



DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Privacy Act of 1974; System of Records

AGENCY: Federal Energy Regulatory Commission (FERC), Department of Energy.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, all agencies are required to publish in the **Federal Register** a notice of their systems of records. Notice is hereby given that the Federal Energy Regulatory Commission (FERC) is publishing notice of modifications to an existing FERC System of records titled “*Commission Freedom of Information Act and Privacy Act Request Files*” (FERC 46).

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by FERC, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If FERC receives public comments, FERC shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted in writing to Federal Energy Regulatory Commission, Office of External Affairs, 888 First Street, NE, Washington, DC 20426, or electronically to privacy@ferc.gov. Comments should indicate that they are submitted in response to Commission Freedom of Information Act and Privacy Act Request Files (FERC- 46).

FOR FURTHER INFORMATION CONTACT: Mittal Desai, Chief Information Officer & Senior Agency Official for Privacy, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 502-6432.

SUPPLEMENTARY INFORMATION: The Freedom of Information Act (FOIA), enacted on July 4, 1966, is a statutory law requiring Federal agencies to provide, to the fullest extent possible, release of agency information to the public, except to the extent that such records (or portions of them) are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record exclusions. The law provides individuals with a statutory right of access to certain Federal agency records. As required by the Privacy Act of 1974, notice is hereby given that the Commission is adding additional routine uses and expanding on the categories of records that FERC collects on individuals to an existing system of records entitled “Freedom of Information Act and Privacy Act Request Files (FERC 46).” This modification adds five (5) routine uses and expands on the categories of records collected to include email address, fax number, legal representation, guardian relationships. The current SORN has seven categories of Personally Identifiable Information (PII) that FERC’s OEA collects as part of the Freedom of Information Act (FOIA) and Privacy Act (PA).

SYSTEM NAME AND NUMBER: Commission Freedom of Information Act and Privacy Act Request Files: FERC- 46

SECURITY CLASSIFICATION: Unclassified

SYSTEM LOCATION: Federal Energy Regulatory Commission, Office of External Affairs, 888 First Street NE., Washington, DC. 20426

SYSTEM MANAGER(S): FOIA Liaison, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: The Privacy Act of 1974 (5 U.S.C. 552a); the Freedom of Information Act as amended (5 U.S.C. 552)

PURPOSE(S) OF THE SYSTEM: Records in this system of records are maintained for the purpose of processing an individual's record request made under FOIA and the Privacy Act. The proposed system of records will assist the Commission in carrying out its responsibilities under FOIA and the Privacy Act. The records maintained in the proposed system can originate in both paper and electronic format.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: The following categories of individuals are covered by this system: all individuals, including legal representatives/guardians, who have requested records from FERC under the provisions of FOIA and the Privacy Act; all individuals about whom information has been requested under FOIA or the Privacy Act; and all individuals whose information may otherwise be responsive to request for records under FOIA.

CATEGORIES OF RECORDS IN THE SYSTEM: Commission records include all documents or records created or obtained by an agency of the government that are in FERC's possession and control at the time a FOIA request is received; and information maintained by FERC pursuant to a government contract for the purposes of records management. This system of records contains correspondence and other documents related to requests made by individuals to FERC for information under the provisions of FOIA, including request for review of initial denials of such requests; information covered under provisions of the Privacy Act; requests for review of initial denials of FOIA or Privacy Act requests; a requester's name telephone number, physical address,

email address, fax number, request number, description of request, billing information, FOIA /PA tracking number; FOIA requests and appeals, responses to requests (including unredacted and redacted responsive records), determination of appeals, correspondence with requesters and with other persons who have contacted FERC in connection with requests or appeals.

RECORD SOURCE CATEGORIES: Records in the system are obtained from the following: requests and administrative appeals submitted by individuals and organizations pursuant to the FOIA and Privacy Act; FERC personnel and officials that process such requests and appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, information maintained in this system may be disclosed to authorized entities outside FERC for purposes determined to be relevant and necessary as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To appropriate agencies, entities, and persons when (1) FERC suspects or has confirmed that there has been a breach of the system of records; (2) FERC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

2. To another Federal agency or Federal entity, when FERC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) 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.
3. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.
4. To the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.
5. To the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.
6. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.
7. To the Department of Justice (DOJ) for its use in providing legal advice to FERC or in representing FERC in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is

deemed by FERC to be relevant and necessary to the advice or proceeding, and such proceeding names as a party in interest: (a) FERC; (b) any employee of FERC in his or her official capacity; (c) any employee of FERC in his or her individual capacity where DOJ has agreed to represent the employee; or (d) the United States, where FERC determines that litigation is likely to affect FERC or any of its components.

8. To non-Federal Personnel, such as contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FERC or Federal Government and who have a need to access the information in the performance of their duties or activities.
9. To the National Archives and Records Administration in records management inspections and its role as Archivist.
10. To the Merit Systems Protection Board or the Board's Office of the Special Counsel, when relevant information is requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, and investigations of alleged or possible prohibited personnel practices.
11. To appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order.
12. To appropriate agencies, entities, and person(s) that are a party to a dispute, when FERC determines that information from this system of records is reasonably necessary for the recipient to assist with the resolution of the dispute; the name,

address, telephone number, email address, and affiliation; of the agency, entity, and/or person(s) seeking and/or participating in dispute resolution services, where appropriate.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records are maintained in electronic and paper format. Electronic records are stored in computerized databases and/or on computer disc. Paper records and records on computer disc are stored in locked file rooms and/or file cabinets. In addition, all FERC employees and contractors with authorized access have undergone a thorough background investigation. Data access is restricted to agency personnel or contractors whose responsibilities require access. Access to electronic records is controlled by Personal Identity Verification (PIV) cards or multi-factor authentication and/or other network access or security controls. Role based access is used to restrict electronic data access and the organization employs the principle of least privilege, allowing only authorized users with access (or processes acting on behalf of users) necessary to accomplish assigned tasks in accordance with organizational missions and business functions.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are retrieved by the names of the individual requester, FOIA/PA tracking number, affiliation (where applicable), and subject.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: Records are retained in accordance with the applicable National Archives and Records Administration schedules, General Records Schedule (GRS) 4.2: Information Access and Protection Records Item 020. Temporary. Destroy six (6) years after final agency action or three (3) years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: *See*

Policies and Practices.

RECORD ACCESS PROCEDURES: Individuals requesting access to the contents of records must submit a request through the Freedom of Information Act (FOIA) office.

The FOIA website is located at: <https://www.ferc.gov/foia>. Requests may be submitted through the following portal: <https://www.ferc.gov/enforcement-legal/foia/electronic-foia-privacy-act-request-form>. Written requests for access to records should be directed to: Director, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

CONTESTING RECORD PROCEDURES: *See* Record Access Procedures.

NOTIFICATION PROCEDURES: Generalized notice is provided by the publication of this notice. For specific notice, see Records Access Procedure, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: During the course of reviewing a FOIA request, exempt materials from other systems of records may in turn become part of the case records. To the extent that copies of exempt records from those other systems of records are entered into this system of records, FERC hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary systems of records of which they are a part. In addition, FOIA lists the following exemptions, which are provided in 5 U.S.C 552(b).

HISTORY: 81 FR 61681

Dated: August 2, 2023.

Kimberly D. Bose,
Secretary.

