

closed meeting, or closed portion of a meeting, for a period of at least two years after the meeting, or until one year after the conclusion of any Commission proceeding with respect to which all or part of the meeting was held, whichever occurs later.

[50 FR 51679, Dec. 19, 1985, as amended at 58 FR 26066, Apr. 30, 1993]

PART 2204—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN PROCEEDINGS BEFORE THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

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AUTHORITY: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)); Pub. L. 99-80, 99 Stat. 183.

SOURCE: 46 FR 48080, Sept. 30, 1981, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 2204 appear at 62 FR 59569, Nov. 4, 1997.

Subpart A—General Provisions

§ 2204.101 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504, provides for the award of attorney or agent fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called “adversary adjudications”) before the Occupational Safety and Health Review Commission. An eligible party may receive an award when it prevails over the Secretary of Labor, unless the Secretary’s position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards and the procedures and standards that the Commission uses to make awards.

[46 FR 48080, Sept. 30, 1981, as amended at 52 FR 5456, Feb. 23, 1987]

§ 2204.102 Definitions.

For the purposes of this part,

(a) The term *agent* means any person other than an attorney who represents a party in a proceeding before the Commission pursuant to § 2200.22;

(b) The term *Commission* means the Occupational Safety and Health Review Commission;

(c) The term *EAJA* means the Equal Access to Justice Act, 5 U.S.C. 504.

(d) The term *judge* means an administrative law judge appointed by the Commission under 29 U.S.C. 661(i);

(e) The term *OSH Act* means the Occupational Safety and Health Act of 1970, 29 U.S.C. 651-678;

(f) The term *Secretary* means the Secretary of Labor.

[46 FR 48080, Sept. 30, 1981, as amended at 52 FR 5456, Feb. 23, 1987]

§ 2204.103 When the EAJA applies.

The EAJA applies to adversary adjudications before the Commission pending or commenced on or after August 5, 1985. The EAJA also applies to adversary adjudications commenced on or before October 1, 1984, and finally disposed of before August 5, 1985, if an application for an award of fees and expenses, as described in subpart B of