

# **Federal Mine Safety and Health Review Commission FMSHRC**

## **Congressional Budget Justification FISCAL YEAR 2026**



**MAY 30, 2025**

# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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## **INTRODUCTION**

### **About Us**

The Federal Mine Safety and Health Review Commission (FMSHRC, or the Commission) is an independent adjudicatory agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended. The Commission is entirely independent and is not a component of the Department of Labor (DOL) or Mine Safety and Health Administration (MSHA).

Section 113 of the Mine Act establishes FMSHRC and sets forth its responsibilities. The Mine Improvement and New Emergency Response Act of 2006, P.L. 109-236 (MINER Act) added an additional responsibility to FMSHRC, resolving disputes between the Secretary of Labor and underground coal operators with respect to the contents of emergency response plans or the Secretary's refusal to approve such plans.

### **Our Mission**

The mission of FMSHRC is to provide just, speedy, and legally sound adjudication of proceedings authorized under the Mine Act in a manner that deters noncompliance with the Act and ensures that a penalty once proposed and contested before the Commission is not compromised out of view of the public or without justification.

### **Functions and Procedures**

The Commission carries out its responsibilities through trial-level adjudication by administrative law judges and appellate review of the judges' decisions by a five-member Commission. The Commissioners are appointed by the President and confirmed by the Senate.

Most cases involve the contest of civil penalties proposed by MSHA to mine operators for alleged violations of mandatory health and safety standards, and address whether the alleged safety and health violations occurred as well as the assessment of appropriate civil penalties sufficient to deter operator noncompliance. The Commission is required by the Mine Act to review proposed penalty settlements between operators and MSHA to ensure that a penalty, once proposed and contested before the Commission, is not compromised out of the view of the public and without justification. Other types of cases include contests of MSHA orders to close a mine for health or safety reasons, miners' requests for compensation after being idled by such orders, review of MSHA's approval or disapproval of operators' emergency response and other mine safety plans, miners' complaints that they suffered discrimination because they exercised protected safety rights, and miners' allegations of interference with the exercise of such rights. Disputes involving the temporary reinstatement of a miner or an emergency response plan must be decided on an expedited basis.

## **FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

Once a case is filed with the Commission, it is referred to the Chief Administrative Law Judge (Chief Judge). Thereafter, litigants in the case must submit additional filings before the case is assigned to a judge. To expedite the decisional process, the Chief Judge may rule on certain motions and, where appropriate, issue orders of settlement, dismissal, or default. Otherwise, once a case is assigned to an individual judge, that judge is responsible for the case and rules upon motions and settlement proposals. If a hearing is necessary, the judge schedules and presides over the hearing, and issues a decision based upon the record. A judge's decision becomes a final, non-precedential order of the Commission unless it is accepted for review by the Commission. The Commission provides administrative appellate review. It may, in its discretion, review decisions issued by judges when requested by a litigant, or it may, on its own initiative, direct cases for review. The Commission's decisions are precedential and appeals from the Commission's decisions are heard in the federal courts of appeals.

The Chair of the Commission is responsible for the administrative operations of the Commission. The Chief Operating Officer oversees the Commission's daily operations and provides management guidance to the Chair to ensure Commission compliance with federal regulations and improve the Commission's overall efficiency and effectiveness.

### **Location**

FMSHRC is headquartered in Washington, DC with satellite offices located in Denver, Colorado and Pittsburgh, Pennsylvania.

### **Strategic Goals**

FMSHRC has three strategic goals:

*Strategic Goal 1:* Ensure expeditious, fair, and legally sound adjudication of cases.

*Strategic Goal 2:* Increase the Commission's overall operational efficiency and effectiveness.

*Strategic Goal 3:* Achieve organizational excellence through workforce development.

