

himself may be accompanied by another individual of his own choosing. Both the individual seeking access and the individual accompanying him shall be required to sign the required form indicating that OSHRC is authorized to discuss the contents of the subject record in the presence of both individuals.

(e) *Special rules for medical records.* Medical records shall be disclosed to the requester to whom they pertain unless the Executive Director, in consultation with a medical doctor named by the requesting individual, determines that access to such record could have an adverse effect upon such individual. In such a case, the Executive Director shall transmit such information to the named medical doctor.

(f) *When compliance is possible.* (1) The Executive Director shall inform the requester of the determination to grant the request and shall make the record available to the individual in the manner requested, that is, either by forwarding a copy of the information to him or by making it available for review, unless:

(i) It is impracticable to provide the requester with a copy of a record, in which case the requester shall be so notified, and, in addition, be informed of the procedures set forth in paragraph (b)(2) of this section, or

(ii) The responsible official has reason to believe that the cost of a copy of a record is considerably more expensive than anticipated by the requester, in which case he shall notify the requester of the estimated cost, and ascertain whether the requester still wishes to be provided with a copy of the information.

(2) Where a record is to be reviewed by the requester in person, the disclosure officer shall inform the requester in writing of:

(i) The date on which the record shall become available for review, the location at which it may be reviewed, and the hours for inspection;

(ii) The type of identification that shall be required in order for him to review the record;

(iii) Such person's right to have a person of his own choosing accompany him to review the record; and

(iv) Such person's right to have a person other than himself review the record.

(3) If the requester seeks to inspect the record without receiving a copy, he shall not leave OSHRC premises with the record and shall sign a statement indicating he has reviewed a specific record or category of record.

(g) Response when compliance is not possible. A reply denying a written request to review a record shall be in writing signed by the Executive Director or other appropriate official and shall be made only if such a record does not exist or does not contain personal information relating to the requester, or is exempt. This reply shall include a statement regarding the determining factors of denial, and the right to obtain judicial review in a district court of the United States.

[44 FR 3968, Jan. 19, 1979, as amended at 58 FR 26066, Apr. 30, 1993]

§ 2400.7 Procedures for requesting amendment.

(a) *Submission of requests for amendment.* Upon review of an individual's personal record, that individual may submit a request to amend such record. This request shall be submitted in writing to the Executive Director and shall include a statement of the amendment requested and the reasons therefor, e.g., relevance, accuracy, timeliness or completeness of the record.

(b) *Action to be taken by the Executive Director.* Upon receiving an amendment request, he or she shall promptly:

(1) Acknowledge in writing within ten (10) working days the receipt of the request.

(2) Make such inquiry as is necessary to determine whether the amendment is appropriate, and

(3) Correct or eliminate any information that is found to be incomplete, inaccurate, not relevant to a statutory purpose of OSHRC, or not timely and notify the requester when this action is complete, or

(4) Notify the requester of a determination not to amend and of the individual's right to appeal not later than thirty (30) working days after receipt of a request to amend.

§ 2400.8

(c) *Appeal procedure.* (1) If a request to inspect, copy or amend a record is denied, in whole or in part, or if no determination is made within the period prescribed by this part, the requester may appeal to the Chairman, OSHRC, One Lafayette Centre, 1120-20th Street NW., 9th Floor, Washington, DC 20036-3419.

(2) The requester shall submit his appeal in writing within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure of the Executive Director to make a determination. The letter of appeal should include, as applicable:

(i) Reasonable identification of the record to which access was sought or the amendment of which was requested.

(ii) A statement of the OSHRC action or failure to act being appealed and the relief sought.

(iii) A copy of the request, the notification of denial and of any other related correspondence.

(3) The Chairman shall make his final determination not later than thirty (30) days from the date of the request, unless he extends the time for good cause to be shown by him but not to exceed ninety (90) days from the date of the request. Any record found on appeal to be not complete, accurate, relevant, or timely, shall within thirty (30) working days of the date of such findings be appropriately amended.

(4) The decision of the Chairman constitutes the final decision of OSHRC on the right of the requester to inspect, copy, change or update a record. The decision on the appeal shall be in writing and, in the event of a denial, shall set forth the reasons for such denial and state the individual's right to obtain judicial review in a district court. An indexed file of the agency decisions on appeal shall be maintained by the Executive Director.

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(d) *Submission of statement of disagreement.* If the final decision does not satisfy the requester, any statement of reasonable length, provided by that individual, setting forth a position regarding the disputed information, shall be accepted and included in the relevant personal record.

(e) *Availability of assistance in exercising rights.* The Executive Director is available to provide an individual with assistance in exercising rights pursuant to this part.

[44 FR 3968, Jan. 19, 1979, as amended at 58 FR 26066, Apr. 30, 1993]

§ 2400.8 Schedule of fees.

(a) *Policy.* The purpose of this section is to establish fair and equitable fees to permit reproduction of records for concerned individuals.

(b) *Reproduction.* (1) For reproducing any paper or micrographic record or publication, the fee is \$.10 per page. No charge shall be made if the total fee authorized by this part in compliance with a request or series of related requests is less than \$3.00.

(2) OSHRC shall not normally furnish more than one copy of any record.

(c) *Limitations.* No fee shall be charged to any individual for the process of retrieving, or amending records.

§ 2400.9 Exemptions.

(a) Subsections 552a (j) and (k) of title 5, United States Code, empower the Chairman to exempt systems of records meeting certain criteria from various other subsections of section 552a. With respect to systems of records so exempted, nothing in this part shall require compliance with any provisions hereof implementing any subsections of section 552a from which those systems may properly be and have been exempted.