

To prevent structural degradation of the attachment of the horizontal stabilizer to the fuselage, accomplish the following:

(a) For Model Viscount 744 and 745D airplanes: Within 3,000 landings or 3 years after the effective date of this AD, whichever occurs first, perform a high frequency eddy current (HFEC) inspection to detect cracking of the bolt holes on the top fittings of the root joint of the tailplane spar, in accordance with British Aerospace Alert Preliminary Technical Leaflet (PTL) 264, Issue 3, dated September 1, 1992. Repeat the inspection thereafter at intervals not to exceed 3,000 landings or 3 years, whichever occurs first.

(b) For Model Viscount 810 airplanes: Within 1,000 landings or 1 year after the effective date of this AD, whichever occurs first, perform an HFEC inspection to detect cracking of the bolt holes on the top fittings of the root joint of the tailplane spar, in accordance with British Aerospace Alert PTL 127, Issue 3, dated June 1, 1992. Repeat the inspection thereafter at intervals not to exceed 3,000 landings or 3 years, whichever occurs first.

(c) If any cracking is found during the inspections required by paragraph (a) or (b) of this AD, prior to further flight, replace the cracked fitting with a serviceable part, in accordance with British Aerospace Alert PTL 264, Issue 3, dated September 1, 1992 (for Model 744 and 745D airplanes), or Alert PTL 127, Issue 3, dated June 1, 1992 (for Model 810 airplanes); as applicable.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 25, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-10587 Filed 4-28-95; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Ch. IX

[Docket No. N-95-3858; FR-3647-N-04]

RIN 2577-AB44

Vacancy Rule: Notice of Cancellation of Third Meeting of Negotiated Rulemaking Advisory Committee

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of cancellation of meeting.

SUMMARY: The Department has established a Negotiated Rulemaking Advisory Committee to discuss and negotiate a proposed rule that would change the current method of determining the payment of operating subsidies to vacant public housing units. The Committee met in March and April 1995, after publishing notices of these meetings. This notice announces that a third meeting that had been scheduled for May 2 and 3, 1995, has been cancelled, pending a determination by the Committee of whether an additional meeting is necessary.

FOR FURTHER INFORMATION CONTACT: John T. Comerford, Director, Financial Management Division, Public and Indian Housing, Room 4212, Department of Housing and Urban Development, 431 Seventh Street, SW, Washington, DC 20410-0500; telephone (202) 708-1872, or (202) 708-0850 (TDD). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Background

On February 24, 1995 (60 FR 10339), the Department published a notice of establishment of a Negotiated Rulemaking Advisory Committee to discuss and negotiate a proposed rule that would change the current method of determining the payment of operating subsidies to vacant public housing units. The February 24 notice also announced the first meeting of this committee, which was held on March 7-9, 1995, in Washington, DC.

On March 20, 1995 (60 FR 14707), the Department published a notice of the second and third meetings of the committee, to be held in April and May 1995. The second meeting was held on April 4 and 5, 1995, as scheduled; however, at the April meeting the

committee determined that it would not meet on the dates announced for May 1995. If an additional meeting is necessary to ensure consensus by the committee, an announcement of the rescheduled meeting will be published in the **Federal Register**.

Authority: 42 U.S.C. 1437g, 3635(d).

Dated: April 26, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95-10666 Filed 4-27-95; 9:26 am]

BILLING CODE 4210-33-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Review Commission proposes to revise its rules governing simplified proceedings and to institute a pilot E-Z Trial program. This program would be instituted on a limited basis for a one year trial period. After the trial period, the Commission would evaluate the results and determine whether it should continue the E-Z Trial program and, if so, what modifications should be made. As the name implies, E-Z Trial would simplify and accelerate the adjudicative process for cases that warrant a less formal, less expensive process. The most significant change to the rules would strengthen the role of Commission judges in determining whether a case is tried under simplified proceedings. The Commission has concluded that the current underutilization of simplified proceedings could be remedied through a mechanism by which the Chief Administrative Law Judge or the judge assigned to an individual case could unilaterally direct that a case be tried under simplified proceedings. Thus, under the E-Z Trial program, the Commission's Chief Judge would have the authority to determine whether a case would proceed by either conventional proceedings or the E-Z Trial program. This should result in greater use of simplified proceedings while preserving the use of conventional proceedings where needed. E-Z Trial should reduce the time and expense of litigation in such cases. However, the presiding judge may discontinue E-Z Trial proceedings and reinstate conventional procedures if the

