

adopt the proposal as set forth in the NPRM published in the **Federal Register** (74 FR 23133) on May 18, 2009.

II. Conclusion

CBP is extending the geographical limits of the port of Columbus, Ohio. CBP believes that extending the geographical limits of the port of Columbus, Ohio to include the Rickenbacker Intermodal Terminal and supporting infrastructure will enable CBP to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. The port of entry description of Columbus, Ohio, will be revised as proposed in the NPRM.

III. Port Description of Columbus, Ohio

The port limits of Columbus, Ohio, which are expanded to include the Rickenbacker Intermodal Terminal and supporting infrastructure, encompass the port limits set forth in T.D. 82–9 and T.D. 96–67 and are as follows: The geographical boundaries of the Columbus, Ohio, port of entry include all of Franklin County, and that part of Pickaway County east of U.S. Route 23 and north of State Route 752, all in the State of Ohio.

IV. Authority

This change is made under the authority of 5 U.S.C. 301; 19 U.S.C. 2, 66, and 1624; and section 403 of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2178 (Nov. 25, 2002) (6 U.S.C. 203).

V. Statutory and Regulatory Reviews

A. Executive Order 12866: Regulatory Planning and Review

This rule is not considered to be an economically significant regulatory action under Executive Order 12866, because it will not result in the expenditure of over \$100 million in any one year. The change is intended to expand the geographical boundaries of the Port of Columbus, Ohio, and make it more easily identifiable to the public. There are no new costs to the public associated with this rule. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business

per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule does not directly regulate small entities. The change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. To the extent that all entities are able to more efficiently or conveniently access the facilities and resources within the expanded geographical area of the new port limits, this rule should confer benefits to CBP, carriers, importers, and the general public.

Because this rule does not directly regulate small entities, CBP certifies that this rule does not have a significant economic impact on a substantial number of small entities.

VI. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the port extension is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this final rule is signed by the Secretary of Homeland Security.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

Amendments to CBP Regulations

■ For the reasons set forth above, part 101, CBP Regulations (19 CFR part 101), is amended as set forth below.

PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and the specific authority citation for section 101.3 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b.

* * * * *

§ 101.3 [Amended]

■ 2. The list of ports in § 101.3(b)(1) is amended by removing from the “Limits of Port” column for Columbus, Ohio, the present limits description “Including territory described in T.D. 96–67” and adding “CBP Dec. 09–35” in its place.

Dated: December 2, 2009.

Janet Napolitano,

Secretary.

[FR Doc. E9–29057 Filed 12–4–09; 8:45 am]

BILLING CODE 9111–14–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1601, 1602, 1603, 1607, 1610, 1611, 1614, 1625, and 1690

RIN 3046–AA88

Amendment of Procedural and Administrative Regulations To Include the Genetic Information Nondiscrimination Act of 2008 (GINA)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission (“EEOC” or “Commission”), through this final rule, amends some of its existing regulations to include references to title II of the Genetic Information Nondiscrimination Act of 2008 (“GINA”), which prohibits employment discrimination based on genetic information.

DATES: *Effective Date:* January 6, 2010.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, (202) 663–4668, or Erin N. Norris, Senior Attorney, (202) 663–4876, Office of Legal Counsel, 131 M Street, NE., Washington, DC 20507. Copies of this final rule are available in the following alternate formats: large print, braille, electronic computer disk, and audio-tape. Requests for this final rule in an alternate format should be made to the Publications Center at 1–800–699–3362 (voice), 1–800–800–3302 (TTY), or 703–821–2098 (FAX—this is not a toll free number).

SUPPLEMENTARY INFORMATION: On May 21, 2008, President George W. Bush signed the Genetic Information Nondiscrimination Act of 2008 (“GINA”) into law. Title II of GINA protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. On May 20, 2009, EEOC proposed to amend its procedural and administrative regulations to add references to GINA and sought public comment (74 FR 23674). EEOC received two comments. One comment expressed support for the proposed changes. The other comment, which raised seven points, was considered; however, we declined to make any of those changes, because the items either dealt with

substantive GINA issues beyond the scope of this rulemaking or asked for inclusion of language that was either already included in the regulations or was unrelated to GINA.

Regulatory Procedures

Executive Order 12866

The Commission has complied with the principles in section 1(b) of Executive Order 12866, Regulatory Planning and Review. This rule is not a "significant regulatory action" under section 3(f) of the Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of the Order.

