
29 C.F.R. § 2704.100

Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504, provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called “adversary adjudications”) before this Commission. An eligible party may receive an award when it prevails over the U.S. Department of Labor, Mine Safety and Health Administration (“MSHA”), unless the Secretary of Labor's position in the proceeding was substantially justified or special circumstances make an award unjust. In addition to the foregoing ground of recovery, a non-prevailing eligible party may receive an award if the demand of the Secretary is substantially in excess of the decision of the Commission and unreasonable, unless the applicant party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. The rules in this part describe the parties eligible for each type of award. They also explain how to apply for awards, and the procedures and standards that this Commission will use to make the awards. In addition to the rules in this part, the Commission's general rules of procedure, part 2700 of this chapter, apply where appropriate.

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