

**Regulatory Procedures**

*Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act (Public Law 96-354, as amended by Public Law 104-121), the Commission has reviewed this regulation, and by approving it, certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

*Executive Order 12866*

This rule is not a significant regulatory action as defined in Executive Order 12866 and is therefore not subject to review by the Office of Management and Budget.

**List of Subjects**

*29 CFR Part 1604*

Advertising, Employee benefit plans, Equal employment opportunity, Sex discrimination.

*29 CFR Part 1606*

Equal employment opportunity.

For the Commission,

**Ida L. Castro,**  
*Chairwoman.*

**PART 1604—[AMENDED]**

1. The authority citation for part 1604 continues to read as follows:

**Authority:** Sec. 713(b), 78 Stat. 265, 42 U.S.C. 2000e-12.

2. Section 1604.11 is amended by removing and reserving paragraph (c).

3. Section 1604.11 is amended by adding Appendix A at the end of the section to read as follows:

**§ 1604.11 Sexual harassment.**

\* \* \* \* \*

**Appendix A to § 1604.11—Background Information**

The Commission has rescinded § 1604.11(c) of the Guidelines on Sexual Harassment, which set forth the standard of employer liability for harassment by supervisors. That section is no longer valid, in light of the Supreme Court decisions in *Burlington Industries, Inc. v. Ellerth*, 524 U.S.

742 (1998), and *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). The Commission has issued a policy document that examines the Faragher and Ellerth decisions and provides detailed guidance on the issue of vicarious liability for harassment by supervisors. EEOC Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (6/18/99), EEOC Compliance Manual (BNA), N:4075 [Binder 3]; also available through EEOC's web site, at [www.eeoc.gov](http://www.eeoc.gov), or by calling the EEOC Publications Distribution Center, at 1-800-669-3362 (voice), 1-800-800-3302 (TTY).

**PART 1606—[AMENDED]**

4. The authority citation for part 1606 continues to read as follows:

**Authority:** Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*

5. Section 1606.8 is amended by removing and reserving paragraph (c).

6. Section 1606.8 is amended by adding Appendix A at the end of the section to read as follows:

**§ 1606.8 Harassment.**

\* \* \* \* \*

**Appendix A to § 1606.8—Background Information**

The Commission has rescinded § 1606.8(c) of the Guidelines on National Origin Harassment, which set forth the standard of employer liability for harassment by supervisors. That section is no longer valid, in light of the Supreme Court decisions in *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998), and *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). The Commission has issued a policy document that examines the Faragher and Ellerth decisions and provides detailed guidance on the issue of vicarious liability for harassment by supervisors. EEOC Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (6/18/99), EEOC Compliance Manual (BNA), N:4075 [Binder 3]; also available through EEOC's web site, at [www.eeoc.gov](http://www.eeoc.gov), or by calling the EEOC Publications Distribution Center, at 1-800-669-3362 (voice), 1-800-800-3302 (TTY).

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**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Parts 46 and 48**

RIN 1219-AB17

**Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines; Correction**

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects errors in the final rule for training and retraining of miners that appeared in the **Federal Register** on September 30, 1999. **EFFECTIVE DATE:** October 2, 2000.

**FOR FURTHER INFORMATION CONTACT:** Carol J. Jones, Acting Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

**SUPPLEMENTARY INFORMATION:** On September 30, 1999, in FR Doc. 99-25273 (64 FR 53080), MSHA published a final rule amending existing health and safety training regulations by establishing new training requirements for shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate, and surface limestone mines. This document corrects errors in the preamble.

1. On page 53080, in the third column, in the second full paragraph the last three sentences from the end should read "Based on Table 2, MSHA estimates that mine operators will incur a total of 253,393 burden hours at a cost of about \$8.2 million in the first year, and in every other succeeding year (*i.e.*, 3, 5, 7, 9). MSHA estimates the mine operators will incur 240,575 burden hours at a cost of \$7.8 million in years 2, 4, 6, 8, etc. The first year burden hours and costs are composed by summing the figures in Tables 1, 2, 3, and 4."

2. On page 53081, Table 2 should read:

Table 2—Mine Operators' Annual Burden Hours and Costs

Prov.	Mines (1-5)		Mines (6-19)		Mines (≥20)		Totals	
	Hrs.	Costs	Hrs.	Costs	Hrs.	Costs	Hrs.	Costs
46.3 .....	254,584	\$8,614	166,180	\$5,620	124,032	\$4,321	545	\$18,554
46.5 .....	41,153	1,481,519	21,604	777,757	4,963	178,654	67,720	2,437,930
46.6 .....	8,534	307,213	4,641	167,066	1,092	39,327	14,267	513,606
46.7 .....	6,102	219,673	13,328	479,804	18,692	672,924	38,122	1,372,401
46.8 .....	34,944	1,257,994	15,538	559,369	5,552	199,882	56,035	2,017,246
46.9 .....	1,541	40,829	3,145	83,345	2,995	79,357	7,680	203,531

