



## **OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

### **Privacy Act of 1974; System of Records**

**AGENCY:** Occupational Safety and Health Review Commission.

**ACTION:** Notice of a Modified System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Occupational Safety and Health Review Commission (OSHRC) is revising the notice for Privacy Act system-of-records OSHRC-5.

**DATES:** Comments must be received by OSHRC on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The revised system of records will become effective on that date, without any further notice in the *Federal Register*, unless comments or government approval procedures necessitate otherwise.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [rbailey@oshrc.gov](mailto:rbailey@oshrc.gov). Include “PRIVACY ACT SYSTEM OF RECORDS” in the subject line of the message.
- Fax: (202) 606-5417.
- Mail: One Lafayette Centre, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457.
- Hand Delivery/Courier: same as mailing address.

*Instructions:* All submissions must include your name, return address, and e-mail address, if applicable. Please clearly label submissions as “PRIVACY ACT SYSTEM

OF RECORDS.”

**FOR FURTHER INFORMATION CONTACT:** Ron Bailey, Attorney-Advisor, Office of the General Counsel, via telephone at (202) 606-5410, or via e-mail at rbailey@oshrc.gov.

**SUPPLEMENTARY INFORMATION:** The Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires federal agencies such as OSHRC to publish in the *Federal Register* notice of any new or modified system of records. As detailed below, OSHRC is revising Office of the General Counsel Records, OSHRC-5, to accurately reflect the authorities for maintaining this system and its categories of records; to revise storage, safeguarding, and retrieval methods based on changes in practices; and to incorporate references to applicable General Records Schedules for disposal of records. In addition, OSHRC has previously relied on blanket routine uses to describe the circumstances under which records may be disclosed. Going forward, as revised notices are published for new and modified systems of records, a full description of the routine uses—rather than a reference to blanket routine uses—will be included in each notice. This is simply a change in format that has not resulted in any substantive changes to the routine uses for this system of records.

The notice for OSHRC-5, provided below in its entirety, is as follows.

**System Name and Number:** Office of the General Counsel Records, OSHRC-5.

**Security Classification:** None.

**System Location:** Office of the General Counsel, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457.

**System Manager(s):** Office of the General Counsel, OSHRC, 1120 20th Street, NW, Ninth Floor, Washington, DC 20036-3457; (202) 606-5100.

**Authority for Maintenance of the System:** 5 U.S.C. 301; 5 U.S.C. 552; 29 U.S.C. 661; 44 U.S.C. 3101.

**Purpose(s) of the System:** This system of records is maintained to assist management in making decisions with respect to case processing activities; to assist OSHRC attorneys in organizing their work product; and to assist in other matters assigned to the Office of the General Counsel, such as processing FOIA requests.

**Categories of Individuals Covered by the System:** This system of records covers current and former OSHRC attorneys (including supervising attorneys), Commission members, and Administrative Law Judges (ALJs); Freedom of Information Act requesters; and parties in cases that have been, or presently are, before OSHRC.

**Categories of Records in the System:** This system of records contains documents—filings and other materials—pertaining to cases before OSHRC. These documents may include the following categories of records: (1) the names and locations (city and state) of the individuals representing each party; (2) the names of sole proprietors cited by OSHA, as well as employees and other witnesses, and information describing those individuals, including job title and duties, medical history, and other descriptive information that is relevant to the disposition of a case; (3) the names and job titles of the Commissioners and ALJs. This system also contains other matters that have been assigned to the Office of the General Counsel for processing, such as FOIA requests, which include the names of FOIA requesters, contact information, and information concerning the requests. Finally, this system includes documents necessary for

managerial oversight, such as charts relating to workflow and teleworking. These documents may include the names of OSHRC employees and the cases assigned to them, as well as the employees' contact information.

**Record Source Categories:** Information in this system is derived from the individual to whom it applies or is derived from case processing records maintained by the Office of the Executive Secretary and the Office of the General Counsel.

**Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses:** In addition to disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To the Department of Justice (DOJ), or to a court or adjudicative body before which OSHRC is authorized to appear, when any of the following entities or individuals—(a) OSHRC, or any of its components; (b) any employee of OSHRC in his or her official capacity; (c) any employee of OSHRC in his or her individual capacity where DOJ (or OSHRC where it is authorized to do so) has agreed to represent the employee; or (d) the United States, where OSHRC determines that litigation is likely to affect OSHRC or any of its components—is a party to litigation or has an interest in such litigation, and OSHRC determines that the use of such records by DOJ, or by a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation.

(2) To an appropriate agency, whether federal, state, local, or foreign, charged

with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes civil, criminal or regulatory violations, and such disclosure is proper and consistent with the official duties of the person making the disclosure.

(3) To a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an OSHRC decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a license, grant or other benefit.

(4) To a federal, state, or local agency, in response to that agency's request for a record, and only to the extent that the information is relevant and necessary to the requesting agency's decision in the matter, if the record is sought in connection with the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a license, grant or other benefit by the requesting agency.

(5) To an authorized appeal grievance examiner, formal complaints manager, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee, only to the extent that the information is relevant and necessary to the case or matter.

(6) To OPM in accordance with the agency's responsibilities for evaluation and oversight of federal personnel management.

(7) To officers and employees of a federal agency for the purpose of conducting an audit, but only to the extent that the record is relevant and necessary to this purpose.

(8) To OMB in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process, as set forth in Circular No. A-19.

(9) To a Member of Congress or to a person on his or her staff acting on the Member's behalf when a written request is made on behalf and at the behest of the individual who is the subject of the record.

(10) To the National Archives and Records Administration (NARA) for records management inspections and such other purposes conducted under the authority of 44 U.S.C. 2904 and 2906.

(11) To appropriate agencies, entities, and persons when: (a) OSHRC suspects or has confirmed that there has been a breach of the system of records; (b) OSHRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OSHRC, the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OSHRC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(12) To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(h), to review administrative agency policies, procedures and compliance with FOIA, and to facilitate OGIS' offering

of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

(13) To another federal agency or federal entity, when OSHRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**Policies and Practices for Storage of Records:** Records are stored on paper in offices and file cabinets at OSHRC's National Office in Washington, D.C., and electronically on an access-restricted shared OSHRC drive.

**Policies and Practices for Retrieval of Records:** Records may be retrieved manually or electronically by case name, docket number, name of OSHRC attorney or supervising attorney, or by the names of other individuals, such as FOIA requesters.

**Policies and Practices for Retention and Disposal of Records:** Paper and electronic records are maintained in accordance with General Records Schedules 4.2 and 5.1, or for as long as needed for business use.

**Administrative, Technical, and Physical Safeguards:** Paper records are maintained in offices and file cabinets. During duty hours, the records are under surveillance of personnel charged with their custody. After duty hours, the offices are accessible only using an office key or access card. Access to electronic records maintained on an OSHRC shared drive is restricted to personnel who require access to perform their official functions.

**Record Access Procedures:** Individuals who wish to gain access to their records should notify: Privacy Officer, OSHRC, 1120 20th Street, NW, Ninth Floor, Washington, DC 20036–3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.6 (procedures for requesting records).

**Contesting Record Procedures:** Individuals who wish to contest their records should notify: Privacy Officer, OSHRC, 1120 20th Street, NW, Ninth Floor, Washington, DC 20036–3457. For an explanation on the specific procedures for contesting the contents of a record, refer to 29 CFR 2400.8 (Procedures for requesting amendment), and 29 CFR 2400.9 (Procedures for appealing).

**Notification Procedures:** Individuals interested in inquiring about their records should notify: Privacy Officer, OSHRC, 1120 20th Street, NW, Ninth Floor, Washington, DC 20036–3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.5 (notification), and 29 CFR 2400.6 (procedures for requesting records).

**Exemptions Promulgated for the System:** None.

**History:** April 14, 2006, 71 FR 19556; August 4, 2008, 73 FR 45256; October 5, 2015, 80 FR 60182; and September 28, 2017, 82 FR 45324.

Dated: October 24, 2018.

**Nadine N. Mancini,**

*General Counsel,*

*Senior Agency Official for Privacy.*

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