

stipulates a reasonable preestimate of likely damages.

(3) In the case of an entry upon land, the case be stayed to allow the party seeking entry an opportunity to seek an order of a court or search warrant with protective conditions.

(g) *Rejection of claim.* If the Judge overrules a claim of privilege, the person claiming the privilege may obtain as of right an order sealing from the public those portions of the record containing the allegedly privileged information pending interlocutory or final review of the ruling, or final disposition of the case, by the Commission. Interlocutory review of such an order shall be given priority consideration by the Commission.

[51 FR 32015, Sept. 8, 1986; 52 FR 13831, Apr. 27, 1987, as amended at 62 FR 35963, July 3, 1997]

EFFECTIVE DATE NOTE: At 70 FR 22788, May 3, 2005, § 2200.11 was removed and reserved, effective Aug. 1, 2005.

§ 2200.12 References to cases.

(a) *Citing decisions by Commission and Judges—*(1) *Generally.* Parties citing decisions by the Commission should include in the citation the name of the employer, a citation to either the Bureau of National Affairs' Occupational Safety and Health Cases ("BNA OSHC") or Commerce Clearing House's Occupational Safety and Health Decisions ("CCH OSHD"), the OSHRC docket number and the year of the decision. For example, *Clement Food Co.*, 11 BNA OSHC 2120 (No. 80-607, 1984).

(2) *Parenthetical statements.* When citing the decision of a Judge, the digest of an opinion, or the opinion of a single Commissioner, a parenthetical statement to that effect should be included. For example, *Rust Engineering Co.*, 1984 CCH OSHD ¶27,023 (No. 79-2090, 1984) (view of Chairman _____), *vacating direction for review of 1980 CCH OSHD ¶24,269 (1980) (ALJ) (digest).*

(3) *Additional reference to OSAHRC Reports optional.* A parallel reference to the Commission's official reporter, OSAHRC Reports, which prints the full text of all Commission and Judges' decisions in microfiche form, may also be included. For example, *Texaco, Inc.*, 80 OSAHRC 74/B1, 8 BNA OSHC 1758 (No.

77-3040, 1980). *See generally* 29 CFR 2201.4(c) (on OSAHRC Reports).

(b) *References to court decisions—*(1) *Parallel references to BNA and CCH reporters.* When citing a court decision, a parallel reference to either the Bureau of National Affairs' Occupational Safety and Health Cases ("BNA OSHC") or Commerce Clearing House's Occupational Safety and Health Decisions ("CCH OSHD") is desirable. For example, *Simplex Time Recorder Co. v. Secretary of Labor*, 766 F.2d 575, 12 BNA OSHC 1401 (D.C. Cir. 1985); *Deering Milliken, Inc. v. OSHRC*, 630 F.2d 1094, 1980 CCH OSHD ¶24,991 (5th Cir. 1980).

(2) *Name of employer to be indicated.* When a court decision is cited in which the first-listed party on each side is either the Secretary of Labor (or the name of a particular Secretary of Labor), the Commission, or a labor union, the citation should include in parenthesis the name of the employer in the Commission proceeding. For example, *Donovan v. Allied Industrial Workers (Archer Daniels Midland Co.)*, 760 F.2d 783, 12 BNA OSHC 1310 (7th Cir. 1985); *Donovan v. OSHRC (Mobil Oil Corp.)*, 713 F.2d 918, 1983 CCH OSHD ¶26,627 (2d Cir. 1983).

[51 FR 32015, Sept. 8, 1986; 52 FR 13831, Apr. 27, 1987]

Subpart B—Parties and Representatives

§ 2200.20 Party status.

(a) *Affected employees.* Affected employees and authorized employee representatives may elect party status concerning any matter in which the Act confers a right to participate. The election shall be accomplished by filing a written notice of election at least 10 days before the hearing. A notice of election filed less than ten days prior to the hearing is ineffective unless good cause is shown for not timely filing the notice. A notice of election shall be served on all other parties in accordance with § 2200.7.

(b) *Employee contest.* Where a notice of contest is filed by an employee or by an authorized employee representative with respect to the reasonableness of the period for abatement of a violation,