

Fed. Mine Safety and Health Review Commission

§ 2701.7

(b) *Shorter notice.* If a majority of the members of the Commission or a panel of three or more Commissioners determines by a recorded vote that pressing Commission business requires that a meeting be called in less than 7 days, the announcement required by paragraph (a) of this section shall be made at the earliest practicable time.

(c) *Changes in time, place, subject matter, and decision whether to open or close after public announcement of meeting.* If the time or place of a meeting publicly announced is changed, or an item to be considered at such a meeting is to be deleted, the change or deletion shall be publicly announced without a recorded vote at the earliest practicable time in the manner required by paragraph (a) of this section. The subject matter of a meeting publicly announced shall not be expanded and the decision to open or close such a meeting shall not be changed unless a majority of the members of the Commission or if a panel of three or more Commissioners determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible; the Commission shall publicly announce such a change and the vote of each member upon the change at the earliest practicable time.

§ 2701.4 Request to open or close meeting.

Any person may request that the Commission open a meeting that it has earlier decided to close. Any person whose interest may be directly affected by the opening of a meeting may request that the meeting be closed. Two copies of a request shall be filed in writing with the Executive Director of the Commission at the earliest practicable time, and no later than one hour before the meeting. A request to close shall state the interest of the person that may be adversely affected. The Commission shall take a recorded vote on the request if one member desires that it do so. The Executive Director shall inform the requesting person of whether a vote was taken, and, if so, its outcome. Requests shall be addressed as follows: Sunshine Act Request, Office of the Executive Director, Federal Mine Safety and Health Review Commission, 601 New Jersey Ave-

nue, NW., Suite 9500, Washington, DC 20001.

[44 FR 2575, Jan. 12, 1979, as amended at 67 FR 60862, Sept. 27, 2002]

§ 2701.5 Petition for review.

Any person may petition the Commission to review any action he alleges to be in violation of this part or 5 U.S.C. 552b that was taken by any employee or member of the Commission. The petition shall be in writing and shall be filed with the Executive Director within 30 days of the alleged violation. The Commission shall consider and rule upon the petition with expedition.

§ 2701.6 Discussion during open meetings.

Deliberations, discussions, comments, statements, or observations made during the course of an open meeting do not constitute actions of the Commission, nor do they necessarily represent the basis for any Commission action. Comments made by a Commissioner or an employee of the Commission may be advanced for purposes of discussion or argument, or as an aside, and may not reflect the views or ultimate position of that Commissioner or employee. Reasons for decisions stated by a Commissioner at an open meeting may be later changed by that Commissioner, as may a Commissioner's vote. For these reasons, persons who choose to act on the basis of discussions at open meetings do so entirely at their own risk and without any assurance that the Commission's final decisions will be reflective of the discussions or initial vote.

§ 2701.7 Expedited closing procedure.

(a) *Policy.* Although it is the general policy of the Commission to open to the public meetings that may be subject to closure, including meetings concerning adjudication of cases, the Commission may find it necessary in the public interest to close meetings. The purpose of this section is to provide an expedited closing procedure under 5 U.S.C. 552b(d)(4). The Commission has determined that, inasmuch as the Commission's responsibilities are almost entirely adjudicatory, a majority of its meetings may properly be closed under

5 U.S.C. 552b(c)(10). Although the Commission has to date held few meetings, those that have been held concerned the adjudication of cases and could properly have been closed.

(b) *Procedure.* A meeting may be closed if a majority of either the members of the Commission or of a panel of three or more Commissioners votes by recorded vote at the beginning of such a meeting to close it to the public. The record of the vote shall reflect the vote of each voting member and shall be made available to the public. A public announcement of the time, place, and subject matter of the meeting shall be made at the earliest practicable time, except to the extent that such information is exempt from disclosure under 5 U.S.C. 552b(c). Section 2701.3 does not apply to meetings closed under this section.

PART 2702—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Sec.

- 2702.1 Purpose and scope.
- 2702.2 Location of offices.
- 2702.3 Requests for information.
- 2702.4 Materials available.
- 2702.5 Fees applicable—categories of requesters.
- 2702.6 Fee schedule.
- 2702.7 No fees; waiver or reduction of fees.
- 2702.8 Advance payment of fees; interest; debt collection procedures.

AUTHORITY: Sec. 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 801 *et seq.*); 5 U.S.C. 552; Pub. L. 104-231, October 2, 1996, 110 Stat. 3048.

SOURCE: 45 FR 33607, May 20, 1980, unless otherwise noted.

§ 2702.1 Purpose and scope.

The Federal Mine Safety and Health Review Commission (Commission) is an independent agency with authority to adjudicate contests between the Mine Safety and Health Administration of the U.S. Department of Labor and private parties, as well as certain disputes solely between private parties, arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* The purpose of these rules is to establish procedures for implementing the Freedom of Information Act, 5 U.S.C. 552, as amended by the Electronic Free-

dom of Information Act Amendments of 1996, Pub. L. No. 104-231, 110 Stat. 3048; to provide guidance for those seeking to obtain information from the Commission; and to make all designated information readily available to the public. Additional guidance on obtaining information from the Commission can be found in the document entitled "Reference Guide for Obtaining Information from the Federal Mine Safety and Health Review Commission," which is available upon request from the Commission. The scope of these rules may be limited to requests for information that is not presently the subject of litigation before the Commission and that is not otherwise governed by the Commission's Procedural Rules at 29 CFR part 2700.

[62 FR 55334, Oct. 24, 1997]

§ 2702.2 Location of offices.

The Commission maintains its Headquarters office at 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001. It has two offices for Administrative Law Judges, one at 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, and the other at 1244 Speer Boulevard, Suite 280, Denver, Colorado 80204-3582.

[67 FR 60862, Sept. 27, 2002]

§ 2702.3 Requests for information.

(a) All requests for information should be in writing and should be mailed or delivered to Executive Director, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001. The words "Freedom of Information Act Request" should be printed on the face of the envelope. Requests for information shall describe the particular record requested to the fullest extent possible and specify the preferred form or format (including electronic formats) of the response. The Commission shall accommodate requesters as to form or format if the record is readily reproducible in the requested form or format. When requesters do not specify the preferred form or format of the response, the Commission shall respond in the form or format in which the record is most accessible to the Commission.