

Commission (OSHC or the Commission), which includes all systems of records operated by an entity on behalf of OSHRC, pursuant to a contract, to accomplish an agency function. For purposes of this part, such contractors do not include any consumer reporting agency to which a record is disclosed under 31 U.S.C. 3711(e). This part does not affect discovery in adversary proceedings before the Commission. Discovery is governed by the Commission's Rules of Procedures in 29 CFR part 2200, subpart D.

#### § 2400.2 Description of agency.

OSHC adjudicates contested enforcement actions under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651-678. The Commission decides cases after the parties are given an opportunity for a hearing. All hearings are open to the public and are conducted at a place convenient to the parties by an Administrative Law Judge. Any Commissioner may direct that a decision of a Judge be reviewed by the full Commission. The President designates one of the Commissioners as Chairman, who is responsible on behalf of the Commission for the administrative operations of the Commission.

#### § 2400.3 Delegation of authority.

The Chairman shall designate an OSHRC employee as the Privacy Officer and shall delegate to the Privacy Officer the authority to ensure agency-wide compliance with this part. As necessary, the Privacy Officer shall coordinate this delegated responsibility with the Senior Agency Official for Privacy.

#### § 2400.4 Procedures for requesting notification of and access to personal records.

The purpose of this section is to provide procedures by which an individual may request notification about whether a system of records contains a record about that individual ("a personal record"), or may gain access to such a record included in a system of records.

(a) *Submission of requests*—(1) *Manner*. An individual seeking information regarding the content of a system of records or access to a personal record

in a system of records should submit a written request either in person or by mail to the Privacy Officer, OSHRC, One Lafayette Centre, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457. A request may also be submitted to the FOIA Disclosure Officer in accordance with the procedures set forth at 29 CFR 2201.5(a). Such a request, however, must be identified as a "Privacy Act Request." The FOIA Disclosure Officer will forward any request identified in this manner to the Privacy Officer for processing.

(2) *Notification requests*. A request for notification about whether a system of records contains a personal record must specify which system of records, as described in the agency's system-of-records notices published in FEDERAL REGISTER, is the subject of the request.

(3) *Access requests*. A request for access to a personal record shall describe the nature of the record sought, the approximate dates covered by the record, and the system of records in which the record is thought to be included as described in the agency's system-of-records notices published in the FEDERAL REGISTER. The request should also indicate whether the requester wishes to review the record in person or obtain a copy by mail. If the information supplied is insufficient to locate or identify the record, the requester shall be notified promptly and, if necessary, informed of the additional information required.

(b) *Period for response*. After receiving a request, the Privacy Officer shall respond to it no later than 10 working days from the request's receipt.

(c) *Verification of identity*. The following standards for verifying an individual's identity are applicable to any individual who requests a personal record under this part:

(1) An individual seeking access to a record in person shall, if possible, present a government-issued identification that includes a photo, such as a passport or a driver's license.

(2) An individual seeking access to a record by mail shall, if possible, provide a signature, address, date of birth, place of birth, and a photocopy of a government-issued identification that includes a photo, such as a passport or a driver's license.

(3) An individual seeking access to a record either by mail or in person who cannot provide the necessary documentation of identification specified in paragraphs (c)(1) and (2) of this section may provide a declaration in accordance with 28 U.S.C. 1746, swearing or affirming to his or her identity and to the fact that he or she understands the penalties for false statements pursuant to 18 U.S.C. 1001.

(d) *Verification of guardianship.* The parent or guardian of a minor or an individual judicially determined to be incompetent and seeking to act on behalf of such minor or incompetent shall, in addition to establishing his or her own identity, establish the identity of the minor or other individual he or she represents as required in paragraph (c) of this section and establish his or her own parentage or guardianship of the subject of the record by furnishing either a copy of a birth certificate showing parentage or a court order establishing the guardianship.

(e) *Accompanying persons.* An individual seeking to review a personal record in person may be accompanied by another individual of his or her own choosing. Both the individual seeking access and the accompanying individual shall be required to sign a form provided by OSHRC indicating that OSHRC is authorized to discuss the contents of the subject record in the presence of both individuals.

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

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

(ii) The Privacy Officer has reason to believe that the cost of a copy is considerably more expensive than anticipated by the requester, in which case the Privacy Officer 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 personal record is to be reviewed by the requester in person, the Privacy 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 requirements for verifying identity as set forth in paragraphs (c) and (d);

(iii) The requester's right to be accompanied by another individual to review the record as set forth in paragraph (e) of this section; and

(iv) The requester's right to have another individual review the record.

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

(g) *When compliance is not possible.* The denial of a written request to review a personal record shall be sent to the requester in writing and signed by the Privacy Officer. This response shall be provided when the requested record does not exist, does not contain personal information relating to the requester, or is exempt. The response shall include a statement regarding the determining factors of denial, and the requester's rights to administrative appeal and, thereafter, judicial review in a district court of the United States.

**§ 2400.5 Special procedures for requesting medical records.**

(a) Upon an individual's request for access to any medical record about the requester, including any psychological record, the Privacy Officer shall make a preliminary determination on whether access to such record(s) could have an adverse effect upon the requester. If the Privacy Officer determines that access could have an adverse effect on the requester, OSHRC shall notify the requester in writing and advise that the record(s) at issue can be made available only to a physician of the requester's designation.

(b) OSHRC shall forward such record(s) to the physician designated