



[6735-01]

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Simplified Proceedings

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Direct final rule; confirmation of effective date.

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. On October 11, 2019, the Commission published in the Federal Register a direct final rule which would withdraw the Commission’s procedures for simplified proceedings. The Commission received one comment on the rule and is confirming the withdrawal of its simplified proceeding rules.

DATES: The effective date of November 25, 2019, for the direct final rule published October 11, 2019 (84 FR 54782), is confirmed.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434-9935.

SUPPLEMENTARY INFORMATION:

A. Background

In 2010, the Commission published in the Federal Register a final rule to simplify the procedures for handling certain civil penalty proceedings. The Commission evaluated

the procedures in a pilot program extending almost nine years.

Based upon its evaluation of the simplified proceedings pilot program, the Commission determined that a special set of procedures for its simplest cases is not necessary at the present time. The Commission's overall caseload has decreased since the simplified proceedings rule was promulgated. Moreover, parties may request on a case-by-case basis that the Commission adapt the Commission's conventional procedures as necessary to expedite or simplify the processing of a case.

On October 11, 2019 (84 FR 54782), the Commission published a direct final rule withdrawing the simplified proceedings rule and permitting comment. The Commission received one comment from the Solicitor of Labor, on behalf of the U.S. Department of Labor. The Solicitor made no specific comments on the procedural rules themselves. Rather, the Solicitor suggested that the Commission should solicit more comments and data on the manner to improve the proceedings, including considering in part the simplified proceeding rules of the Occupational Safety and Health Review Commission ("OSHRC").

The Commission already considered OSHRC's simplified proceeding rules in its determination that the Commission's simplified rules should be withdrawn. Having considered the comments received, the Commission has determined that subpart J should be withdrawn at the present time. If practice proves the necessity for different rules applicable to the Commission's simplest cases, the Commission will publish a proposal of such rules at that time.

B. Notice and Public Procedure

1. Executive Orders:

The Commission is an independent regulatory agency under section 3(b) of Executive Order (“E.O.”) 12866 (Sept. 30, 1993), 58 FR 51735 (Oct. 4, 1993); E.O. 13563 (Jan. 18, 2011), 76 FR 3821 (Jan. 21, 2011); E.O. 13771 (Jan. 30, 2017), 82 FR 9339 (Feb. 3, 2017); E.O. 13777 (Feb. 24, 2017), 82 FR 12285 (Mar. 1, 2017); and E.O. 13132 (Aug. 4, 1999), 64 FR 43255 (Aug. 10, 1999).

The Commission has determined that this rulemaking does not have “takings implications” under E.O. 12630 (Mar. 15, 1988), 53 FR 8859 (Mar. 18, 1988).

The Commission has determined that these regulations meet all applicable standards set forth in E.O. 12988 (Feb. 5, 1996), 61 FR 4729 (Feb. 7, 1996).

2. Statutory Requirements:

The Commission has determined that this rulemaking is exempt from the requirements of the Regulatory Flexibility Act (“RFA”) (5 U.S.C. 601 et seq.), because the rule would not have a significant economic impact on a substantial number of small entities.

The Commission has determined that this rule is not a “major rule” under the Small Business Regulatory Enforcement Fairness Act (“SBREFA”) (5 U.S.C. 804(2)).

The Commission has determined that the Paperwork Reduction Act (“PRA”) (44 U.S.C. 3501 et seq.) does not apply because these rules do not contain any information collection requirements that require the approval of the OMB.

The Commission has determined that the Congressional Review Act (“CRA”) (5 U.S.C. 801 et seq.) does not apply because, pursuant to 5 U.S.C. 804(3)(C), these rules

are rules of agency procedure or practice that do not substantially affect the rights or obligations of non-agency parties.

The Commission has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment requiring an environmental assessment under the National Environmental Policy Act (“NEPA”) (42 U.S.C. 4321 et seq.).

The Commission is an independent regulatory agency, and as such, is not subject to the requirements of the Unfunded Mandates Reform Act (“UMRA”) (2 U.S.C. 1532 et seq.).

Dated: November 20, 2019

Marco M. Rajkovich, Jr.

Chairman, Federal Mine Safety and Health Review Commission
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