

## **FMSHRC Withdraws Simplified Proceedings Program**

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On October 10, 2019, the Federal Mine Safety and Health Review Commission (“Commission”) published a notice it would withdraw its simplified proceedings program. The withdrawal of the program becomes effective 45 days after publication in the Federal Register unless adverse comment is received.

In December 2010, the Commission published a final rule setting forth the procedures for simplified proceedings based on the number of increased case filings before the Commission since 2006. The Commission instituted the simplified proceedings in order to assist with its caseload and to streamline the process for the simplest cases. One of the intended goals of the program was to better support settlements between operators and the Mine Safety and Health Administration. Under the simplified proceedings rules, discovery was not permitted and parties had mandatory disclosure obligations.

After review of the program the Commission determined simplified proceedings settle at essentially the same rate as other civil penalty proceedings governed by conventional procedures. Interestingly, the Commission concluded the simplified proceedings had unintended negative consequences. Specifically, it found out the simplified proceedings were given more priority over more complex cases which diverted its resources disproportionately to the simplest cases. The fact the Commission’s caseload has significantly decreased since 2010 and that parties can use the Commission’s conventional procedures to expedite or simplify a case led to the decision to withdraw the program.

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