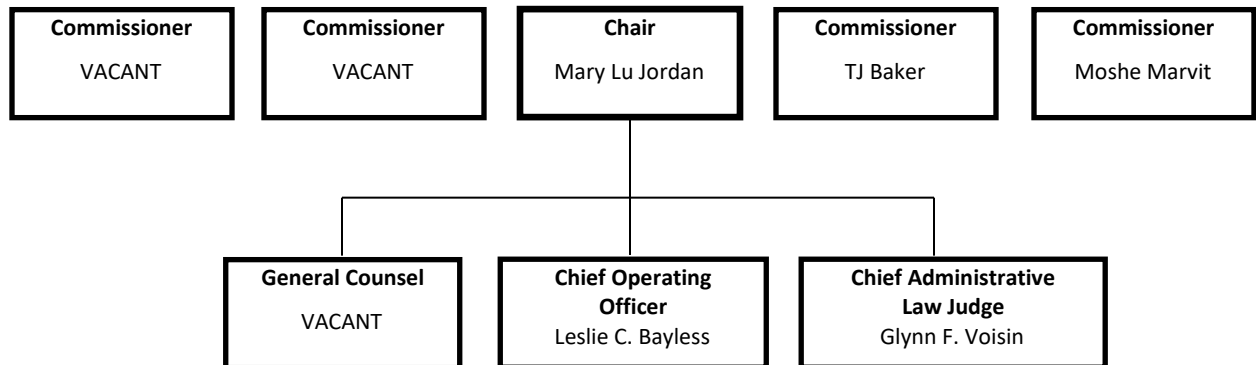
## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### CURRENT LEADERSHIP

#### Commission Members

Name	Term Expiration
Mary Lu Jordan, Chair	August 30, 2026
TJ Baker	August 30, 2026
Moshe Marvit	August 30, 2028
Vacant	August 30, 2030
Vacant	August 30, 2030

#### Key Personnel Organization Chart



## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### BUDGET REQUEST SUMMARY

#### Request

FMSHRC is requesting a budget level of \$16.890 million in FY 2026 to support the full-time equivalent (FTE) of 55 staff members, which will allow the Commission to carry out its mission and support Administration priorities.

### APPROPRIATIONS LANGUAGE

#### Salaries and Expenses

*For expenses necessary for the Federal Mine Safety and Health Review Commission, \$16,890,000.*

*Note. --This account is operating under the Full-Year Continuing Appropriations and Extensions Act, 2025 (Division A of Public Law 119-4).*

#### Authorizing Legislation

*(containing indefinite authority)*

Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. § 801 etseq.)

Dollars in thousands

	<b>FY 2024 Actual<sup>1</sup></b>	<b>FY 2025 Enacted</b>	<b>FY 2026 Request</b>
<b>Budget Authority<sup>2</sup></b>	\$18.012	\$18.012	\$16.890
<b>FTE</b>	58	67	55

<sup>1</sup> FY 2024 reflects actual FTE. Authorized FTE for FY 2024 was 70.

<sup>2</sup> Budget Authority is at the agency level, not further subdivided by organizational component.

**JUSTIFICATION BY ORGANIZATIONAL COMPONENT**

**Overview**

The Commission's authorizing statute, the Mine Act, outlines two major organizational components to fulfill its mission: the trial level and the appellate level.

**1. Trial Level – Office of the Chief Administrative Law Judge (OCALJ)**

OCALJ is led by the Chief Administrative Law Judge and provides trial-level adjudication by Administrative Law Judges (ALJs). The ALJs hear and decide cases initiated by the Secretary of Labor, mine operators, miners, and miners' representatives.

The OCALJ staff is divided amongst three geographical locations, with no further subdivision of components, all reporting through the same chain of command under the Chief Administrative Law Judge.

**2. Appellate Level – Office of the Chair and Commissioners (OCC)**

**a. Commissioner Function**

OCC is led by a 5-member Commission. The Commission hears appeals of ALJs' decisions by granting a petition for discretionary review from one or more of the parties or by directing review on its own motion. In addition, at the appellate level, the Commission considers motions to reopen cases where an operator has failed to timely contest a proposed penalty or to timely respond to the Secretary of Labor's penalty petition.

**b. Counsel Function**

The Commission receives support from Counsels led by the General Counsel. In addition to fulfilling its agency appellate functions, Counsels fulfill other statutorily and regulatorily mandated functions and roles for the agency, such as those required by the Freedom of Information Act (5 U.S.C. § 552), the Ethics in Government Act of 1978, the Government in the Sunshine Act (5 U.S.C. § 552b), the Privacy Act of 1974 (5 U.S.C. § 552a) and the Mine Act's provisions for judicial review (30 U.S.C. § 816).

