

of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2006-25252/Airspace Docket No. 06-AWP-12." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in

accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, is amended as follows:

* * * * *

Paragraph 6000 Class D airspace.

* * * * *

AWP NVE2 Elko, NV

Elko Municipal-J.C. Harris Field, NV.
Remove.

Issued in Los Angeles, California, on July 13, 2006.

Leonard A. Mobley,

Acting Area Director, Western Terminal Operations.

[FR Doc. 06-6281 Filed 7-17-06; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Rule Implementing the Mine Improvement and New Emergency Response Act of 2006

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Interim rule with request for comments.

SUMMARY: The Federal Mine Safety and Health Review Commission (the "Commission") is an independent adjudicatory agency that provides hearings and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977, or Mine Act. Hearings are held before the Commission's Administrative Law Judges, and appellate review is provided by a five-member Review Commission appointed by the President and confirmed by the Senate. The Commission is adopting an interim rule to implement the Mine Improvement and New Emergency Response Act of 2006, or MINER Act, which amended the Mine Act to improve the safety of miners and mining. The MINER Act provides for Commission review of disputes arising over the accident response plans of underground coal mine operators. The interim rule establishes procedures for the submission and consideration of such disputes. The Commission invites public comments on the interim rule.

DATES: The interim rule takes effect on July 18, 2006. The Commission will accept written and electronic comments received on or before August 17, 2006.

ADDRESSES: Written comments should be mailed to Thomas A. Stock, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, or sent via facsimile to 202-434-9944. Persons mailing written comments shall provide an original and three copies of their comments. Electronic comments should state "Comments on Rule Implementing the MINER Act" in the subject line and be sent to tstock@fmshrc.gov.

FOR FURTHER INFORMATION CONTACT:

Thomas A. Stock, General Counsel,
Office of the General Counsel, 601 New
Jersey Avenue, NW., Suite 9500,
Washington, DC 20001; telephone 202–
434–9935; fax 202–434–9944.

SUPPLEMENTARY INFORMATION:**Background**

On June 15, 2006, President George W. Bush signed into law the Mine Improvement and New Emergency Response Act of 2006, Public Law 109–236, 120 Stat. 493 (2006) (the “MINER Act”), which amended the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* (2000) (the “Mine Act”). Section 2 of the MINER Act amends section 316 of the Mine Act (30 U.S.C. 876) by adding a new section (b), entitled “Accident Preparedness and Response.” Section 316(b)(2)(A) requires that, within 60 days of enactment, each underground coal mine operator adopt an accident response plan for each mine. Section 316(b)(2)(B) requires plans to provide for the evacuation of all persons in a mine emergency, and the “maintenance” of persons trapped underground who are unable to be evacuated. Under section 316(b)(2)(C), all plans are subject to review and approval by the Secretary of Labor, and must ensure that miners receive protection consistent with existing standards; take into account the most recent credible scientific research; use feasible, commercially available technology; be tailored to the specific physical characteristics of the mine; and reflect mine safety improvements gained from experience under the Mine Act and other worker safety and health laws. Section 316(b)(2)(D) directs the Secretary to review plans at least every 6 months. Sections 316(b)(2)(E) and (F) set forth plan content requirements, including a provision allowing the Secretary to require additional plan provisions as deemed necessary.

Section 316(b)(2)(G), entitled “Plan Dispute Resolution,” provides for Commission review of plan disputes. Section 316(b)(2)(G)(i) requires the Commission to resolve disputes arising between operators and the Secretary over plan contents on an expedited basis. Section 316(b)(2)(G)(ii) provides that when a dispute arises, the Secretary shall issue a citation which will be referred immediately to the Commission, whereupon the parties will have 15 days within which to submit to the Commission any materials relevant to the dispute. Within 15 days of the receipt of any such materials, a Commission Administrative Law Judge shall issue a decision, which may

include an order staying the effect of the disputed plan provision while an appeal is taken. Section 316(b)(2)(G)(iii) provides that any party adversely affected by a Judge’s decision may pursue an appeal to the Commission or courts as provided in the Mine Act.

The purpose of the interim rule is to implement section 316(b)(2)(G), providing for Commission hearings and appellate review of plan disputes. The Commission has chosen to establish an interim rule because it is needed to effectuate the MINER Act.

