, is effective upon mailing. Service by personal delivery is effective upon receipt. When filing by facsimile transmission (see § 2700.5(d)), the filing party must also serve by facsimile transmission or, if serving by facsimile transmission is impossible, the filing party must serve by a third-party commercial overnight delivery service or by personal delivery. Service by facsimile transmission is effective upon receipt.

(d) *Service upon representative.* Whenever a party is represented by an attorney or other authorized representative who has entered an appearance on behalf of such party pursuant to § 2700.3(c), service thereafter shall be made upon the attorney or other authorized representative.

(e) *Proof of service.* All pleadings and other filed documents shall be accompanied by a statement setting forth the date and manner of service.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48713, Sept. 8, 1999]

§ 2700.8 Computation of time.

In computing any period of time prescribed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or federal holiday, in which event the period runs until the end of the next business day. When the period of time prescribed is less than 7 days, intermediate Saturdays, Sundays, and federal holidays shall be excluded in the computation. When service of a document is by mail, 5 days shall be added to the time allowed by these rules for the filing of a response or other documents.

§ 2700.9 Extensions of time.

(a) The time for filing or serving any document may be extended for good cause shown. Filing of a motion requesting an extension of time, including a facsimile transmission, is effective upon receipt. A motion requesting an extension of time shall be received no later than 3 days prior to the expiration of the time allowed for the filing or serving of the document, and shall comply with § 2700.10. A motion requesting an extension of time and a statement in opposition to such a motion may be filed and served by facsimile. The motion and any statement in opposition shall include proof of service on all parties by a means of delivery no less expeditious than that used for filing the motion, except that if service by facsimile transmission is impossible, the filing party shall serve by a third-party commercial overnight delivery service or by personal delivery.

(b) In exigent circumstances, an extension of time may be granted even though the request was filed after the designated time for filing has expired. In such circumstances, the party requesting the extension must show, in writing, the reasons for the party's failure to make the request before the time prescribed for the filing had expired.

[64 FR 48713, Sept. 8, 1999]

§ 2700.10 Motions.

(a) An application for an order shall be by motion which, unless made during a hearing or a conference, shall be made in writing and shall set forth the relief or order sought.

(b) Written motions shall be set forth in a document separate from other pleadings.

(c) Prior to filing a procedural motion, the moving party shall confer or make reasonable efforts to confer with the other parties and shall state in the motion if any other party opposes or does not oppose the motion.

(d) A statement in opposition to a written motion may be filed by any party within 10 days after service upon the party. Unless otherwise ordered, oral argument on motions will not be heard. Where circumstances warrant, a