case no longer is appropriate for the simplified rules. In this way, the Commission can provide efficient, user-friendly adjudication, while assuring insofar as possible in all cases that due process is met and a hearing is conducted that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554, 556 ("APA"). At any time, any party may request that conventional rather than E-Z Trial proceedings be used. Discontinuance of E-Z Trial is at the discretion of the judge after consultation with the Chief Judge. At the conclusion of an E-Z Trial proceeding, a party may file a petition for discretionary review under § 2200.91 if they can establish that they have been materially prejudiced either by the use of E-Z Trial rather than conventional proceedings or by a lack of due process during those proceedings, provided objections to use of the E-Z Trial procedure were raised in a timely fashion to the judge.

DATES: Comments must be received by May 31, 1995.

ADDRESSES: All comments concerning these proposed rules should be addressed to Earl R. Ohman, Jr., General Counsel, One Lafayette Centre, 1120 20th St., NW.—9th Floor, Washington, DC 20036-3419.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 606-5410.

SUPPLEMENTARY INFORMATION:

Development of the Proposed Rules

Adjudications by the Occupational Safety and Health Review Commission and its Administrative Law Judges are governed by the regulations published at 29 CFR part 2200—Rules of Procedure. Conventional proceedings are governed by subparts A through G of Part 2200. Simplified proceedings are governed by subpart M. Simplified proceedings differ from conventional proceedings primarily in the following ways: (1) Pleadings generally are not required in simplified proceedings; (2) discovery is generally not permitted; (3) the Federal Rules of Evidence do not apply, as they do in conventional proceedings; and (4) interlocutory appeals are not permitted.

The proposed E-Z Trial program is designed to see that certain cases of lesser magnitude before the Commission are handled in a simple way, to reduce formality and bring down the cost and time demanded of parties in pursuing a case, while protecting due process rights with an "on the record" hearing conducted in accordance with the APA. Cases would be processed promptly. The proposed project would draw in

part from the Commission's current rules for simplified proceedings. As under the current simplified proceedings, required documentation would be minimized and pleadings and discovery would be eliminated completely in most cases. Cases will be reviewed for eligibility for E-Z Trial as soon as possible in order to avoid the filing of pleadings wherever practicable. Under the E-Z Trial program, informal discussions between the parties and the judge would be held to narrow areas of dispute and encourage settlement. If the case is not resolved in a pre-hearing conference, the hearing itself would be comparatively informal in nature, with the format of the hearing being prescribed by the presiding judge. Written briefs would in most cases be replaced by oral argument. Judges would issue bench decisions when appropriate and otherwise would typically issue written decisions within 45 days of the completion of the trial.

Purpose of Subpart M

Under the proposed rule, § 2200.200(b)(1), complaints and answers would not be required for the E-Z Trial process. Section 2200.200(b)(2) would note that, prior to the hearing, discussions among the parties and the judge would be required to narrow and define the issues between the parties. This should encourage case settlement, and accordingly this discussion would be scheduled as soon as possible. Section 2200.200(b)(3) would not allow discovery to be conducted except on the order of the judge. The current rule prohibiting interlocutory appeals, § 2200.211, is incorporated into the proposed rule as § 2200.200(b)(4). Section 2200.200(b)(5) would stress that the hearing is less formal.

Application

Under the proposed rule, § 2200.201 would only note that the rules in Subpart M would apply to proceedings before a judge if an E-Z Trial case is commenced under the rules proposed in § 2200.203.

Eligibility for E-Z Trial

The current eligibility rule, § 2200.202, specifically excludes cases from being tried under simplified proceedings if they involve the merits of an alleged violation of specified standards.¹ Under the proposed rule, § 2200.202 would not specifically

exclude cases that involve any particular standards. The proposed rule does not detail the circumstances in which these procedural rules should be utilized. It anticipates that experience gathered through the E-Z Trial program is the best way to refine the circumstances for which the procedures are suited. Nevertheless, in order to provide some guidance in the initial application of these rule changes, the Commission suggests that cases that might be appropriate for E-Z Trial would generally include those with (1) relatively few citation items, (2) an aggregate proposed penalty not more than \$7500, (3) no allegation of willfulness, (4) a hearing that is expected to take less than two days, or (5) a *pro se* respondent. These criteria are neither rigid nor exhaustive. E-Z Trial should not be selected for technically complex cases requiring discovery or extensive expert testimony.