**c. Agency Operations Function**

The Chair of the Commission is also responsible for its administrative operations. This function is carried out by the Chief Operating Officer, who reports directly to the Chair and is responsible for overseeing and implementing agencywide operational functions.

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Dollars in thousands	FY 2024 Actual	FY 2025 Enacted	FY 2026 Request
Organizational Component	FTE	FTE	FTE
Trial Level (OCALJ)	34	39	32
Appellate Level (OCC)	24	28	23
<b>Total</b>	<b>58</b>	<b>67</b>	<b>55</b>

### Trial Level – Office of the Chief Administrative Law Judge (OCALJ)

Cases at the trial level are handled by FMSHRC’s Office of the Chief Administrative Law Judge (OCALJ). FMSHRC employs ALJs to hear and decide contested cases at the trial level. The ALJs afford mine operators, miners, and their representatives a full opportunity to participate in the hearing process. FMSHRC ALJs are also responsible for evaluating and approving or denying settlement agreements proposed by the parties under the Mine Act.

Many of FMSHRC’s cases present issues of first impression under the Mine Act. That is, the cases raise issues that have not been resolved by prior decisions of FMSHRC or the courts. Many cases involve the interpretation of safety and health standards and regulations promulgated by MSHA.

FMSHRC’s FY 2026 budget request includes the following strategic objective for trial level cases:

#### Strategic Objective 1.1 Ensure timely issuance of decisions at the trial level

	FY 2024	FY 2025	FY 2026
Performance Goal	Actual	Target	Target
1.1.1 Average time from receipt to disposition of all cases.	221 days	180 days	200 days
1.1.2 Average time from receipt to disposition of penalty cases.	216 days	180 days	200 days
1.1.3 Percent of all cases on hand <b>over 365</b> days in age.	17%	10%	10%

### FY 2026

FMSHRC established a pendency goal for trial level cases of 200 days for FY 2026. Pendency is the average time between receipt of a case and case disposition. The reason for this upward adjustment is due to several Administrative Law Judge retirements.



## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FMSHRC estimates that 1,375 trial level cases will be pending at the beginning of FY 2026. FMSHRC anticipates that it will receive 2,095 new cases during FY 2026 and will dispose of 2,020 cases during the same period.

### ***FY 2025***

FMSHRC established a pendency goal for trial level cases of 180 days for FY 2025. Pendency is the average time between receipt of a case and case disposition.

FMSHRC had 1,299 trial level cases that were pending at the beginning of FY 2025. FMSHRC received 2,311 new cases during FY 2025 and disposed of 2,235 cases during the same period.

### ***FY 2024***

FMSHRC established a pendency goal for trial level cases of 180 days for FY 2024.

FMSHRC had 1,380 trial level cases that were pending at the beginning of FY 2024. FMSHRC received 2,019 new cases during FY 2024 and disposed of 2,100 cases during the same period.

<b>Trial Level – Caseload Data</b>			
	<b>FY 2024 Actual</b>	<b>FY 2025 Estimate</b>	<b>FY 2026 Estimate</b>
<b>Cases pending at the beginning of year</b>	<b>1380</b>	<b>1299</b>	<b>1375</b>
Assessment of civil penalty	1135	1104	1214
Notice of contest	203	167	130
Discrimination and compensation	42	28	31
<b>New cases received</b>	<b>2019</b>	<b>2311</b>	<b>2095</b>
Assessment of civil penalty	1754	2020	1850
Notice of contest	236	245	200
Discrimination and compensation	29	46	45
<b>Total case workload</b>	<b>3399</b>	<b>3610</b>	<b>3470</b>
Assessment of civil penalty	2889	3124	3064
Notice of contest	439	412	330
Discrimination and compensation	71	74	76
<b>Cases disposed</b>	<b>2100</b>	<b>2235</b>	<b>2020</b>
Assessment of civil penalty	1785	1910	1814
Notice of contest	272	282	175
Discrimination and compensation	43	43	31
<b>Cases pending at end of year</b>	<b>1299</b>	<b>1375</b>	<b>1450</b>
Assessment of civil penalty	1104	1214	1250
Notice of contest	167	130	155
Discrimination and compensation	28	31	45