Paperwork Reduction Act

This regulation contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it only adds references and does not impose a burden on any business entities. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 29 CFR Parts 1601, 1602, 1603, 1607, 1610, 1611, 1614, 1625, and 1690

Administrative practice and procedure, Equal Employment Opportunity.

For the Commission.

Dated: November 30, 2009.

Stuart J. Ishimaru,
Acting Chairman.

■ Accordingly, parts 1601, 1602, 1603, 1607, 1610, 1611, 1614, 1625, and 1690 are amended as follows:

PART 1601—PROCEDURAL REGULATIONS

■ 1. The authority citation for Part 1601 is revised to read as follows:

Authority: 42 U.S.C. 2000e to 2000e-17; 42 U.S.C. 12111 to 12117; 42 U.S.C. 2000ff to 2000ff-11.

■ 2. Section 1601.1 is revised to read as follows:

§ 1601.1 Purpose.

The regulations set forth in this part contain the procedures established by the Equal Employment Opportunity Commission for carrying out its responsibilities in the administration and enforcement of title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and the Genetic Information Nondiscrimination Act of 2008. Section 107 of the Americans with Disabilities Act and section 207 of the Genetic Information Nondiscrimination Act incorporate the powers, remedies and procedures set forth in sections 705, 706, 707, 709 and 710 of the Civil Rights Act of 1964. Based on its experience in the enforcement of title VII, the Americans with Disabilities Act, and the Genetic Information Nondiscrimination Act, and upon its evaluation of suggestions and petitions for amendments submitted by interested persons, the Commission may from time to time amend and revise these procedures.

■ 3. Section 1601.2 is revised to read as follows:

§ 1601.2 Terms defined in title VII of the Civil Rights Act, the Americans with Disabilities Act, and the Genetic Information Nondiscrimination Act.

The terms *person, employer, employment agency, labor organization, employee, commerce, industry affecting commerce, State and religion* as used in this part shall have the meanings set forth in section 701 of title VII of the Civil Rights Act of 1964. The term *disability* shall have the meaning set forth in section 3 of the Americans with Disabilities Act of 1990. The term *genetic information* shall have the meaning set forth in section 201 of the Genetic Information Nondiscrimination Act of 2008.

■ 4. Section 1601.3 is amended by revising paragraph (a) to read as follows:

§ 1601.3 Other definitions.

(a) For the purposes of this part, the term *title VII* shall mean title VII of the Civil Rights Act of 1964; the term *ADA* shall mean the Americans with Disabilities Act of 1990; the term *GINA* shall mean the Genetic Information Nondiscrimination Act of 2008; the term *Commission* shall mean the Equal Employment Opportunity Commission or any of its designated representatives; *Washington Field Office* shall mean the Commission's primary non-Headquarters office serving the District of Columbia and surrounding Maryland and Virginia suburban counties and jurisdictions; the term *FEP agency* shall mean a State or local agency which the Commission has determined satisfies the criteria stated in section 706(c) of title VII; and the term *verified* shall mean sworn to or affirmed before a notary public, designated representative of the Commission, or other person duly authorized by law to administer oaths and take acknowledgements, or supported by an unsworn declaration in writing under penalty of perjury.

* * * * *

■ 5. Section 1601.28 is amended as follows:

- a. In paragraphs (a)(3) and (b)(1), remove the words "title VII or the ADA" and add in their place the words "title VII, the ADA, or GINA" wherever they appear;
- b. Revise paragraph (e)(1) to read as follows:

§ 1601.28 Notice of right to sue: Procedure and authority.

* * * * *

(e) * * *
(1) Authorization to the aggrieved person to bring a civil action under title VII, the ADA, or GINA pursuant to section 706(f)(1) of title VII, section 107 of the ADA, or section 207 of GINA within 90 days from receipt of such authorization;

* * * * *

§§ 1601.6, 1601.7, 1601.10, 1601.11, 1601.13, 1601.18, 1601.21, 1601.22, 1601.24, 1601.25, 1601.26, 1601.30, 1601.70, and 1601.79 [Amended]

- 6. Remove the words "title VII or the ADA" and add in their place the words "title VII, the ADA, or GINA" wherever they appear in the following places:
 - a. § 1601.6(a);
 - b. § 1601.7(a);
 - c. § 1601.10;
 - d. § 1601.11(b);
 - e. § 1601.13(a)(3)(i), (a)(4)(i);
 - f. § 1601.18(a);
 - g. § 1601.21(a), (e)(2)(iii);
 - h. § 1601.22, third sentence;
 - i. § 1601.24(c);

- j. § 1601.25;
- k. § 1601.26(a);
- l. § 1601.30(a);
- m. § 1601.70(d);
- n. § 1601.79.