Procedures for Commencing E-Z Trial

The current rule for simplified proceedings, § 2200.203, allows any party to request simplified proceedings. Under the proposed rule, § 2200.203(a), the Chief Judge can assign an appropriate case for E-Z Trial at his discretion either on his own motion or at the request of a party. In addition, the proposed rule would eliminate the more complex filing requirements found under the current rule which mandates that the request for simplified proceedings be filed with the Executive Secretary and served on all of the following: (i) The employer, (ii) the Secretary of Labor, (iii) any authorized employee representatives and (iv) posted for the benefit of any unrepresented affected employees. Because E-Z Trial can be commenced by the Chief Judge on his own motion, it is not necessary to require complex filing procedures.

Procedures for Discontinuing E-Z Trial

Section 2200.204 sets forth the procedures for discontinuing simplified proceedings after the judge has ordered them implemented. The Commission purposes several changes to this section, which largely parallel the changes proposed in the rule on commencing E-Z Trial. The proposed rule, § 2200.204(a), would require that the judge assigned to the case consult with the Chief Judge prior to discontinuing E-Z Trial. Unlike the current rule, the proposed rule would not necessarily discontinue E-Z Trial even if all parties consent to discontinuance. The current rule's prohibition of interlocutory review (a limited appeal before conclusion of the trial) of simplified

¹ Those standards are: 29 CFR 1910.94, 1910.95, 1910.96, 1910.97, 1910.1000 through 1910.1101, 1926.52, 1926.53, 1926.54, 1926.55, 1926.57, 1926.800(c), and any occupational health standard that may be added to subpart Z of part 1910.

proceedings is covered in proposed rule § 2200.200(b)(4)'s prohibition of interlocutory appeals for E-Z Trial proceedings.

Filing of Pleadings

E-Z Trial is intended to provide parties with a less formal adjudicative process. Once a case is designated for E-Z Trial, under the proposed rule, § 2200.205(a), the Secretary would not have to file a complaint as required under current rule § 2200.34(a), a response to a petition for modification of the abatement period under current rule § 2200.37(d)(5), or a response to an employee contest to the abatement period under current rule § 2200.38(a). In addition, under proposed rule § 2200.205(b), a motion would not be viewed favorably if the subject of the motion has not been first discussed among the parties. The Commission is not presently amending the time limits for filing pleadings. Instead, the Commission intends to process cases as promptly as practicable in order to avoid the filing of pleadings.

Pre-hearing Conference

Under the proposed rule, § 2200.206(a) requires that as early as practicable, the presiding judge would conduct a pre-hearing conference. The judge has the discretion to determine the format of the pre-hearing conference. The pre-hearing conference would be "live," and can be conducted in person or by such electronic means as telephone or video conferences. It cannot be conducted by such devices as fax machines. In addition, the current rule does not require that affirmative defenses such as "unpreventable employee misconduct," "infeasibility," and "greater hazard," be raised prior to the hearing. Proposed rule § 2200.206(b) requires that affirmative defenses would be raised at the pre-hearing conference, and that affirmative defenses cannot otherwise be raised in later proceedings except under extraordinary circumstances. The judge would issue an order setting forth any agreements reached by the parties during the pre-hearing conference.

Discovery

No substantive change is proposed to the current rule on discovery, § 2200.210. Parties may request discovery, but no discovery would be conducted except on order of the judge.

Hearing

It is expected that the E-Z Trial hearing would be conducted in the format decided by the hearing judge. Witnesses, however, would be sworn

and the proceedings would be reported. The requirement for a reporter and transcript, currently found in § 2200.208, would become part of the new rule § 2200.208(d). Typically, oral argument would be presented at the close of the hearing. However, the judge has the discretion to permit the parties to file written briefs instead. If appropriate, the judge has the option of announcing his decision from the bench on the record. If not announced from the bench, a written decision would be issued within 45 days, unless an extension was granted by the Chief Judge.

Review of Judge's Decision

Unlike the current rule, this proposed rule does not require the judge to prepare a written decision, but would instead permit him to issue a decision from the bench. In that event, that portion of the transcript containing the judge's bench decision will be considered the written decision and will be included in the judge's order.

