

has been afforded an opportunity to provide input on all matters pertaining to the settlement before the agreement is finalized; and

(iv) If the settlement agreement includes the withdrawal of a notice of contest, citation, notification of proposed penalty, or petition for modification of abatement period, state whether such withdrawal is with prejudice.

(2) The parties shall not incorporate the settlement agreement in, or append it to, the joint submission required in paragraph (b)(1) of this section or substitute the settlement agreement for the required joint submission.

(3) *Issuance of order terminating proceeding.* If the requirements of paragraphs (b)(1) and (2) of this section have been met with respect to all contested citation items and no affected employees who have elected party status have raised an objection to the reasonableness of any abatement period, the Judge shall issue an Order acknowledging that the parties have resolved all contested citation items and agreed to terminate the proceeding before the Commission.

(c) *Filing; service and notice.* A Notification of Settlement submitted after a Judge's report has been issued shall be filed with the Executive Secretary. Proof of service shall be filed with the Notification of Settlement, showing service upon all parties and authorized employee representatives in the manner prescribed by § 2200.7(c) and (d) and the posting of notice to non-party affected employees in the manner prescribed by § 2200.7(g). The parties shall also file a draft order terminating the proceedings for adoption by the Judge or, if the Judge's report has been issued, by the Commission. If the time has not expired under these rules for electing party status, an order acknowledging the termination of the proceedings before the Commission because of the settlement shall not be issued until at least 14 days after service or posting to consider any affected employee's or authorized employee representative's objection to the reasonableness of any abatement time. The affected employee or authorized employee representative shall file any such objection within this time. If such objection is filed, the Commission or

the Judge shall provide an opportunity for the affected employees or authorized employee representative to be heard and present evidence on the objection, which shall be limited to the reasonableness of the abatement period.

[84 FR 14558, Apr. 10, 2019, as amended at 85 FR 65220, Oct. 15, 2020]

§ 2200.101 Failure to obey rules.

(a) *Sanctions.* When any party has failed to plead or otherwise proceed as provided by these rules or as required by the Commission or the Judge, the party may be declared to be in default either on the initiative of the Commission or the Judge, after having been afforded an opportunity to show cause why the party should not be declared to be in default, or on the motion of a party. Subsequently, the Commission or the Judge, in their discretion, may enter a decision against the defaulting party or strike any pleading or document not filed in accordance with these rules.

(b) *Motion to set aside sanctions.* For reasons deemed sufficient by the Commission or the Judge and upon motion conforming to § 2200.40 expeditiously made, the Commission or the Judge may set aside a sanction imposed under paragraph (a) of this section. See § 2200.90(c).

(c) *Discovery sanctions and failure to appear.* This section does not apply to sanctions for failure to comply with orders compelling discovery, which are governed by § 2200.52(f), or to a default for failure to appear, which is governed by § 2200.64(a).

(d) *Show cause orders.* All show cause orders issued by the Commission or the Judge under paragraph (a) of this section shall be served in a manner prescribed in § 2200.7(o).

§ 2200.102 Withdrawal.

A party may withdraw its notice of contest, citation, notification of proposed penalty, or petition for modification of abatement period at any stage of a proceeding. The notice of withdrawal shall be served in accordance with § 2200.7(c) upon all parties and authorized employee representatives that are eligible to elect, but have not elected, party status. It shall also be posted