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Appellate Level – Office of the Chair and Commissioners (OCC)

#### Commissioner Function

The five-member Commission decides two principal types of cases:

1. *Substantive cases*, which are cases in which a judge has issued a final or interlocutory decision on the merits and FMSHRC has granted a petition for review filed by either party, or at least two Commissioners have decided to grant review on their own initiative.
2. *Default cases*, which are cases in which an operator has failed to timely contest a proposed penalty or to timely respond to a judge's order and the operator has filed a motion to reopen the final order.

The general authority for the review of ALJs' decisions is set forth in section 113(d)(1) of the Mine Act. The Act states that an ALJ's decision shall become final 40 days after its issuance, unless within that period any two Commissioners direct that the decision be reviewed. Most substantive cases come before FMSHRC when two or more Commissioners vote to grant a petition for discretionary review filed by a party adversely affected or aggrieved by the ALJ's decision. FMSHRC may also consider an ALJ's interlocutory ruling under certain circumstances.

Two or more Commissioners may also direct any ALJ's final decision for review *sua sponte* (on FMSHRC's own initiative, without the parties filing a petition). *Sua sponte* review is limited to ALJs' decisions that are contrary to law or FMSHRC policy, or that present a novel question of policy.

By law, a quorum of three Commissioners is required to decide substantive cases. When FMSHRC lacks a quorum of Commissioners, it cannot issue decisions, and this affects the average time required to reach decisions.

#### Counsel Function

The Counsels are responsible for conducting the initial research in substantive cases and sometimes, when requested, will prepare the draft opinions for Commissioners. Each Commissioner is assigned an attorney advisor as Counsel, who reports directly to the individual Commissioner and assists with research and preparation of opinions. The Counsels also perform other duties, such as responding to FOIA requests, ethics counseling and training, and review of financial disclosure forms. In addition, Counsels are primarily responsible for formulating and drafting FMSHRC's rulemaking initiatives.

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FMSHRC has established the following strategic objectives for appellate level cases:

### Strategic Objective 1.2 Ensure timely issuance of decisions at the appellate level

	FY 2024	FY 2025	FY 2026
Performance Goal	Actual	Target	Target
1.2.1 Average time from direction for review to issuance of decision.	15 months	12 months	12 months
1.2.2 Average time from briefing completion to issuance of decision.	12 months	9 months	9 months
1.2.3 Percent of cases on hand over 18 months in age.	48%	20%	20%

### Strategic Objective 1.3 Issue orders in motions to reopen cases in a timely manner

	FY 2024	FY 2025	FY 2026
Performance Goal	Actual	Target	Target
1.3.1 Average time from receipt of the motion to issuance of final order.	7 months	4 months	4 months

#### ***FY 2026***

The appellate caseload includes several types of cases including those for which, by law, FMSHRC must issue rulings very quickly. For example, FMSHRC hears appeals of temporary reinstatement cases; these are discrimination cases, and pursuant to FMSHRC's procedural rules, appeals of these types of decisions must be adjudicated within an extremely short timeframe. Commissioners' workload also includes deciding whether to accept petitions for discretionary review, which by statute must generally be granted or denied within approximately ten days.

In FY 2026, it is expected that 49 cases (Substantive and Default) will be pending at the beginning of the year. FMSHRC anticipates 59 new cases will be filed during FY 2026 and will dispose of 68 cases during the same period. FMSHRC anticipates the appellate docket will contain 40 cases at the end of FY 2026.

The legal proceedings involved in disposing of substantive cases are expected to average twelve months. Therefore, the cases disposed of during the year include both cases that were received in the previous year but not disposed of that year (cases pending at the beginning of the year), and new cases received during the year. FMSHRC will continue to work expeditiously to achieve the goals for case backlog and pendency.

#### ***FY 2025***

In FY 2025, it is expected that 78 cases (Substantive and Default) will be pending at the beginning of the year. FMSHRC anticipates 53 new cases will be filed during FY 2025 and will dispose of 82 cases during the same period. FMSHRC anticipates the appellate docket will contain 49 cases at the end of FY 2025.

