

Occupational Safety and Health Review Commission

§ 2400.4

2400.8 Schedule of fees.

2400.9 Exemptions.

AUTHORITY: Sec. 3(f), Privacy Act of 1974 (5 U.S.C. 552a(f), 88 Stat. 1896, 1900), and 5 U.S.C. 553.

SOURCE: 44 FR 3968, Jan. 19, 1979, unless otherwise noted.

§ 2400.1 Purpose and scope.

The purpose of the provisions of this part is to provide procedures to implement the Privacy Act of 1974 (5 U.S.C. 552a). The following provisions are applicable only to such items of information as relate to the agency or are within its custody. The Commission's custody encompasses all information which is kept by an agent by contract with the agency. They are not applicable to the rights of parties appearing in adversary proceedings before the Commission to obtain discovery from an adverse party. Such matters are governed by the Commission's Rules of Procedure which are published at 29 CFR 2200.1 *et seq.* This part is intended to protect individual privacy, and affects all personal information collection and usage activity of the agency.

§ 2400.2 Description of agency.

The Occupational Safety and Health Review Commission (OSHRC) adjudicates contested enforcement actions under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651-677). Decisions of the Commission on such actions are issued only after the parties to the case are afforded an opportunity for a hearing in accordance with section 554 of title 5, United States Code. All such hearings are conducted by an OSHRC Administrative Law Judge at a place convenient to the parties and are open to the public. Each Commission member has the authority to direct that a decision of a Judge be reviewed by the full Commission before becoming a final order.

§ 2400.3 Delegation of authority.

(a) The Executive Director shall insure agency-wide compliance with this policy.

(b) Custodians are responsible for adherence to this part within their respective units and in particular for their collection, use and disclosure of personal information, and for affording

individuals the right to inspect, obtain copies of and correct records concerning them. They are responsible for reporting the existence of personal records systems, changes to the contents of those systems and changes of routine use to the Executive Director, and also for establishing the relevancy of information within those systems.

§ 2400.4 Collection and disclosure of personal information.

(a) The following rules govern the collection of personal information throughout OSHRC operations:

(1) The OSHRC shall:

(i) Solicit, collect and maintain only such personal information as is relevant and necessary to accomplish a purpose required by statute or executive order.

(ii) Collect information, to the greatest extent practicable, directly from the subject individual when such information may result in adverse determinations about an individual's rights, benefits or privileges.

(iii) Inform any individual requested to disclose personal information whether that disclosure is mandatory or voluntary, by what authority it is solicited, the principal purposes for which it is intended to be used, the routine uses which may be made of it, and any penalties or consequences known to the OSHRC which shall result to the individual from such non-disclosure.

(2) OSHRC shall not discriminate against any individual who fails to provide personal information unless that information is required or necessary for the conduct of the system or program in which the individual desires to participate. See § 2400.4(a)(1)(i).

(3) No information shall be collected or maintained which describes how individuals exercise rights guaranteed by the First Amendment unless the Commission specifically determines that such information is relevant and necessary to carry out a statutory purpose of the OSHRC, and the collection is expressly authorized by statute or by the individual about whom the record is maintained.

(4) OSHRC shall not require disclosure of any individual's Social Security