



FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

News Release

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Contact: Thomas A. Stock, Executive Director
(202) 434-9905

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REVIEW COMMISSION PUBLISHES FINAL RULE IMPLEMENTING MINER ACT.

On January 18, 2007, the Federal Mine Safety and Health Review Commission published Final Commission Procedural Rule 24, 29 C.F.R. § 2700.24, implementing the Mine Improvement and New Emergency Response Act of 2006 (the “MINER Act”), Pub. L. 109-236, 120 Stat. 493 (2006). The MINER Act, which was signed by President George W. Bush on June 15, 2006, amends the Federal Mine Safety and Health Act of 1977, and requires in part that each underground coal mine operator develop and adopt a written emergency response plan no later than 60 days after enactment of the MINER Act. The MINER Act also requires the Commission to resolve disputes arising between operators and the Secretary of Labor over plan contents on an expedited basis. Rule 24, which became effective upon publication, sets forth procedures for the adjudication of such disputes and supersedes Interim Rule 24 published on July 18, 2006.

The following chart summarizes the provisions of Rule 24.

EMERGENCY RESPONSE PLAN DISPUTE PROCEEDINGS

1	2	3		4(A)	4(B)	5	6(A)	6(B)	7
Referral	Statement by the Operator	Hearing		Submission of Relevant Materials	Hearing	Decision	Stay Request	Stay Response	Issuance of Stay
		Request	Order						
2 business days* after issuance of citation	5 calendar days after filing of referral	5 calendar days after filing of referral	10 calendar days after filing of referral	15 calendar days after filing of referral	15 calendar days after filing of referral	15 calendar days after submission of evidence	2 business days after service of decision	2 business days after service of operator's request	2 business days after filing of Secretary's response
2700.24(a)	2700.24(c)	2700.24(e)(2)(i)	2700.24(e)(2)(ii)	2700.24(e)(1)	2700.24(e)(2)(iii)	2700.24(f)(1)	2700.24(f)(2)	2700.24(f)(2)	2700.24(f)(2)

*The filing of all documents with the Commission under Rule 24 is effective upon receipt. Rule 24 is found at 29 C.F.R. § 2700.24.

1. A referral to the Commission by the Secretary must be filed within 2 business days of the issuance of a citation arising from a dispute between the Secretary and an operator regarding the content of the operator's emergency response plan.
2. The operator must file a short and plain statement of its position within 5 calendar days of the filing of the referral.
3. Any party may request a hearing within 5 calendar days of the referral; the judge may order a hearing within 10 calendar days of the referral.
- 4 (A). The parties must submit all relevant materials regarding the dispute to the judge within 15 calendar days of the referral.
- 4 (B). If one is ordered, a hearing must be held within 15 calendar days of the referral.
5. The judge must issue a decision within 15 calendar days following submission of materials and testimony.
- 6 (A). An operator may seek a stay of the inclusion of the disputed provision in the emergency response plan from the judge within 2 business days following service of the decision.
- 6 (B). The Secretary may file a response to the operator's request for a stay within 2 business days following service of the operator's request for a stay.
7. The judge shall issue an order granting or denying the request for a stay within 2 business days after filing of the Secretary's response.