



Enforcement is Coming: MSHA's Workplace Exam Rule for Metal and Nonmetal Mines

Insights
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We recently reported that on June 11, 2019, a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion vacating the Mine Safety and Health Administration's ("MSHA") 2018 rule ("2018 Amendment") entitled *Examinations of Working Places in Metal and Nonmetal Mines*, codified at 30 C.F.R. § 56/57.18002, see 83 Fed. Reg. 15,055 (Apr. 9, 2018). In so doing, the D.C. Circuit ordered the reinstatement of MSHA's January 23, 2017 version of the rule ("2017 Standard"), which revised the previously existing workplace examination standard at 30 C.F.R. § 56/57.18002. See our previous [blog post](#).

MSHA recently published in the Federal Register the 2017 Standard of the rule. Under the 2017 standard, mine operators are obligated to conduct inspections before miners begin work and to include all conditions discovered during the exam that may adversely affect miners' safety on the exam, even if the conditions are corrected during the pre-shift inspection.

The rule is effective immediately, but MSHA will take 90 days to fully implement the rule. As a result, enforcement will begin around the end of 2019. MSHA plans to hold a series of stakeholder meetings to discuss the rule and its requirements. We will keep you updated on the dates and locations of the meetings. For information on compliance with the 2017 Standard, contact a member of Fisher Phillips' workplace safety practice group.

Related People



Kristin R.B. White
Partner
303.218.3658
Email

Service Focus

Workplace Safety and Catastrophe Management