

## CHAPTER XX—OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

---

<i>Part</i>		<i>Page</i>
2200	Rules of procedure .....	255
2201	Regulations implementing the Freedom of Information Act .....	298
2202	[Reserved]	
2203	Regulations implementing the Government in the Sunshine Act .....	304
2204	Implementation of the Equal Access to Justice Act in proceedings before the Occupational Safety and Health Review Commission .....	309
2205	Enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by the Occupational Safety and Health Review Commission .....	315
2400	Regulations implementing the Privacy Act .....	321



## **PART 2200—RULES OF PROCEDURE**

### **Subpart A—General Provisions**

- Sec.
- 2200.1 Definitions.
- 2200.2 Scope of rules; applicability of Federal Rules of Civil Procedure; construction.
- 2200.3 Use of gender and number.
- 2200.4 Computation of time.
- 2200.5 Extension of time.
- 2200.6 Record address.
- 2200.7 Service and notice.
- 2200.8 Filing.
- 2200.9 Consolidation.
- 2200.10 Severance.
- 2200.11 Protection of claims of privilege.
- 2200.12 References to cases.

### **Subpart B—Parties and Representatives**

- 2200.20 Party status.
- 2200.21 Intervention; appearance by non-parties.
- 2200.22 Representation of parties and intervenors.
- 2200.23 Appearances and withdrawals.
- 2200.24 Brief of an amicus curiae.

### **Subpart C—Pleadings and Motions**

- 2200.30 General rules.
- 2200.31 Caption; titles of cases.
- 2200.32 Signing of pleadings and motions.
- 2200.33 Notices of contest.
- 2200.34 Employer contests.
- 2200.35 Disclosure of corporate parents, subsidiaries, and affiliates.
- 2200.36 [Reserved]
- 2200.37 Petitions for modification of the abatement period.
- 2200.38 Employee contests.
- 2200.39 Statement of position.
- 2200.40 Motions and requests.
- 2200.41 Failure to obey rules.

### **Subpart D—Prehearing Procedures and Discovery**

- 2200.50 [Reserved]
- 2200.51 Prehearing conferences and orders.
- 2200.52 General provisions governing discovery.
- 2200.53 Production of documents and things.
- 2200.54 Requests for admissions.
- 2200.55 Interrogatories.
- 2200.56 Depositions.
- 2200.57 Issuance of subpoenas; petitions to revoke or modify subpoenas; right to inspect or copy data.

### **Subpart E—Hearings**

- 2200.60 Notice of hearing; location.
- 2200.61 Submission without hearing.
- 2200.62 Postponement of hearing.

- 2200.63 Stay of proceedings.
- 2200.64 Failure to appear.
- 2200.65 Payment of witness fees and mileage; fees of persons taking depositions.
- 2200.66 Transcript of testimony.
- 2200.67 Duties and powers of judges.
- 2200.68 Disqualification of the judge.
- 2200.69 Examination of witnesses.
- 2200.70 Exhibits.
- 2200.71 Rules of evidence.
- 2200.72 Objections.
- 2200.73 Interlocutory review.
- 2200.74 Filing of briefs and proposed findings with the Judge; oral argument at the hearing.

### **Subpart F—Posthearing Procedures**

- 2200.90 Decisions of Judges.
- 2200.91 Discretionary review; petitions for discretionary review; statements in opposition to petitions.
- 2200.92 Review by the Commission.
- 2200.93 Briefs before the Commission.
- 2200.94 Stay of final order.
- 2200.95 Oral argument before the Commission.
- 2200.96 Commission receipt pursuant to 28 U.S.C. 2112(a)(1) of copies of petitions for judicial review of Commission orders when petitions for review are filed in two or more courts of appeals with respect to the same order.

### **Subpart G—Miscellaneous Provisions**

- 2200.100 Settlement.
- 2200.101 Settlement Judge procedure.
- 2200.102 Withdrawal.
- 2200.103 Expedited proceeding.
- 2200.104 Standards of conduct.
- 2200.105 Ex parte communication.
- 2200.106 Amendment to rules.
- 2200.107 Special circumstances; waiver of rules.
- 2200.108 Official Seal of the Occupational Safety and Health Review Commission.