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### ***FY 2024***

In FY 2024, a total of 71 cases (Substantive and Default) were pending at the beginning of the year. FMSHRC received 65 new cases during FY 2024 and disposed of 58 cases during the same period.

<b>Appellate Level – Caseload Data</b>			
	<b>FY 2024 Actual</b>	<b>FY 2025 Estimate</b>	<b>FY 2026 Estimate</b>
<b>Cases pending at the beginning of year</b>	<b>71</b>	<b>78</b>	<b>49</b>
Substantive cases	17	16	20
Default cases	54	62	29
<b>New cases received</b>	<b>65</b>	<b>53</b>	<b>59</b>
Substantive cases	12	19	15
Default cases	53	34	44
<b>Total case workload</b>	<b>136</b>	<b>131</b>	<b>108</b>
Substantive cases	29	35	35
Default cases	107	96	73
<b>Cases disposed</b>	<b>58</b>	<b>82</b>	<b>68</b>
Substantive cases	13	15	15
Default cases	45	67	53
<b>Cases pending at end of year</b>	<b>78</b>	<b>49</b>	<b>40</b>
Substantive cases	16	20	20
Default cases	62	29	20

### **Agency Operations Function**

The Chief Operating Officer oversees the Commission’s daily operations and leads the Agency Operations Function, which provides mission support services to FMSHRC in fulfilling its mission and strategic goals.

The primary functions are financial management, human resources, and information technology services, in addition to procurement and contracting, facilities management, and general administrative service support, among other functions.

- The financial management services function includes budget and accounting, such as budget formulation, budget execution, funds control, financial reporting, and vendor payments.
- Human resources services include recruitment and placement, classification, pay administration, performance management and incentive awards, employee benefits and retirement, personnel security, coordination of employee training programs, and wellness and employee assistance programs.

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

- Information technology includes help-desk functions, network administration, cybersecurity oversight and implementation, policy formulation, and telecommunications.
- Procurement and contracting include specific matters such as maintaining a simplified acquisition program for supplies and services, contract implementation and oversight, and coordination of services and supplies.
- Facilities management includes property and space management, OSHA compliance, emergency evacuation, and physical security.
- General administrative service support includes oversight and administration of employee travel authorizations and reimbursements and the metro subsidy program.

FMSHRC has established the following strategic objectives for the Agency Operations Function:

*Strategic Objective 2.1* – Modernize Information Technology infrastructure, resources, and capabilities.

*Strategic Objective 2.2* – Increase internal transparency.

*Strategic Objective 3.1* – Improve talent management.

A qualitative description of progress is outlined below. Quantitative performance measures will be established to track progress toward achieving these strategic objectives.

FMSHRC's primary focus is on Strategic Objective 2.1 in direct support of the President's priorities for secure, user-centric, and data-driven government. The Commission is replacing aging on-premises systems with resilient, FedRAMP-authorized cloud services ("Cloud Smart"), deploying dual-path fiber feeds and next-generation firewalls to achieve the Administration's Zero Trust cybersecurity mandate, and implementing virtual desktop infrastructure with PIV-enabled access to strengthen identity-based security. At the same time, the Commission is upgrading collaboration tools via Microsoft Teams Rooms and OneDrive workflows to enhance interagency and public engagement, ingesting active personnel and shared files into a secure cloud-based records repository to meet the President's digital records and transparency goals, and laying the groundwork for future AI and analytics capabilities. These efforts will drive measurable outcomes such as 80 percent cloud adoption, 99.9 percent network uptime, sub-seven-day critical patch timelines, and full secure access to active case files, ensuring FMSHRC aligns with the Administration's mandate for a modern, secure, and citizen-focused federal IT ecosystem.

## **FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

### **Strategic Objective 2.1 Modernize Information Technology infrastructure, resources, and capabilities**

In FY2024, FMSHRC completed installation of dual-path fiber feeds from a new vendor at all three FMSHRC locations, eliminating single points of failure and boosting baseline throughput by an estimated 40%. In addition, FMSHRC rolled out next-generation firewalls at headquarters and satellite offices and established centralized logging and automated alerting for anomalous traffic patterns.