Applicability of the Commission's Conventional Rules

Included in the list of rules that do not apply to E-Z Trials is § 2200.74, which covers the filing of briefs and proposed findings of fact with the judge, as well as oral arguments at the hearing. No other substantive change is proposed to the current rule, § 2200.212.

List of Subjects in 29 CFR Part 2200

Administrative practice and procedure, Hearing and appeal procedures.

For the reasons set forth in the preamble, the Occupational Safety and Health Review Commission proposes to amend title 29, chapter XX, part 2200, subpart M of the Code of Federal Regulations as follows:

PART 2200—RULES OF PROCEDURE

1. The authority citation for part 2200 continues to read as follows:

Authority: 29 U.S.C. 661(g).

2. Subpart M is revised to read as follows:

Subpart M—E-Z Trials

Sec.	
2200.200	Purpose.
2200.201	Application.
2200.202	Eligibility for E-Z Trial.
2200.203	Commencing E-Z Trial.
2200.204	Discontinuance of E-Z Trial.
2200.205	Filing of pleadings.
2200.206	Pre-hearing conference.
2200.207	Discovery.
2200.208	Hearing.
2200.209	Review of Judge's decision.
2200.210	Applicability of Subparts A through G.

Subpart M—E-Z Trials

§ 2200.200 Purpose.

(a) The purpose of the E-Z Trials subpart is to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so that parties before the Commission may reduce the time and expense of litigation while being assured due process and a hearing that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554. These procedural rules will be applied to accomplish this purpose.

(b) Procedures under this subpart are simplified in a number of ways. The major differences between these procedures and those provided in subparts A through G of the Commission's rules of procedure are as follows:

(1) Complaints and answers are not required.

(2) Pleadings generally are not required. Early discussions among the parties and the Administrative Law Judge are required to narrow and define the disputes between the parties.

(3) Discovery is generally not permitted.

(4) Interlocutory appeals are not permitted.

(5) Hearings are less formal. The Federal Rules of Evidence do not apply. Instead of briefs, the parties will argue their case orally before the Judge at the conclusion of the hearing. In many instances, the Judge will render his decision from the bench.

§ 2200.201 Application.

The rules in this subpart will govern proceedings before a Judge in a case chosen for E-Z Trial under § 2200.203.

§ 2200.202 Eligibility for E-Z Trial.

All cases with a low aggregate penalty are eligible for E-Z Trial. Those cases selected for E-Z Trial will be those that also do not involve complex issues of law or fact.

§ 2200.203 Commencing E-Z Trial.

(a) *Selection.* Upon receipt of a Notice of Contest, the Chief Administrative Law Judge may, at his or her discretion, assign an appropriate case for E-Z Trial.

(b) *Party request.* Within twenty days of the notice of docketing, any party may request the Chief Judge or the Judge assigned to the case to assign the case for E-Z Trial. The request must be in writing. For example, "I request an E-Z Trial" will suffice. The request must be sent to the Executive Secretary. Copies must be sent to each of the other parties.

(c) *Judge's ruling on request.* The Chief Judge or the Judge assigned to the

case may grant a party's request and assign a case for E-Z Trial at his or her discretion. Such request shall be acted upon within fifteen days of its receipt by the Judge.

(d) *Time for filing complaint or answer under § 2200.34.* If a party has requested E-Z Trial or the Judge has assigned the case for E-Z Trial, the times for filing a complaint or answer will not run. If a request for E-Z Trial is denied, the period for filing a complaint or answer will begin to run upon issuance of the notice denying E-Z Trial.

§ 2200.204 Discontinuance of E-Z Trial.

(a) *Procedure.* If it becomes apparent at any time that a case is not appropriate for E-Z Trial, the Judge assigned to the case may, upon motion by any party or upon the Judge's own motion, discontinue E-Z Trial and order the case to continue under conventional rules. Before discontinuing E-Z Trial, the Judge will consult with the Chief Judge.

(b) *Party Motion.* At any time during the proceedings any party may request that the E-Z Trial be discontinued and that the matter continue under conventional procedures. A motion to discontinue must be in writing and explain why the case is inappropriate for E-Z Trial. All other parties will have seven days from the filing of the motion to state their agreement or disagreement and their reasons.

(c) *Ruling.* If E-Z Trial is discontinued, the Judge may issue such orders as are necessary for an orderly continuation under conventional rules.

§ 2200.205 Filing of pleadings.