### **Subpart H—Settlement Part**

- 2200.120 Settlement part.

### **Subparts I-L [Reserved]**

### **Subpart M—E-Z Trial**

- 2200.200 Purpose.
- 2200.201 Application.
- 2200.202 Eligibility for E-Z Trial.
- 2200.203 Commencing E-Z Trial.
- 2200.204 Discontinuance of E-Z Trial.
- 2200.205 Filing of pleadings.
- 2200.206 Disclosure of information.
- 2200.207 Pre-hearing conference.
- 2200.208 Discovery.
- 2200.209 Hearing.
- 2200.210 Review of Judge's decision.

## § 2200.1

2200.211 Applicability of subparts A through G.

AUTHORITY: 29 U.S.C. 661(g), unless otherwise noted.

Section 2200.96 is also issued under 28 U.S.C. 2112(a).

SOURCE: 51 FR 32015, Sept. 8, 1986, unless otherwise noted.

### Subpart A—General Provisions

#### § 2200.1 Definitions.

As used herein:

(a) *Act* means the Occupational Safety and Health Act of 1970, 29 U.S.C. 651-678.

(b) *Commission, person, employer, and employee* have the meanings set forth in section 3 of the Act.

(c) *Secretary* means the Secretary of Labor or his duly authorized representative.

(d) *Executive Secretary* means the Executive Secretary of the Commission.

(e) *Affected employee* means an employee of a cited employer who is exposed to or has access to the hazard arising out of the allegedly violative circumstances, conditions, practices or operations.

(f) *Judge* means an Administrative Law Judge appointed by the Chairman of the Commission pursuant to section 12(j) of the Act, 29 U.S.C. 661(j), as amended by Pub. L. 95-251, 92 Stat. 183, 184 (1978).

(g) *Authorized employee representative* means a labor organization that has a collective bargaining relationship with the cited employer and that represents affected employees.

(h) *Representative* means any person, including an authorized employee representative, authorized by a party or intervenor to represent him in a proceeding.

(i) *Citation* means a written communication issued by the Secretary to an employer pursuant to 9(a) of the Act.

(j) *Notification of proposed penalty* means a written communication issued by the Secretary to an employer pursuant to 10 (a) or (b) of the Act.

(k) *Day* means a calendar day.

(l) *Working day* means all days except Saturdays, Sundays, or Federal holidays.

## 29 CFR Ch. XX (7-1-05 Edition)

(m) *Proceeding* means any proceeding before the Commission or before a Judge.

(n) *Pleadings* are complaints and answers filed under §2200.34, statements of reasons and contestants' responses filed under §2200.38, and petitions for modification of abatement and objecting parties' responses filed under §2200.37. A motion is not a *pleading* within the meaning of these rules.

#### § 2200.2 Scope of rules; applicability of Federal Rules of Civil Procedure; construction.

(a) *Scope.* These rules shall govern all proceedings before the Commission and its Judges.

(b) *Applicability of Federal Rules of Civil Procedure.* In the absence of a specific provision, procedure shall be in accordance with the Federal Rules of Civil Procedure.

(c) *Construction.* These rules shall be construed to secure an expeditious, just and inexpensive determination of every case.

#### § 2200.3 Use of gender and number.

(a) *Number.* Words importing the singular number may extend and be applied to the plural and vice versa.

(b) *Gender.* Words importing the masculine gender may be applied to the feminine gender.

#### § 2200.4 Computation of time.

(a) *Computation.* In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or Federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Federal holiday. When the period of time prescribed or allowed is less than 11 days, the period shall commence on the first day which is not a Saturday, Sunday, or Federal holiday, and intermediate Saturdays, Sundays, and Federal holidays shall likewise be excluded from the computation.

(b) *Service by mail.* Where service of a document, including documents issued by the Commission or Judge, is made by mail pursuant to §2200.7, a separate