Table 2—Mine Operators' Annual Burden Hours and Costs—Continued

Prov.	Mines (1–5)		Mines (6–19)		Mines (≥20)		Totals	
	Hrs.	Costs	Hrs.	Costs	Hrs.	Costs	Hrs.	Costs
46.11 .....	25,298	581,843	22,155	509,565	8,730	200,790	56,183	1,292,198
Total .....	117,826	3,897,684	80,577	2,582,527	42,148	1,375,254	240,552	7,855,465

3. On page 53088, in the first column, in the first full paragraph the first sentence should read "Several commenters favored a six-month delay in the effective date, stating it would provide adequate time for compliance if MSHA and state agencies were available to assist operators in such areas as the development of training plans and training materials."

4. On page 53088, in the first column, the first sentence in the last paragraph should read "We have concluded that a one-year delay in the effective date, without interim compliance deadlines, will ensure that production-operators, independent contractors, and others affected by the final part 46 rule will have sufficient time to become familiar with the rule's requirements and take steps to come into compliance."

5. On page 53089, in the first column, in the first full paragraph, the last two sentences should read "MSHA's current budget includes \$6.013 million for the State Grants program. Our budget request for fiscal year 2000 would increase that sum to \$6.139 million."

Dated: October 20, 1999.

Marvin W. Nichols,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 99-27897 Filed 10-28-99; 8:45 am]

BILLING CODE 4510-43-P

**DATES:** Effective November 29, 1999.

**ADDRESSES:** Send correspondence concerning this document to the attention of Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268-0001.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street NW., Washington, DC 20268-0001, 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

*Introduction.* The Commission hereby adopts, as a final rule, the revisions to its rules implementing the Freedom of Information Act (FOIA) described and identified here. (Order No. 1267, issued October 8, 1999.) The revisions, which were the subject of Commission Order No. 1253, were previously published at 64 FR 50031. No comments on the proposal were received.

The Commission has reviewed its initial proposal, and has determined that final adoption of the revisions is appropriate. The previous version is unchanged except for clarifying that claims that sensitive business information should be exempt from disclosure can be made under several subparts of 5 U.S.C. 552(b). Part I explains the changes. Part II summarizes the effect of the changes on organization of the rules. Part III sets out the final rules.

**Part I—Background**

The Commission's rules implementing the requirements of the FOIA, 5 U.S.C. 552, have not been amended since 1993. Consequently, they do not incorporate changes in applicable law since that time, most notably the requirements added by the Electronic FOIA, Pub. L. 104-231. Also, they do not reflect recent changes in the Commission's methods of information management, which have become increasingly computer-based, or other administrative changes affecting access to information at the Commission.

The rules adopted here are intended to address and accommodate these changes. They also incorporate a major structural change for the convenience of persons interested in obtaining information by various means. This

entails the transfer of all provisions describing FOIA access and processes at the Commission to a new Part 3004.

*A. Compliance With Public Inspection and Copying Requirements as Modified by the Electronic FOIA Amendments*

Subsection (a)(2) of the FOIA requires an agency to make available for public inspection and copying its final opinions in adjudicated cases, policy statements and interpretations not published in the **Federal Register**, and administrative staff manuals and instructions to staff that affect members of the public. The 1996 Electronic FOIA amendments extended this requirement by directing agencies to make such records created on or after November 1, 1996, available by computer telecommunications or other electronic means.

*Description of changes.* The final rules reflect the actions the Commission has taken to achieve compliance with the amended public inspection and copying requirements. Since 1996, the Commission has operated a website linked to the Internet for the purposes of telecommunication and publication of official information. Recently, the Commission has expanded the material available on its website to include all decisions issued on or after January 1, 1996; orders, notices and other documents issued in proceedings pending before the Commission; the domestic mail classification schedule, which is a compilation of all provisions that define the categories of mail and postal services available in the national postal system; and the rules of practices which govern the conduct of proceedings before the Commission. These materials are now available for viewing and downloading from the Commission's website at [www.prc.gov](http://www.prc.gov). Accordingly, 39 CFR 3004.2(c) identifies that domain as the location of the Commission's electronic reading room, and describes generally the categories of information available from the website.

*B. Transfer of FOIA Procedural Rules to New Part 3004*

Currently, the rules describing public information available at the Commission and procedures for obtaining access are

**POSTAL RATE COMMISSION**

**39 CFR Parts 3001, 3002 and 3004**

[Docket No. RM99-2; Order No. 1267]

**Freedom of Information Act Administrative Rulemaking**

**AGENCY:** Postal Rate Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adopting previously-proposed changes to its rules of practice to implement the Electronic Freedom of Information Act and to reflect improved methods of information management. These changes establish consistency with current law. They also improve the Commission's administration of related responsibilities and the public's ability to obtain or review certain information.