



Pacific Maritime Association

Accident Prevention Department
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SAFETY BULLETIN 98-6

March 30, 1998

OSHA Settlement Procedures; Proposed Rule

INFORMATION

The March 2nd Federal Register outlined an OSHA Proposed Rule that **would require compulsory use of the Settlement Judge Procedure to facilitate settlement in complex penalty cases.** The Proposed Rules would amend 29 CFR Part 2200, RULES OF PROCEDURE which includes 29 CFR 2200.109 Settlement Part. The notice outlines that this mandatory procedure **would be set up as a pilot program for a one year trial period.** The program would be re-evaluated at the end of this one year period.

The Development of the Proposed Rules paragraph outlines that:

"The Commission's experience has shown that parties have not been able to agree to use the existing consensual Settlement Judge Procedure except in relatively simple cases which do not raise novel or complex issues of law or fact." "...the commission is concerned about the increasing volume of cases which for complexity or other reasons demand a great deal of time and impose an appreciable burden on Commission resources."

The Compulsory Settlement Procedure would be mandatory in certain cases. For the purposes of the Pilot Program, the procedure would be mandatory for cases where the proposed penalties total at least

\$200,000 and in other cases where the Chief Administrative Law Judge deems the Settlement Part Procedure to be appropriate.

The proposed rules outline the process for assignment of the Settlement Judges and the structure of the settlement process that is to be used.

Comments on the Proposed Rules are due to OSHA by 15 April 1998

ACTION

Employers and their legal staffs should take note of the Proposed Rule and comment as appropriate.

This rule can be found on the internet at: http://www.access.gpo.gov/su_docs/aces/aces140.html (this is the Federal Register Home Page.) Under their search: check - 98; check - Proposed Rules; enter date range "from" - 02/03/98; enter search terms - 10166. "Rules of Procedure" will be displayed. Click on "text" to open.

A printed copy may also be obtained from the Area Accident Prevention Supervisors.