§§ 1601.16, 1601.17, 1601.30, and 1601.34
[Amended]

■ 7. Remove the words “title VII and the ADA” and add in their place the words “title VII, the ADA, and GINA” wherever they appear in the following places:

- a. § 1601.16(a);
- b. § 1601.17(a);
- c. § 1601.30(a);
- d. § 1601.34.

§ 1601.22 [Amended]

■ 8. In the first sentence of § 1601.22 remove the words “the ADA or title VII” and add in their place the words “title VII, the ADA, or GINA” wherever they appear.

PART 1602—RECORDKEEPING AND REPORTING REQUIREMENTS UNDER TITLE VII, THE ADA, AND GINA

■ 9. The authority citation for part 1602 is revised to read as follows:

Authority: 42 U.S.C. 2000e–8, 2000e–12; 44 U.S.C. 3501 *et seq.*; 42 U.S.C. 12117; 42 U.S.C. 2000ff–6.

■ 10. The heading for part 1602 is revised to read as set forth above.

■ 11. Section 1602.1 is revised to read as follows:

§ 1602.1 Purpose and scope.

Section 709 of title VII (42 U.S.C. 2000e), section 107 of the Americans with Disabilities Act (ADA) (42 U.S.C. 12117), and section 207(a) of the Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. 2000ff–6) require the Commission to establish regulations pursuant to which employers, labor organizations, joint labor-management committees, and employment agencies subject to those Acts shall make and preserve certain records and shall furnish specified information to aid in the administration and enforcement of the Acts.

§§ 1602.11, 1602.12, 1602.19, 1602.26, 1602.37, 1602.45, and 1602.54 [Amended]

■ 12. Remove the words “title VII or the ADA” and add in their place the words “title VII, the ADA, or GINA”; and remove the words “section 709(c) of title VII or section 107 of the ADA” and add in their place the words “section 709(c) of title VII, section 107 of the ADA, or section 207(a) of GINA” wherever they appear in the following places:

- a. 1602.11;

- b. 1602.12;
- c. 1602.19;
- d. 1602.26;
- e. 1602.37;
- f. 1602.45;
- g. 1602.54.

PART 1603—PROCEDURES FOR PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEE COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER SECTION 321 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

■ 13. The authority citation for part 1603 is revised to read as follows:

Authority: 42 U.S.C. 2000e–16c; 42 U.S.C. 2000ff–6(b).

■ 14. Section 1603.102(a) is revised to read as follows:

§ 1603.102 Filing a complaint.

(a) *Who may make a complaint.* Individuals referred to in § 1603.101 who believe they have been discriminated against on the basis of race, color, religion, sex, national origin, age, disability, or genetic information, or retaliated against for opposing any practice made unlawful by federal laws protecting equal employment opportunity or for participating in any stage of administrative or judicial proceedings under federal laws protecting equal employment opportunity may file a complaint not later than 180 days after the occurrence of the alleged discrimination.

* * * * *

PART 1607—UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

■ 15. The authority citation for Part 1607 continues to read as follows:

Authority: Secs. 709 and 713, Civil Rights Act of 1964 (78 Stat. 265) as amended by the Equal Employment Opportunity Act of 1972 (Pub. L. 92–261); 42 U.S.C. 2000e–8, 2000e–12.

§ 1607.2 [Amended]

■ 16. In § 1607.2, paragraph D., remove the word “handicap” and add in its place the word “disability.”

PART 1610—AVAILABILITY OF RECORDS

■ 17. The authority citation for Part 1610 continues to read as follows:

Authority: 42 U.S.C. 2000e–12(a), 5 U.S.C. 552 as amended by Pub. L. 93–502, Pub. L. 99–570, and Pub. L. 105–231; for § 1610.15, non-search or copy portions are issued under 31 U.S.C. 9701.