In FY2025, FMSHRC migrated 75% of mission-critical servers (file shares, dev/test environments) into our FedRAMP moderate-authorized cloud tenancy. Additionally, FMSHRC provisioned virtual desktop infrastructure (VDI) to validate access performance and PIV-enabled authentication. FMSHRC also conducted an agency-wide vulnerability scan and remediated all critical/high findings on laptops and servers older than 2018, in addition to implementing the Zero Trust Architecture blueprint to align with OMB's Federal Zero Trust Strategy. FMSHRC began ingesting scanned personnel and shared files into our interim cloud-based records repository. FMSHRC defined a metadata schema and retention workflows to support our forthcoming electronic case management system (eCMS) upgrade with artificial intelligence (AI).

In FY2026, FMSHRC expects to upgrade legacy VTC endpoints to Microsoft Teams Rooms for all offices, achieving seamless cross-office video meetings with sub-second join times. In addition, FMSHRC will focus on creating standardized MS Teams channels and OneDrive folders for records-management workstreams, streamlining document sharing and version control.

### **Strategic Objective 2.2 Increase internal transparency**

In FY2024, FMSHRC made significant progress adding substantive content to its newly established SharePoint Intranet site. Of note, FMSHRC initiated the transition of agencywide email announcements to the site, posting instead, to eliminate excessive and unnecessary email traffic. Over FY2024, 224 announcements were issued.

In FY2025, FMSHRC initiated a dedicated review of all internal administrative policies to best align with the Administration's priorities. Policies not aligned were abolished. Separately, FMSHRC provided parties (coming to the agency for due process) external access to the electronic case management system (eCMS) to view the official files in their cases.

In FY2026, FMSHRC expects to focus on the digitization of all appellate level cases to streamline case processing.

## **FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

### **Strategic Objective 3.1 Improve talent management**

In FY2024, FMSHRC recruited new supervisory talent with over 20 years legal writing experience, who subsequently initiated an internal mentorship network.

In FY2025, FMSHRC adhered to the government-wide Hiring Freeze and did not conduct recruitment efforts. However, FMSHRC is working on its Merit Hiring Plan aligned with Executive Order 14170, Reforming the Federal Hiring Process and Restoring Merit to Government Service (“Restoring Merit”).

In FY2026, FMSHRC expects to implement its newly developed Merit Hiring Plan.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

**BUDGET TABLES**

**Budget by Object Classification**

	Dollars in millions				
Item No.	Item	FY 2024 Enacted	FY2025 Enacted	FY 2026 Budget Request	Diff. FY 2026 Request / FY 2025 Enacted
11.1	Personnel Compensation	10.284	10.284	8.030	-2.254
11.3	Other than Full-Time Permanent	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
11.9	Total Personnel Compensation	10.284	10.284	8.030	-2.254
12.1	Personnel Benefits, Civilian	2.697	2.697	2.888	0.191
13.0	Benefits to Former Employees	.010	.010	.020	0.01
21.0	Travel and Transportation of Persons	.151	.151	.075	-0.076
22.0	Transportation of Things	.011	.011	.001	-0.01
23.1	Rental Payments to GSA	1.875	1.875	2.079	0.204
23.3	Communications, Utilities, and Misc.	.807	.807	.135	-0.672
24.0	Printing and Reproduction	.015	.015	.015	0
25.0	Other Services	1.889	1.889	3.347	1.458
26.0	Supplies and Materials	.150	.150	.100	-0.05
31.0	Equipment	.123	.123	.200	0.077
	<b>Total</b>	<b>18.012</b>	<b>18.012</b>	<b>16.890</b>	<b>-1.122</b>



# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

## Personnel Summary

	<b>FY 2024 Actual</b>	<b>FY 2025 Enacted</b>	<b>FY 2026 Request</b>
<b>Executive Schedule</b>	<b>4</b>	<b>5</b>	<b>5</b>
Executive Level III	1	1	1
Executive Level IV	3	4	4
<b>Senior Executive Service</b>	<b>2</b>	<b>2</b>	<b>1</b>
ES	2	2	1
<b>Administrative Law Judges</b>	<b>10</b>	<b>10</b>	<b>9</b>
AL-2	1	1	1
AL-3	9	9	8
<b>General Schedule</b>	<b>42</b>	<b>50</b>	<b>40</b>
GS-15	7	7	7
GS-14	6	5	6
GS-13	6	8	7
GS-12	4	6	6
GS-11	7	6	3
GS-9	11	12	11
GS-8	1	1	0
GS-7	0	5	0
<b>Total Permanent Full-Time Positions</b>	<b>58</b>	<b>67</b>	<b>55</b>

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Appropriations and FTE History

Fiscal Year	Budget Estimate to Congress	House Allowance	Senate Allowance	Appropriation	FTE <sup>3</sup>
2016	17,085,000	--	--	17,085,000	79
2017	17,184,000	--	--	17,184,000	79
2018	17,053,000	--	--	17,184,000	76
2019	17,053,000	--	--	17,184,000	76
2020	17,184,000	--	--	17,184,000	76
2021	17,184,000	--	--	17,184,000	76
2022	17,539,000	--	--	17,539,000	76
2023	18,012,000	--	--	18,012,000	76
2024	18,657,000	--	--	18,012,000	70
2025	17,572,000	--	--	18,012,000	67
<b>2026</b>	<b>16,890,000</b>	--	--		<b>55</b>

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<sup>3</sup> FTE ceiling given budget authority, not the actual FTE.

## AGENCY PERFORMANCE PLAN

FMSHRC’s streamlined and concise FY 2026 Agency Performance Plan (APP) focuses on the agency’s top strategic priorities as defined by the agency head and in alignment with the Administration’s priorities, including applicable Executive Orders and Presidential directives. Performance goals and targets outlined in the FY 2026 APP are designed to drive measurable improvements and results within the one-year performance period and will be clearly aligned with the agency’s topline resource levels. This streamlined approach aims to reduce the administrative burden while enhancing the clarity, relevance, and accountability of agency performance planning.

### Strategic Goals

FMSHRC has three strategic goals:

*Strategic Goal 1:* Ensure expeditious, fair, and legally sound adjudication of cases.

*Strategic Goal 2:* Increase the Commission’s overall operational efficiency and effectiveness.

*Strategic Goal 3:* Achieve organizational excellence through workforce development.

FMSHRC has established the following strategic objective for trial level cases:

#### Strategic Objective 1.1 Ensure timely issuance of decisions at the trial level

	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Performance Goal</b>	<b>Actual</b>	<b>Target</b>	<b>Target</b>
1.1.1 Average time from receipt to disposition of all cases.	221 days	180 days	200 days
1.1.2 Average time from receipt to disposition of penalty cases.	216 days	180 days	200 days
1.1.3 Percent of all cases on hand <b>over 365</b> days in age.	17%	10%	10%

### ***FY 2026***

FMSHRC established a pendency goal for trial level cases of 200 days for FY 2026. Pendency is the average time between receipt of a case and case disposition. The reason for this upward adjustment is due to several Administrative Law Judge retirements.

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FMSHRC estimates that 1,375 trial level cases will be pending at the beginning of FY 2026. FMSHRC anticipates that it will receive 2,095 new cases during FY 2026 and will dispose of 2,020 cases during the same period.

FMSHRC has established the following strategic objectives for appellate level cases:

### Strategic Objective 1.2 Ensure timely issuance of decisions at the appellate level

	FY 2024	FY 2025	FY 2026
Performance Goal	Actual	Target	Target
1.2.1 Average time from direction for review to issuance of decision.	15 months	12 months	12 months
1.2.2 Average time from briefing completion to issuance of decision.	12 months	9 months	9 months
1.2.3 Percent of cases on hand over 18 months in age.	48%	20%	20%

### Strategic Objective 1.3 Issue orders in motions to reopen cases in a timely manner

	FY 2024	FY 2025	FY 2026
Performance Goal	Actual	Target	Target
1.3.1 Average time from receipt of the motion to issuance of final order.	7 months	4 months	4 months

## FY 2026

The appellate caseload includes several types of cases including those for which, by law, FMSHRC must issue rulings very quickly. For example, FMSHRC hears appeals of temporary reinstatement cases; these are discrimination cases, and pursuant to FMSHRC's procedural rules, appeals of these types of decisions must be adjudicated within an extremely short timeframe. Commissioners' workload also includes deciding whether to accept petitions for discretionary review, which by statute must generally be granted or denied within approximately ten days.

