

§ 2200.210

exception of the 21 day period provided for in rule § 2200.90(b)(2).

[60 FR 41809, Aug. 14, 1995, as amended at 62 FR 40934, July 31, 1997]

§ 2200.210 Review of Judge's decision.

Any party may petition for Commission review of the Judge's decision as provided in § 2200.91. After the issuance of the Judge's written decision or order, the parties may pursue the case following the rules in subpart F.

§ 2200.211 Applicability of subparts A through G.

The provisions of subpart D (except for § 2200.57) and §§ 2200.34, 2200.37(d)(5), 2200.38, 2200.71, 2200.73 and 2200.74 will not apply to E-Z Trials. All other rules contained in Subparts A through G of the Commission's rules of procedure will apply when consistent with the rules in this subpart governing E-Z Trials.

PART 2201—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Sec.

- 2201.1 Purpose and scope.
- 2201.2 Description of agency.
- 2201.3 Delegation of authority.
- 2201.4 General policy.
- 2201.5 Copies of Commission decisions.
- 2201.6 Procedure for requesting records.
- 2201.7 Responses to requests.
- 2201.8 Fees for copying, searching, and review.
- 2201.9 Waiver of fees.
- 2201.10 Maintenance of statistics.

AUTHORITY: 29 U.S.C. 661(g); 5 U.S.C. 552.

SOURCE: 53 FR 17930, May 19, 1988, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 2201 appear at 61 FR 14024, Mar. 29, 1996.

§ 2201.1 Purpose of scope.

This part prescribes procedures to obtain information and records of the Occupational Safety and Health Review Commission under the Freedom of Information Act, 5 U.S.C. 552. It applies only to records or information of the Commission or in the Commission's custody. This part does not affect discovery in adversary proceedings before the Commission. Discovery is governed

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

by the Commission's Rules of Procedure in 29 CFR part 2200, subpart D.

§ 2201.2 Description of agency.

The Occupational Safety and Health Review Commission (OSHRC or Commission) adjudicates contested enforcement actions under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651-678. The Commission decides cases after the parties are given an opportunity for a hearing. All hearings are open to the public and are conducted at a place convenient to the parties by an Administrative Law Judge. Any Commissioner may direct that a decision of a Judge be reviewed by the full Commission.

§ 2201.3 Delegation of authority.

The Freedom of Information Act Officer is delegated the authority to act upon all requests for public records. In the absence of the Freedom of Information Act Officer, the Chairman or the Executive Director may designate another Commission officer or employee, such as the General Counsel or the Executive Secretary, to respond to requests. Copies of individual Commission decisions may be obtained directly from the Freedom of Information Act Officer at the Commission's national office. See § 2201.5(a). All other information requests shall be directed to the Freedom of Information Act Officer. See § 2201.6(b).

[61 FR 14025, Mar. 29, 1996]

§ 2201.4 General policy.

(a) *Non-exempt records available to public.* Except for records and information exempted from disclosure by 5 U.S.C. 553(b) or published in the FEDERAL REGISTER under 5 U.S.C. 552(a)(1), all records of the Commission or in its custody are available to any person who requests them in accordance with § 2201.6. Records include any information that would be a record subject to the requirements of 5 U.S.C. 552 when maintained by the Review Commission in any format, including electronic format. In searching for records, the Review Commission will look for records manually or by automated means. The Review Commission will search for records in their electronic form and in

hard copy form, in response to FOIA requests, except when such searching would significantly interfere with the operation of the Commission's automated information system.

(b) *Examination of records in cases appealed to courts.* A final order of the Commission may be appealed to a United States Court of Appeals. When this occurs, the Commission may send part or all of the official case file to the court and may retain other parts of the file. Thus, a document in a case may not be available from the Commission but only from the court of appeals. In such a case, the Freedom of Information Act Officer may inform the requester that the request for a particular document should be directed to the court.

(c) *Record availability.* The records of Review Commission activities are publicly available for inspection and copying at the OSHRC Information Office, 1120 20th St., NW, 9th Floor, Washington, DC. These records include:

(1) Final opinions including concurring and dissenting opinions as well as orders issued as a result of adjudication of cases.

(2) OSHRC Rules of Procedure and Guides to those procedures.

(3) Copies of records that have been released to a person under the Freedom of Information Act (FOIA) that, because of the subject matter, the Review Commission determines that the records have become or are likely to become the subject of subsequent requests for substantially the same records.

(4) A general index of records released under the FOIA.

(d) Materials created on or after November 1, 1996 under paragraphs (c) (1), (2), (3) and (4) of this section may also be accessed through the Internet at the Review Commission's World Wide Web site at <http://www.oshrc.gov>.

[53 FR 17930, May 19, 1988, as amended at 65 FR 24130, Apr. 25, 2000]

§ 2201.5 Copies of Commission decisions.

(a) *Single decisions.* One copy of a Commission decision or decision by an Administrative Law Judge may be obtained free of copying fees by calling, writing or visiting the Freedom of In-

formation Act Officer at the Commission's national office. A search fee may be charged, however, if the decision is not identified by name and date, or by docket number, or if it is not otherwise easily identifiable. See § 2201.8 (b)(2)(i). Copying fees will be charged if more than one decision is requested and the copying cost exceeds \$10. See § 2201.8 (a)(1) and (b)(1). The address and telephone number of the office at which decisions are available is OSHRC, Freedom of Information Act Officer, One Lafayette Centre, 1120-20th St. NW., room 900, Washington, DC 20036-3419. Telephone 202-606-5398.

(b)(1) *OSAHRC Reports.* All final Commission decisions from 1971 through 1992 (including decisions of the Commission and its Administrative Law Judges) of general applicability, and concurring and dissenting opinions, are published in a series of microfiche entitled OSAHRC Reports. OSAHRC Reports may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Persons wishing to obtain copies of numerous decisions and avoid large copying charges may purchase OSAHRC Reports or subscribe to a private reporting service. Decisions issued after 1992 are available by calling, writing or visiting the national office.

(2) *Citation form.* Decisions in the microfiche series of OSAHRC Reports are officially cited as follows: The name of the cited employer; the last two digits of the year of the decision; OSAHRC (signifying the name of the official reporter, OSAHRC Reports); the serial number of the fiche on which the decision is printed, followed by a slash mark and the coordinates on the fiche for the first page of the decision. For example, *J.W. Black Lumber Co.*, 75 OSAHRC 1/B9.

(3) *Indices.* The Commission indexes decisions in OSAHRC Reports by docket number and alphabetically by name. These indices may be purchased by contacting the Freedom of Information Act Officer.

[53 FR 17930, May 19, 1988, as amended at 58 FR 26066, Apr. 30, 1993; 61 FR 14025, Mar. 29, 1996]