(a) *Complaint and answer.* Once a case is designated for E-Z Trial, the complaint and answer requirements are suspended. If the Secretary has filed a complaint under § 2200.34(a), a response to a petition under § 2200.37(d)(5), or a response to an employee contest under § 2200.38(a), and if E-Z Trial has been ordered, no response to these documents will be required.

(b) *Motions.* A primary purpose of E-Z Trials is to eliminate, as much as possible, motions and similar documents. A motion will not be viewed favorably if the subject of the motion has not been first discussed among the parties.

§ 2200.206 Pre-hearing conference.

(a) *When held.* As early as practicable, the presiding Judge will order and conduct a pre-hearing conference. At the discretion of the Judge, the pre-hearing conference may be held in

person, or by telephone or electronic means.

(b) *Content.* At the pre-hearing conference, the parties will discuss the following: settlement of the case; the narrowing of issues; an agreed statement of issues and facts; defenses; witnesses and exhibits; motions; and any other pertinent matter. Except under extraordinary circumstances, any affirmative defenses not raised at the pre-hearing conference may not be raised later. At the conclusion of the conference, the Judge will issue an order setting forth any agreements reached by the parties.

§ 2200.207 Discovery.

Discovery, including requests for admissions, will only be allowed under the conditions and time limits set by the Judge.

§ 2200.208 Hearing.

(a) *Procedures.* The Judge will hold a hearing on any issue that remains in dispute at the conclusion of the pre-hearing conference. The hearing will be in accordance with subpart E of these rules, except for §§ 2200.71, 2200.73 and 2200.74 which will not apply.

(b) *Agreements.* At the beginning of the hearing, the Judge will enter into the record all agreements reached by the parties as well as defenses raised during the pre-hearing conference. The parties and the Judge then will attempt to resolve or narrow the remaining issues. The Judge will enter into the record any further agreements reached by the parties.

(c) *Evidence.* The Judge will receive oral, physical, or documentary evidence that is not irrelevant, unduly repetitious or unreliable. Testimony will be given under oath or affirmation. The Federal Rules of Evidence do not apply.

(d) *Reporter.* A reporter will be present at the hearing. An official verbatim transcript of the hearing will be prepared and filed with the Judge. Parties may purchase copies of the transcript from the reporter.

(e) *Oral and written argument.* Each party may present oral argument at the close of the hearing. Post-hearing briefs will not be allowed except by order of the Judge.

(f) *Judge's decision.* Where possible, the Judge will render his decision from the bench. Alternatively, within 45 days of the hearing, the Judge will issue a written decision. The decision will be in accordance with § 2200.90. If additional time is needed, approval of the Chief Judge is required.

§ 2200.209 Review of Judge's decision.

Any party may petition for Commission review of the Judge's

decision as provided in § 2200.91. After the issuance of the Judge's written decision or order, the parties may pursue the case following the rules in Subpart F.

§ 2200.210 Applicability of Subparts A through G.

The provisions of subpart D (except for § 2200.57) and §§ 2200.34, 2200.37(d)(5), 2200.38, 2200.71, 2200.73 and 2200.74 will not apply to E-Z Trials. All other rules contained in subparts A through G of the Commission's rules of procedure will apply when consistent with the rules in this subpart governing E-Z Trials.

Dated: April 25, 1995.

Ray H. Darling, Jr.,

Executive Secretary.

[FR Doc. 95-10604 Filed 4-28-95; 8:45 am]

BILLING CODE 7600-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 322

Permits for Structures Located Within Shipping Safety Fairways

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps seeks comments on its proposal to change its rules regarding permits for the placement of temporary anchors, cables and chains for floating or semisubmersible drilling rigs within shipping safety fairways. Shipping safety fairways and anchorages are established on the Outer Continental Shelf by the U.S. Coast Guard to provide unobstructed approaches for vessels using U.S. ports. This initiative arises as a result of requests by offshore oil companies for exemptions to the provisions of the existing rule because drilling and production technologies have greatly extended the range of deepwater drilling and the 120 day time limits placed on temporary structures allowed within fairway boundaries may no longer be reasonable.

DATES: Written comments must be received on or before May 31, 1995.

ADDRESSES: Comments should be addressed to: HQUSACE, Attn: CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard at (202) 761-1783.

SUPPLEMENTARY INFORMATION: Department of the Army permits are required for the construction of any structure in or over any navigable water