■ 18. Section 1610.7(a)(4) is revised to read as follows:

§ 1610.7 Where to make request; form.

(a) * * *

(4) Materials in office investigative files related to charges under: Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act (29 U.S.C. 206(d)); the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*); the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*); or the Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff *et seq.*).

* * * * *

■ 19. Section 1610.17(f) is revised to read as follows:

§ 1610.17 Exemptions.

* * * * *

(f) Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) and Section 207(a) of the Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff–6) explicitly adopt the powers, remedies, and procedures set forth in sections 706 and 709 of title VII. Accordingly, the prohibitions on disclosure contained in sections 706 and 709 of title VII as outlined in paragraphs (b), (c), (d), and (e) of this section, apply with equal force to requests for information related to charges and executed statistical reporting forms filed with the Commission under the Americans with Disabilities Act or the Genetic Information Nondiscrimination Act.

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PART 1611—PRIVACY ACT REGULATIONS

■ 20. The authority citation for Part 1611 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 21. Section 1611.13 is amended by revising the introductory text, the first sentence of paragraph (a), and the first sentence of paragraph (c) to read as follows:

§ 1611.13 Specific Exemptions—Charge and complaint files.

Pursuant to subsection (k)(2) of the Act, 5 U.S.C. 552a(k)(2), systems EEOC–1 (Age and Equal Pay Act Discrimination Case Files), EEOC–3 (Title VII, Americans with Disabilities Act, and GINA Discrimination Case Files), EEOC–15 (Internal Harassment Inquiries) and EEOC/GOVT–1 (Equal Employment Opportunity Complaint Records and Appeal Records) are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Privacy Act. The Commission has

determined to exempt these systems from the above named provisions of the Privacy Act for the following reasons:

(a) The files in these systems contain information obtained by the Commission and other Federal agencies in the course of harassment inquiries, and investigations of charges and complaints that violations of Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Americans with Disabilities Act, the Rehabilitation Act, and the Genetic Information Nondiscrimination Act have occurred.

(c) Subject individuals of the files in EEOC-1 (Age and Equal Pay Act Discrimination Case Files), EEOC-3 (Title VII, Americans with Disabilities Act, and GINA Discrimination Case Files), and EEOC/GOVT-1 (Equal Employment Opportunity Complaint Records and Appeal Records) have been provided a means of access to their records by the Freedom of Information Act.

PART 1614—FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

22. The authority citation for Part 1614 is revised to read as follows: Authority: 29 U.S.C. 206(d), 633a, 791 and 794a; 42 U.S.C. 2000e-16 and 2000ff-6(e); E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964-1965 Comp., p. 306; E.O. 11478, 3 CFR, 1969 Comp., p. 133; E.O. 12106, 3 CFR, 1978 Comp., p. 263; Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p. 321.

23. Section 1614.101 is revised to read as follows:

1614.101 General policy.

(a) It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, disability, or genetic information and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.

(b) No person shall be subject to retaliation for opposing any practice made unlawful by title VII of the Civil Rights Act (title VII) (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act (ADEA) (29 U.S.C. 621 et seq.), the Equal Pay Act (29 U.S.C. 206(d)), the Rehabilitation Act (29 U.S.C. 791 et seq.), or the Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. 2000ff et seq.) or for

participating in any stage of administrative or judicial proceedings under those statutes.

24. Section 1614.102(a)(4) is revised to read as follows:

1614.102 Agency program.

(4) Communicate the agency's equal employment opportunity policy and program and its employment needs to all sources of job candidates without regard to race, color, religion, sex, national origin, age, disability, or genetic information, and solicit their recruitment assistance on a continuing basis;

25. Section 1614.103(a) is revised to read as follows:

1614.103 Complaints of discrimination covered by this part.

(a) Individual and class complaints of employment discrimination and retaliation prohibited by title VII (discrimination on the basis of race, color, religion, sex and national origin), the ADEA (discrimination on the basis of age when the aggrieved individual is at least 40 years of age), the Rehabilitation Act (discrimination on the basis of disability), the Equal Pay Act (sex-based wage discrimination), or GINA (discrimination on the basis of genetic information) shall be processed in accordance with this part. Complaints alleging retaliation prohibited by these statutes are considered to be complaints of discrimination for purposes of this part.

