

MAY 2010

Updated April 28, 2015

U.S. Occupational Safety and Health Review Commission Open Government Plan

Background

The U.S. Occupational Safety and Health Review Commission (hereinafter “Review Commission” or “OSHRC”) is an independent, adjudicatory agency created by the Occupational Safety and Health Act of 1970. Its sole statutory mandate is to serve as an administrative court providing just and expeditious resolution of disputes involving the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor, employers charged with violations of Federal safety and health standards, and employees and/or their representatives. The Review Commission was created by Congress as an agency completely independent of the Department of Labor to ensure that OSHA’s enforcement actions are carried out in accordance with the law and that all parties are treated consistent with due process should a dispute arise.

The Review Commission administers two levels of dispute resolution in accordance with its Rules of Procedure. The first level of adjudication is a hearing before an OSHRC Administrative Law Judge (ALJ). The second level of adjudication is a review of the ALJ’s decision by the full Commission provided that a Commission Member directs review (usually at the request of a party). Thus, the Review Commission essentially consists of both a trial level function (ALJ hearing), and an appellate review function (full Commission). Decisions of the Review Commission are subject to appeal to an appropriate Circuit of the U.S. Court of Appeals.

The Review Commission is classified as a “micro-agency” because of its small size (approximately 65 personnel). Because OSHRC’s functions are limited as described above, the agency does not maintain many of the types of “high value” data sets that are of particular interest in accordance with the Administration’s “Open Government” initiative.

In addition, the agency's information technology (IT) staff consists of two full-time employees located in the National Office, whose primary duties are focused on operations, support, maintenance and security of the agency's computer and telecommunications infrastructure. The agency's IT staff are responsible for posting Review Commission web site content and work closely with the Government Printing Office, which provides OSHRC's web site hosting, maintenance and support.

Public affairs functions at the Review Commission are additional duties performed by a staff member in the Chairman's Office.

Despite our small size and modest resources, the Review Commission is fully committed to the enhancement of openness and transparency in our operations and mission, consistent with the need to ensure respect for due process and privacy rights.

Transparency

In accordance with Office of Management and Budget Directive M-10-06, "Open Government," the Review Commission has developed an "Open Government" web page which is accessible from and highlighted on our main web page. The "Open Government" web page for OSHRC may be found at:

<http://www.oshrc.gov/open/commission.html>

As of January 2010, the Review Commission's "Open Government" web page included three newly developed public disclosure data sets as follows:

1. Commissioners' Monthly Docket Report (updated starting in February 2012 to contain a new column to indicate which Commissioners are not participating in a case);
2. Commissioners' Monthly Case Activity Report; and

3. Commission Briefing Notices.

OSHRC's "Open Government" web page was subsequently modified to include a feedback and comment section for public use (see email link at bottom of web page).

As a part of the Review Commission's goal of promoting even greater transparency, we subsequently pursued the following initiatives, all of which are being posted to the Commission's web site:

1. Posting of selected non-merit based (procedural) decisions of the ALJs (selected decisions posted under "Final ALJ Decisions");
2. Posting of all Commission-level oral arguments and Commission open meetings, using sound recordings, and/or written transcripts (posted under "OSHRC e-FOIA Reading Room");
3. A listing of docketed contests at the ALJ level (periodically posted under "Listing of New Cases Received" on the Open Government page).

In addition, we are now permitting the public to file Freedom of Information Act (FOIA) requests through e-mail. After the development of OSHRC's original Open Government Plan, OSHRC revised its regulations implementing the FOIA, updating them to reflect the amendments to the FOIA from the Openness Promotes Effectiveness in our National Government Act of 2007 (OPEN Government Act). The regulations became effective August 16, 2010. OSHRC also revised its FOIA Reference Guide, incorporating the guiding principle of the presumption of openness underlying the President's FOIA Memorandum and Attorney General's FOIA Guidelines. As a result, OSHRC now interprets its regulations, and has updated its FOIA Reference Guide, to permit the public to file a FOIA request through e-mail. More recently, in July 2014, the Commission

implemented a new online form and email address for submitting FOIA requests to the Commission. The form is a downloadable PDF file that requesters can fill out on their computers and then submit to the Commission either by fax, regular mail, or to its new email address. The new online form and email address should further increase the Commission's FOIA processing efficiency.

The Review Commission has also been posting information and documents filed with the Commission concerning our highest interest cases. These may be viewed here:

http://www.oshrc.gov/foia/foia_reading_room.html. This initiative should reduce the need for persons to file individual FOIA requests on matters of general public interest.

Finally, as part of our FY 2014-2018 Strategic Plan, the Review Commission has begun to publish on its "Open Government" web page significant non-dispositive orders of the ALJs and the Commission. These are orders of general public interest that would not normally be readily available to the public.

Enhancing Openness of Decisional Activity at the ALJ Level

Although predating the formal December 2009 announcement of the Administration's "Open Government" initiative, in March 2009, the Chairman directed that all ALJ decisions pending Commission review be posted to the agency's web site. As a result, the public has greater information on the ALJ decisions which are under review by the full Commission.

ALJ decisions pending Commission review may be found under the "Decisions" tab of the Review Commission's web site home page.

Responding to FOIA Requests

The Review Commission's FOIA Program is managed by the agency's General Counsel,

who serves as the Chief FOIA Officer and reports directly to the Chairman. The Chief FOIA Officer works directly with pertinent staff to obtain and provide responsive documents in a timely fashion. OSHRC administers the FOIA with a presumption in favor of disclosure, and responds to FOIA requests promptly and in a spirit of cooperation. As noted earlier, we have made it easier for members of the public to file FOIA requests. Our FOIA-related annual reports are available at:

http://www.oshrc.gov/foia/foia_annual_reports.html.

Records Management

The Review Commission's records management program is managed by the agency's Executive Secretary. The agency does not maintain classified or declassified records or material and thus declassification procedures are unnecessary. Generally, agency records that are scheduled for periodic transfer to the National Archives and Records Administration relate to cases and case filings concerning contests before the Review Commission.

Public Participation and Collaboration

The following individuals have primary responsibility for the Review Commission's "Open Government" initiatives:

Principal Senior Official – Janice Glick, Chief Counsel to the Chairman, jglick@oshrc.gov
(202-606-5370)

Alternate Senior Official – John X. Cerveny, Executive Secretary, jcerveny@oshrc.gov
(202-606-5400)

FOIA Issues – Nadine N. Mancini, General Counsel, nmancini@oshrc.gov
(202-606-5410)

Web Site Issues – J. David Walter, Chief Information Officer, jwalter@oshrc.gov
(202-606-5383)

For those who wish to contact the Review Commission by U.S. mail, the mailing address is:

U.S. Occupational Safety and Health Review Commission
1120 20th Street, N.W.
9th Floor
Washington, DC 20036-3457

The Review Commission is committed to increasing openness and transparency to the maximum practicable extent. We will examine every reasonable possibility to enhance public transparency, consistent with respect for due process and privacy concerns.

Members of the public who wish to comment on this plan, or who wish to suggest or recommend improvements or changes to the Review Commission's transparency initiatives, are welcome to contact us at the addresses or telephone numbers listed above.

The Review Commission will update and revise this plan as necessary in accordance with suggestions made by the public, agency personnel, and our ability to devote the necessary human and technical resources to implement the goals of transparency and open government.

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