



## **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-10.

**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. OSHRC is revising the name of OSHRC-10—currently “Database of Commission and ALJ Decisions on OSHRC Web site”—to “Database of Commission and ALJ Decisions, and other case-related documents, on OSHRC Website.” The purpose of this revision is to reflect that, in addition to Commission and Administrative Law Judge (ALJ) decisions, other case-related materials are posted on oshrc.gov, mostly on the e-FOIA Reading Room and Open Government webpages. Also, through OSHRC’s website, members of the public may subscribe to “E-Alerts,” a service which provides updates via the individual’s email when new information is posted on the website, including Commission and ALJ decisions and documents on the Open Government webpage. This system, therefore, maintains a listing of the names of individuals who subscribe to this service and their email addresses. In addition, the system location, storage location and safeguards, and the retention and disposal policy have been revised to account for a new web server location—Americaneagle.com. Further, the system manager has been revised to account for a change in the name of the pertinent position within the agency.

Finally, 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. With one exception, 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 one substantive change is the revision to a routine use that permits disclosure of records to the Government Printing Office to allow for publication of decisions on the Commission's website. With the change in web server location and the expansion of documents posted on oshrc.gov, this routine use has been revised to allow for disclosure of Commission and ALJ decisions, and case-related documents, to Americaneagle.com.

Finally, due to a previous rescission of a system-of-records notice, OSHRC-8 currently has no system of records assigned to it. OSHRC-10 is thus being renumbered as OSHRC-8.

The notice for OSHRC-8, provided below in its entirety, is as follows.

**SYSTEM NAME AND NUMBER:** Database of Commission and ALJ Decisions, and Other Case-Related Documents, on OSHRC Website, OSHRC-8.

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:** Records are located on a web server at Americaneagle.com, 2600 South River Road, DES Plaines, IL 60018. The Office of the Executive Director is responsible for the records in this system. The office is located at 1120 20th Street, NW, Ninth Floor, Washington, DC 20036-3457.

**SYSTEM MANAGER(S):** Supervisory Information Technology Specialist, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457; (202) 606-5100.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** 5 U.S.C. 552; 29 U.S.C. 661(g); OMB Memorandum M-10-06; OMB Memorandum M-16-16.

**PURPOSE(S) OF THE SYSTEM:** This system of records is maintained in order to make Commission and ALJ decisions, as well as other case-related documents, more accessible to the public and agency employees.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** This system of records covers all individuals referenced and described in Commission and ALJ decisions, and other case-related documents posted on OSHRC's website, including sole proprietors who were cited by OSHA, employees and other witnesses, attorney and non-attorney representatives of each party, and the Commissioners and ALJs. This system also covers individuals who subscribe to "E-Alerts" on OSHRC's website.

**CATEGORIES OF RECORDS IN THE SYSTEM:** This system of records includes final decisions issued by the Commission since 1972, and final decisions issued by the ALJs since 1993. This system also includes documents posted on OSHRC's Open Government webpage, including select orders issued by ALJs and the Commission, briefing notices issued since 2010, listings of new cases received since 2010, and monthly docket reports issued since 2010. In addition, this system includes certain documents posted in OSHRC's e-FOIA Reading Room, including case filings in select Commission cases. The documents may contain the following information: (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; and (3) the

names and job titles of the Commissioners and ALJs. Finally, this system includes a separate database that contains the names and email addresses of those individuals who subscribe to “E-Alerts.”

**RECORD SOURCE CATEGORIES:** Information in this system of records is derived from case records that are developed during litigation before the Commission and/or the ALJs and, thus, the information may come from individuals who are the subjects of the records or from other sources. Information—names and email addresses—also comes from individuals who subscribe to “E-Alerts.”

**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.

(14) To the public, via OSHRC's website, pursuant to 29 U.S.C. § 661(g), which states that "[e]very official act of the Commission shall be entered of record, and its hearings and records shall be open to the public." Only personal information that is relevant and necessary to the disposition of OSHRC cases will be included in these decisions.

(15) To Americaneagle.com to make certain that decisions published on OSHRC's website are current.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** Records are stored on a web server located at Americaneagle.com.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** Records are listed on OSHRC's website by case name, docket number, and date, and can also be retrieved by using the search engine on the website's homepage to conduct a simplified

Boolean search. Records are also retrievable by the names and email addresses of those who subscribe to “E-Alerts.”

## **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF**

**RECORDS:** Records are retained and disposed of in accordance with OSHRC Records Control Schedule N1-455-11-003.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** OSHRC requests updates for its website through a secure portal which in turn updates a queue for posting by Americaneagle.com. Americaneagle.com secures information on the web server in accordance with federal standards. Access to the names and email addresses of those who subscribe to “E-Alerts” is limited to system administrators.

**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:** September 24, 2007, 72 FR 54301; August 4, 2008, 73 FR 45256; October 5, 2015, 80 FR 60182; and September 28, 2017, 82 FR 45324.

Dated: November 26, 2018.

**Nadine N. Mancini,**

*General Counsel, Senior Agency Official for Privacy.*

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