26. Section 1614.105(a) introductory text is revised to read as follows:

1614.105 Pre-complaint processing.

(a) Aggrieved persons who believe they have been discriminated against on the basis of race, color, religion, sex, national origin, age, disability, or genetic information must consult a Counselor prior to filing a complaint in order to try to informally resolve the matter.

27. Section 1614.204(a)(1) is revised to read as follows:

1614.204 Class complaints.

(1) A class is a group of employees, former employees or applicants for employment who, it is alleged, have been or are being adversely affected by an agency personnel management policy or practice that discriminates against the group on the basis of their race, color,

religion, sex, national origin, age, disability, or genetic information.

28. Section 1614.302(a) is revised to read as follows:

1614.302 Mixed case complaints.

(a) Definitions—(1) Mixed case complaint. A mixed case complaint is a complaint of employment discrimination filed with a federal agency based on race, color, religion, sex, national origin, age, disability, or genetic information related to or stemming from an action that can be appealed to the Merit Systems Protection Board (MSPB). The complaint may contain only an allegation of employment discrimination or it may contain additional allegations that the MSPB has jurisdiction to address.

(2) Mixed case appeals. A mixed case appeal is an appeal filed with the MSPB that alleges that an appealable agency action was effected, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, disability, age, or genetic information.

29. Section 1614.304(b)(3) is revised to read as follows:

1614.304 Contents of petition.

(3) A statement of the reasons why the decision of the MSPB is alleged to be incorrect, in whole or in part, only with regard to issues of discrimination based on race, color, religion, sex, national origin, age, disability, or genetic information;

1614.601 [Amended]

30. Section 1614.601 is amended as follows:

- a. Remove the word "handicap(s)" and add in its place the word "disability" in paragraph (a);
b. Remove the word "handicap" and add in its place the word "disability" wherever it appears in paragraphs (f) and (g);
c. Remove the word "handicaps" and add in its place the word "disabilities" wherever it appears in paragraph (f).

31. Section 1614.702(j) is revised to read as follows:

1614.702 Definitions.

(j) The term basis of alleged discrimination refers to the individual's protected status (i.e., race, color, religion, reprisal, sex, national origin,

Equal Pay Act, age, disability, or genetic information). Only those bases protected by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*, the Equal Pay Act of 1963, 29 U.S.C. 206(d), the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 *et seq.*, and the Genetic Information Nondiscrimination Act, 42 U.S.C. 2000ff *et seq.*, are covered by the federal EEO process.

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PART 1625—AGE DISCRIMINATION IN EMPLOYMENT ACT

■ 32. The authority citation for Part 1625 continues to read as follows:

Authority: 81 Stat. 602; 29 U.S.C. 621, 5 U.S.C. 301, Secretary's Order No. 10–68; Secretary's Order No. 11–68; sec. 12, 29 U.S.C. 631, Pub. L. 99–592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

§ 1625.31 [Amended]

■ 33. In § 1625.31(a), remove the word “handicapped” and add in its place the phrase “individuals with disabilities.”

PART 1690—PROCEDURES ON INTERAGENCY COORDINATION OF EQUAL EMPLOYMENT OPPORTUNITY ISSUANCES

■ 34. The authority citation for Part 1690 continues to read as follows:

Authority: Sec. 715 of title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e-14); Reorganization Plan No. 1 of 1978, 43 FR 19807; E.O. 12067, 43 FR 28967.

§ 1690.102 [Amended]

■ 35. In § 1690.102, remove the word “handicap” and add in its place the word “disability.”

[FR Doc. E9–29012 Filed 12–4–09; 8:45 am]

BILLING CODE 6570–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Parts 2200, 2203, and 2204

Rules of Procedure; Regulations Implementing the Government in the Sunshine Act; Implementation of the Equal Access to Justice Act in Proceedings Before the Occupational Safety and Health Review Commission

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule; corrections and technical amendments.

SUMMARY: The Occupational Safety and Health Review Commission (“OSHR”) is

making various corrections and technical amendments to its rules of procedure and regulations which implement the Government in the Sunshine Act and the Equal Access to Justice Act in proceedings before OSHRC.

DATES: Effective on December 7, 2009.

FOR FURTHER INFORMATION CONTACT: Ron Bailey, Attorney-Advisor, Office of the General Counsel, by telephone at (202) 606–5410, by e-mail at rbailey@oshrc.gov, or by mail at: 1120–20th Street, NW., Ninth Floor, Washington, DC 20036–3457.