In FY 2026, it is expected that 49 cases (Substantive and Default) will be pending at the beginning of the year. FMSHRC anticipates 59 new cases will be filed during FY 2026 and will dispose of 68 cases during the same period. FMSHRC anticipates the appellate docket will contain 40 cases at the end of FY 2026.

The legal proceedings involved in disposing of substantive cases are expected to average twelve months. Therefore, the cases disposed of during the year include both cases that were received in the previous year but not disposed of that year (cases pending at the beginning of the year), and new cases received during the year. FMSHRC will continue to work expeditiously to achieve the goals for case backlog and pendency.

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FMSHRC has established the following strategic objectives for the Agency Operations Function:

*Strategic Objective 2.1 – Modernize Information Technology infrastructure, resources, and capabilities.*

*Strategic Objective 2.2 – Increase internal transparency.*

*Strategic Objective 3.1 – Improve talent management.*

A qualitative description of progress is outlined below. Quantitative performance measures will be established to track progress toward achieving these strategic objectives.

### **Strategic Objective 2.1 Modernize Information Technology infrastructure, resources, and capabilities**

In FY2024, FMSHRC completed installation of dual-path fiber feeds from a new vendor at all three FMSHRC locations, eliminating single points of failure and boosting baseline throughput by an estimated 40%. In addition, FMSHRC rolled out next-generation firewalls at headquarters and satellite offices and established centralized logging and automated alerting for anomalous traffic patterns.

In FY2025, FMSHRC migrated 75% of mission-critical servers (file shares, dev/test environments) into our FedRAMP moderate-authorized cloud tenancy. Additionally, FMSHRC provisioned virtual desktop infrastructure (VDI) to validate access performance and PIV-enabled authentication. FMSHRC also conducted an agency-wide vulnerability scan and remediated all critical/high findings on laptops and servers older than 2018, in addition to implementing the Zero Trust Architecture blueprint to align with OMB's Federal Zero Trust Strategy. FMSHRC began ingesting scanned personnel and shared files into our interim cloud-based records repository. FMSHRC defined a metadata schema and retention workflows to support our forthcoming electronic case management system (eCMS) upgrade with AI.

In FY2026, FMSHRC expects to upgrade legacy VTC endpoints to Microsoft Teams Rooms for all offices, achieving seamless cross-office video meetings with sub-second join times. In addition, FMSHRC will focus on creating standardized MS Teams channels and OneDrive folders for records-management workstreams, streamlining document sharing and version control.

### **Strategic Objective 2.2 Increase internal transparency**

In FY2024, FMSHRC made significant progress adding substantive content to its newly established SharePoint Intranet site. Of note, FMSHRC initiated the transition of agencywide email announcements to the site, posting instead, to eliminate excessive and unnecessary email traffic. Over FY2024, 224 announcements were issued.

## **FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

In FY2025, FMSHRC initiated a dedicated review of all internal administrative policies to best align with the Administration's priorities. Policies not aligned were abolished. Separately, FMSHRC provided parties (coming to the agency for due process) external access to the electronic case management system (eCMS) to view the official files in their cases.

In FY2026, FMSHRC expects to focus on the digitization of all appellate level cases to streamline case processing.

### **Strategic Objective 3.1 Improve talent management**

In FY2024, FMSHRC recruited new supervisory talent with over 20 years legal writing experience, who subsequently initiated an internal mentorship network.

In FY2025, FMSHRC adhered to the government-wide Hiring Freeze and did not conduct recruitment efforts. However, FMSHRC is working on its Merit Hiring Plan aligned with Executive Order 14170, Reforming the Federal Hiring Process and Restoring Merit to Government Service ("Restoring Merit").

In FY2026, FMSHRC expects to implement its newly developed Merit Hiring Plan.