Explanation of Provisions

The Commission’s interim Procedural Rule 24, in subparagraph (a), requires that the Secretary refer to the Commission any citation issued when a dispute arises over the content of an underground coal mine operator’s accident response plan. In keeping with the requirement of section 316(b)(2)(G)(i) of the MINER Act that any such dispute be adjudicated on an expedited basis, subparagraph (a) requires the Secretary to refer to the Commission any accident plan citation within one business day of its issuance.

Subparagraph (b) provides that the referral of an accident plan citation shall consist of a notice of plan dispute, which is analogous to a notice of contest made under section 105(d) of the Mine Act, 30 U.S.C. 815(d). It further specifies the contents of a notice of plan dispute. Upon the filing of such a notice, the Commission shall assign the notice a docket number, and the Chief Administrative Law Judge shall promptly assign the case to a Judge.

Subparagraph (d)(2) affords the parties in an accident plan dispute the opportunity for a hearing before a Commission Administrative Law Judge, either at the request of a party or by order of the Judge. Although the MINER Act does not explicitly provide for hearings on accident plan disputes, section 105(d) of the Mine Act requires the Commission to afford an opportunity for a hearing on any notice of contest. 30 U.S.C. 815(d).

Section 316(b)(2)(G)(iii) of the MINER Act states that when a Judge’s decision in an accident plan dispute is appealed, the disputed provision in the plan will take effect unless a party asks the Judge to stay its effect pending any appeals, and the Judge grants such relief. Subparagraph (e)(1) of interim Rule 24 implements this provision and provides that a Judge’s decision shall include a ruling on any such stay motion.

Notice and Public Procedure

Although notice-and-comment rulemaking requirements under the

Administrative Procedure Act (“APA”) do not apply to rules of agency procedure (*see* 5 U.S.C. 553(b)(3)(A)), the Commission invites members of the interested public to submit comments on the interim rule in order to assist the Commission in its deliberations regarding the adoption of a permanent rule. The Commission will accept public comments until August 17, 2006.

The Commission has determined that this rule is not subject to the Office of Management and Budget (“OMB”) review under Executive Order 12866, 58 FR 51735, September 30, 1993.

The Commission has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule would not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Statement and Analysis has not been prepared.

The Commission has determined that the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) does not apply because this rule does not contain any information collection requirements that require the approval of the OMB.

List of Subjects in 29 CFR Part 2700

Administrative practice and procedure, Mine safety and health, Penalties, Whistleblowing.

■ For the reasons stated in the preamble, the Federal Mine Safety and Health Review Commission amends 29 CFR part 2700 on an interim basis to add Commission Procedural Rule 24 (29 CFR 2700.24) as follows:

PART 2700—PROCEDURAL RULES

■ 1. The authority citation for part 2700 is revised to read as follows:

Authority: 30 U.S.C. 815, 820, 823, and 876.

■ 2. Section 2700.24 is added to subpart B to read as follows:

§ 2700.24 Accident response plan dispute proceedings.

(a) *Referral by the Secretary.* The Secretary shall immediately refer to the Commission any citation arising from a dispute between the Secretary and an operator with respect to the content of the operator’s accident response plan, or any refusal by the Secretary to approve such a plan. Any referral made pursuant to this subsection shall be made within one business day of the issuance of any such citation.

(b) *Contents of referral.* A referral shall consist of a notice of plan dispute describing the nature of the dispute; a copy of the citation issued by the Secretary; a short and plain statement of

the Secretary's position with respect to any disputed plan provision; and a copy of the accident response plan indicating all disputed and agreed-upon provisions.

(c) *Filing and service of pleadings.* Filing with the Commission of any document in an accident response plan dispute proceeding is effective upon receipt. A copy of each document filed with the Commission in such a proceeding shall be expeditiously served on all parties, such as by personal delivery, including courier service, by express mail, or by facsimile transmission.

(d) *Submission of materials.*

(1) Within 15 calendar days of the referral, the parties shall submit to the Judge assigned to the matter all relevant materials regarding the dispute. Such submissions shall include a motion for any relief sought, including any request to stay the effect of a disputed provision pending any appeal taken pursuant to paragraph (f) of this section, and may include proposed findings of fact and conclusions of law. Such materials may be supported by affidavits or other verified documents, and shall specify the grounds upon which the party seeks relief. Supporting affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated.