SUPPLEMENTARY INFORMATION:

I. Background

OSHRC is making corrections and amendments to outdated and erroneous cross-references in 29 CFR parts 2200 and 2204, and inconsistencies in word choice, citation form, and capitalization, as well as various grammatical errors, in 29 CFR parts 2200 and 2203. OSHRC is also amending its rule regarding interlocutory review to clarify, as stated elsewhere in the rules, that a petition for interlocutory review is considered filed when received by the Commission. Finally, OSHRC is amending its procedure regarding the filing of documents in cases on review before the Commission to require the filing of only original documents, thus saving paper and easing the parties' filing burden.

Part 2200

OSHRC is making various grammatical corrections and technical amendments to part 2200. First, in § 2200.209(g), the phrase “the 21 day period” is amended to include a hyphen between “21” and “day.” Second, in the second sentence of § 2200.52(d), the word “the” is added before the word “Judge.” Third, the words “judge” and “judges” in the text of §§ 2200.8(g) and .52(d) and the title of §§ 2200.67 and .68 are now capitalized in order to make capitalization of that word consistent throughout part 2200. Fourth, the word “memorandums” in § 2200.93(e) is amended to “memoranda,” which is used elsewhere in the Commission rules. Fifth, the apostrophes in the phrases “ten days' written notice” and “ten days' notice,” appearing in §§ 2200.56(c) and .60, are deleted because apostrophes are not used in other similar phrases throughout the rules. Sixth, for the sake of consistency, except where a number is the first word of a sentence, the numeral rather than the spelled-out word is now used when the number pertains to a period of time. This change results in amendments to §§ 2200.20(a) and (b), .21(a), .40(b) and

(c), .52(a)(2), .56(c), .60, .62(c), .64(b), .70(f), .73(b), .74(b), .95(c)(1) and (h)(1), .104(b)(2), .202(a)(5), .203(b) and (c), and .204(b). Seventh, also for the sake of consistency, parallel cites to the United States Code are now included when referencing the Occupational Safety and Health Act (“Act”), 29 U.S.C. 651–678. This change results in amendments to § 2200.1(b), (i), and (j), as well as § 2200.37(c)(3). Similarly, citation to the Act is now included when referencing the relevant provisions in the United States Code. This change results in amendments to § 2200.120(e). Eighth, when referencing a specific federal rule, the phrase “Federal Rule of Civil Procedure” now precedes the number of the rule. This change results in amendments to §§ 2200.51(b); .52(a)(1)(iii); .56(a), (e), (f), (g), and (h); and .61. Ninth, in most of the procedural rules, the Chief Administrative Law Judge is referred to by his or her full title, even when mentioned multiple times in a section. All references to this position are now amended to read “Chief Administrative Law Judge,” which results in amendments to §§ 2200.203(c), .204(a), and .209(f). Finally, in order to clarify, as stated in § 2200.8(e)(2), that a petition for interlocutory review is deemed filed when it is received by the Commission, a new paragraph including this requirement is added to § 2200.73, and the reference to § 2200.73(b) in § 2200.8(e)(2) is changed to § 2200.73.

OSHRC is also making amendments to the following outdated cross-references in this part. First, § 2200.37(d)(4) references § 2200.36(c)(2)–(c)(4), which was re-designated as § 2200.35(b)–(d) in 1992. Rules of Procedure, 57 FR 41676, 41685 (Sept. 11, 1992) (final rule). The reference to § 2200.36(c)(2)–(c)(4) is amended to reflect this re-designation. Second, § 2200.56(g) and (h) reference Federal Rules of Civil Procedure 30(b)(7) and (b)(4), respectively, which were re-designated as Rule 30(b)(4) and (b)(3) in the 1993 Revisions to the Federal Rules of Civil Procedure. The references to Rule 30 are amended to reflect these re-designations. Third, § 2200.73(b) references § 2200.36(c), which was re-designated as § 2200.35 in 1992. The reference to § 2200.36(c) is amended to reflect this re-designation. Finally, § 2200.104(d) states, “All show cause orders issued by the Commission or Judge under paragraph (c) of this section.” However, paragraph (c) only refers to action by the Commission. Paragraph (b), which refers to action by the Judge, does not appear to require a show cause order. The words “or Judge” are therefore deleted from paragraph (d).