



FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FREEDOM OF INFORMATION ACT IMPROVEMENT PLAN UNDER EXECUTIVE ORDER 13,392.

INTRODUCTION

On December 14, 2005, the President issued Executive Order 13,392 entitled “Improving Agency Disclosures of Information” published at 70 Fed. Reg. 75, 373. Pursuant to Section 2(d) of the Executive Order, the Federal Mine Safety and Health Review Commission designated its Executive Director as its chief Freedom of Information Act (FOIA) officer and the Office of the Executive Director as its FOIA request service center.

Pursuant to Section 3(a) of the Executive Order, the Commission conducted a comprehensive review of its operations under FOIA, which are centralized, and the results of this review are set forth below. Further, pursuant to Section 3(b) of the Executive Order, and in accordance with the standard reporting and planning format that the Department of Justice prescribed for use by all agencies, the following plan for the improvement of FOIA administration throughout the Commission is hereby established, effective as of this date.

The Commission is an independent adjudicative agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977 as amended.

Most cases that come before the Commission involve civil penalties proposed by the Department of Labor’s Mine Safety and Health Administration (MSHA) against mine operators and address whether the alleged violations occurred as well as the appropriateness of the proposed penalty. Other types of cases include contests of MSHA orders to close a mine for health and safety reasons, miner’s charges of discrimination based on their complaints regarding health or safety, miner’s request for compensation after being idled by a mine closure order, and disputes involving underground coal mine accident response plans.

The Commission’s Administrative Law Judges (ALJ) decide cases at the trial level, a five-member Commission provides discretionary appellate review. An ALJ decision that is not accepted for review becomes a final, non-precedential order of the Commission. Appeals from the Commission’s decisions are to the federal circuit courts of appeals.

A. Nature of the Commission's FOIA Operations

FOIA requests to the Commission are insufficient to warrant a full-time FOIA specialist. A staff member of the Office of the Executive Director, who has been trained in FOIA matters, is responsible for the Commission's FOIA activities in addition to other office assignments. Over the past four years, the Commission's FOIA requests have ranged from a high of 39 in FY 03 to a low of 23 in FY 05. The majority of FOIA requests are related to its docketed cases, i.e. copies of transcripts of hearings or other legal filings. There is no FOIA case backlog.

B. Area Selected for Review

The Commission reviewed the following potential improvement areas:

- Customer Service
- Website Improvements

C. Narrative Statement Summarizing the Results of Review

The Commission reviewed its FOIA operations and determined that, because of its low volume of FOIA requests and its response time being normally within the statutory time period, it would focus on continued professional delivery of customer service and on the continued prompt updating of its website posting of case decisions, thus providing the Commission's clientele with information on its mission responsibilities, absent the need of FOIA requests.

D. Areas Chosen as Improvement Areas for Plan

- Customer Service
- Website improvements

E. Improvement Areas Plans

1. **Customer Service:**

Goal: Provide training and orientation to Commission program staff to ensure that FOIA staff provides continued professional delivery of customer service.

Target Completion: December 31, 2006.

Steps: Issue revised written instructions to Commission staff on procedures for control, information gathering, and response to FOIA requests.

2. **Website Improvement**

Goal: Continue to improve the Commission's website in order to continue to provide historical and current information on its mission responsibilities thus lessening the need for FOIA requests.

Target Completion: December 31, 2007

Steps:

- Document and refine the process of decisional website postings
- Document and refine the process of audio website postings of meetings and oral arguments
- Document and review procedures for deleting obsolete website material
- Examine ways to increase the historical database of Commission's decisions
- Explore economical methods of using website decisional postings as citable reference.

F. Improvement Time Periods

Areas anticipated to be completed by December 31, 2006

- Customer Service

Areas anticipated to be completed by December 31, 2007

- Commission Website Improvement

MICHAEL F. DUFFY
CHAIRMAN
June 28, 2006