(2) *Hearing.*

(i) Within 5 calendar days following the Secretary's referral, any party may request a hearing and shall so advise the Commission's Chief Administrative Law Judge or his designee, and simultaneously notify the other parties.

(ii) Within 5 calendar days following the Secretary's referral, the Commission's Chief Administrative Law Judge or his designee may issue an order scheduling a hearing on the Judge's own motion, and must immediately so notify the parties.

(iii) If a hearing on the referral is requested or ordered, the hearing shall be held within 15 calendar days of the referral. The scope of a hearing on an accident response plan dispute referral is limited to the disputed plan provision or provisions. If no hearing is held, the Judge assigned to the matter shall review the materials submitted by the parties pursuant to paragraph (d)(1) of this section, and shall issue a decision pursuant to paragraph (e) of this section.

(e) *Decision of the Judge.*

(1) Within 15 calendar days following receipt by the Judge of all submissions and testimony made pursuant to paragraph (d) of this section, the Judge shall issue a decision that constitutes the Judge's final disposition of the

proceedings. The decision shall be in writing and shall include all findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact, law or discretion presented by the record, and an order. The decision shall include a ruling, if a party has so moved, on whether inclusion of the disputed provision in the plan shall be limited, and its effect stayed, by any appeal taken pursuant to paragraph (f) of this section. As far as is practicable, the decision of the Judge shall otherwise be subject to the provisions of § 2700.69.

(2) The parties shall be notified of the Judge's decision by the most expeditious means reasonably available. Service of the decision shall be by certified or registered mail, return receipt requested.

(f) *Review of decision.* Any party may seek review of a Judge's decision by filing with the Commission a petition for discretionary review pursuant to § 2700.70 and § 2700.75. The Commission shall act upon a petition on an expedited basis. If review is granted, the Commission shall issue a briefing order. Except under extraordinary circumstances, the Commission will not grant motions for extension of time for filing briefs.

Dated: July 12, 2006.

Michael F. Duffy,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. E6-11300 Filed 7-17-06; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD-2006-OS-0074]

32 CFR Part 54

Allotments for Child Support and Spousal Support

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is administratively amending 32 CFR part 54, "Allotments for Child Support and Spousal Support" to identify the location of the policy and procedures for Allotments for Child Support and Spousal Support in the DoD Directives System. All other information remains unchanged.

DATES: This rule is effective July 18, 2006.

FOR FURTHER INFORMATION CONTACT: L. Bynum, 703-696-4970.

SUPPLEMENTARY INFORMATION: DoD Directive 1340.17, which was originally codified in the CFR as 32 CFR part 54, has been removed from the DoD Directives System. The sentence added to inform readers that were previously used to making cross-reference to the Directive will now know where to locate additional information.

List of Subjects in 32 CFR Part 54

Alimony, Child support, Military personnel, Reporting and recordkeeping requirements, Wages.

■ Accordingly, 32 CFR part 54 is amended as follows:

PART 54—ALLOTMENTS FOR CHILD AND SPOUSAL SUPPORT

■ 1. The authority citation for 32 CFR part 54 continues to read as follows:

Authority: 15 U.S.C. 1673, 37 U.S.C. 101, 42 U.S.C. 665.

■ 2. Section 54.1 is amended by adding a sentence at the end of the section to read as follows:

§ 54.1 Purpose.

* * * The policy and procedures for this part are also located in the DoD Financial Management Regulation ("DoDFMR"), Volume 7B, Chapter 43, section 4304, "Allotments for Child Support and Spousal Support" (DoD 7000.14-R).

Dated: July 12, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E6-11323 Filed 7-17-06; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD-2006-OS-0093]

32 CFR Part 78

Voluntary State Tax Withholding From Retired Pay

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is administratively amending 32 CFR Part 78, "Voluntary State Tax Withholding From Retired Pay" to identify the location of the policy and procedures for Voluntary State Tax Withholding from Retired Pay in the DoD Directives System. All other information remains unchanged.

DATES: This rule is effective July 18, 2006.