

§ 2200.9

Commission and placed in the case file shall have the same force and effect as the original.

(3) A certificate of service shall accompany each document electronically filed. The certificate shall set forth the dates and manner of filing and service. It is the responsibility of the transmitting party to retain records showing the date of transmission, including receipts.

(4) A party that files a document by an electronic transmission shall utilize equipment and software that is compatible with equipment operated by the Commission and shall be responsible for the legibility of the document.

(5) Information that is sensitive but not privileged shall be filed as follows:

(i) If Social Security numbers must be included in a document, only the last four digits of that number shall be used;

(ii) If names of minor children must be mentioned, only the initials of that child shall be used;

(iii) If dates of birth must be included, only the year shall be used;

(iv) If financial account numbers must be filed, only the last four digits of these numbers shall be used;

(v) If a personal identifying number, such as a driver's license number must be filed, only the last four digits shall be used. Parties shall exercise caution when filing medical records, medical treatment records, medical diagnosis records, employment history, and individual financial information, and shall redact or exclude certain materials unnecessary to a disposition of the case.

(6) A transmittal letter shall not be filed electronically or by other means when a document is transmitted noting:

- (i) The transmittal of a document;
- (ii) The inclusion of an attachment;
- (iii) A request for a return receipt; or
- (iv) A request for additional information concerning the filing.

(7) The signature line of any document shall include the notation “/s/” followed by the typewritten name or graphical duplicate of the handwritten signature of the party representative filing the document. Such representation of the signature shall be deemed to be the original signature of the representative for all purposes unless the

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party representative shows that such representation of the signature was unauthorized.

(8) Privileged information shall not be filed electronically. Privileged information or information that is asserted by any party to be privileged shall not be filed electronically.

[70 FR 22787, May 3, 2005; 70 FR 25652, May 13, 2005; 74 FR 63986, Dec. 7, 2009]

§ 2200.9 Consolidation.

Cases may be consolidated on the motion of any party, on the Judge's own motion, or on the Commission's own motion, where there exist common parties, common questions of law or fact or in such other circumstances as justice or the administration of the Act require.

[51 FR 32015, Sept. 8, 1986; 52 FR 13831, Apr. 27, 1987; 52 FR 19631, May 26, 1987]

§ 2200.10 Severance.

Upon its own motion, or upon motion of any party or intervenor, where a showing of good cause has been made by the party or intervenor, the Commission or the Judge may order any proceeding severed with respect to some or all claims or parties.

[57 FR 41684, Sept. 11, 1992]

§ 2200.11 [Reserved]

§ 2200.12 References to cases.

(a) *Citing decisions by Commission and Judges*—(1) *Generally*. Parties citing decisions by the Commission should include in the citation the name of the employer, a citation to either the Bureau of National Affairs' Occupational Safety and Health Cases (“BNA OSHC”) or Commerce Clearing House's Occupational Safety and Health Decisions (“CCH OSHD”), the OSHRC docket number and the year of the decision. For example, *Clement Food Co.*, 11 BNA OSHC 2120 (No. 80–607, 1984).

(2) *Parenthetical statements*. When citing the decision of a Judge, the digest of an opinion, or the opinion of a single Commissioner, a parenthetical statement to that effect should be included. For example, *Rust Engineering Co.*, 1984 CCH OSHD ¶27,023 (No. 79–2090, 1984)

(view of Chairman _____), *vacating direction for review of 1980 CCH OSHD ¶24,269 (1980) (ALJ) (digest).*

(3) *Additional reference to OSAHRC Reports optional.* A parallel reference to the Commission's official reporter, OSAHRC Reports, which prints the full text of all Commission and Judges' decisions in microfiche form, may also be included. For example, *Texaco, Inc.*, 80 OSAHRC 74/B1, 8 BNA OSHC 1758 (No. 77-3040, 1980). See generally 29 CFR 2201.4(c) (on OSAHRC Reports).

(b) *References to court decisions—(1) Parallel references to BNA and CCH reporters.* When citing a court decision, a parallel reference to either the Bureau of National Affairs' Occupational Safety and Health Cases ("BNA OSHC") or Commerce Clearing House's Occupational Safety and Health Decisions ("CCH OSHD") is desirable. For example, *Simplex Time Recorder Co. v. Secretary of Labor*, 766 F.2d 575, 12 BNA OSHC 1401 (D.C. Cir. 1985); *Deering Milliken, Inc. v. OSHRC*, 630 F.2d 1094, 1980 CCH OSHD ¶24,991 (5th Cir. 1980).

(2) *Name of employer to be indicated.* When a court decision is cited in which the first-listed party on each side is either the Secretary of Labor (or the name of a particular Secretary of Labor), the Commission, or a labor union, the citation should include in parenthesis the name of the employer in the Commission proceeding. For example, *Donovan v. Allied Industrial Workers (Archer Daniels Midland Co.)*, 760 F.2d 783, 12 BNA OSHC 1310 (7th Cir. 1985); *Donovan v. OSHRC (Mobil Oil Corp.)*, 713 F.2d 918, 1983 CCH OSHD ¶26,627 (2d Cir. 1983).

[51 FR 32015, Sept. 8, 1986; 52 FR 13831, Apr. 27, 1987]

Subpart B—Parties and Representatives

§ 2200.20 Party status.

(a) *Affected employees.* Affected employees and authorized employee representatives may elect party status concerning any matter in which the Act confers a right to participate. The election shall be accomplished by filing a written notice of election at least 10 days before the hearing. A notice of election filed less than 10 days prior to

the hearing is ineffective unless good cause is shown for not timely filing the notice. A notice of election shall be served on all other parties in accordance with §2200.7.

(b) *Employee contest.* Where a notice of contest is filed by an employee or by an authorized employee representative with respect to the reasonableness of the period for abatement of a violation, the employer charged with the responsibility of abating the violation may elect party status by a notice filed at least 10 days before the hearing. A notice filed less than 10 days prior to the hearing is ineffective unless good cause is shown for not timely filing the notice.

[51 FR 32015, Sept. 8, 1986, as amended at 57 FR 41684, Sept. 11, 1992; 74 FR 63986, Dec. 7, 2009]

§ 2200.21 Intervention; appearance by non-parties.

(a) *When allowed.* A petition for leave to intervene may be filed at any time prior to 10 days before commencement of the hearing. A petition filed less than 10 days prior to the commencement of the hearing will be denied unless good cause is shown for not timely filing the petition. A petition shall be served on all parties in accordance with §2200.7.

(b) *Requirements of petition.* The petition shall set forth the interest of the petitioner in the proceeding and show that the participation of the petitioner will assist in the determination of the issues in question, and that the intervention will not unduly delay the proceeding.

(c) *Granting of petition.* The Commission or Judge may grant a petition for intervention to such an extent and upon such terms as the Commission or the Judge shall determine.

[51 FR 32015, Sept. 8, 1986, as amended at 74 FR 63986, Dec. 7, 2009]

§ 2200.22 Representation of parties and intervenors.

(a) *Representation.* Any party or intervenor may appear in person, through an attorney, or through another representative who is not an attorney. A representative must file an appearance in accordance with §2200.23. In the absence of an appearance by a