



Privacy Act of 1974; System of Records

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Mine Safety and Health Review Commission (FMSHRC) is issuing a notice of new Privacy Act system of records, FMSHRC-08.

DATES: This new system of record is effective upon publication; however, comments on the Routine Uses will be accepted on or before [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The Routine Uses are effective at the close of the comment period.

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

- *Email:* PrivacyAct@fmsirc.gov. Include “PRIVACY ACT SYSTEM OF RECORDS FMSHRC-08” in the subject line of the message.
- *Mail:* Office of the General Counsel, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710.

Instructions: All submissions must include your name, return address, and email address, if applicable. Please clearly label submissions as “PRIVACY ACT SYSTEM OF RECORDS FMSHRC-08.”

FOR FURTHER INFORMATION CONTACT: Stacey George, Acting Senior Agency Official for Privacy, via telephone (202) 434-9939 or via email at SGeorge@fmsirc.gov.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, and 5 U.S.C. § 552a(e)(4) requires federal agencies such as FMSHRC to publish in the Federal Register notice of any new or modified system of records. As detailed below, FMSHRC is issuing notice of new system of records Freedom of Information Act (“FOIA”) Requests and Administrative Appeal Records

retrieved by name of requester or individual appealing, FMSHRC-08, to describe the purpose of the system, to describe the records in the system, to specify the routine uses that apply to the system, and to describe the policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

The notice for FMSHRC-08, provided below in its entirety, is as follows.

SYSTEM NAME AND NUMBER:

Freedom of Information Act (“FOIA”) Requests and Administrative Appeals Records retrieved by name of requester or individual appealing, FMSHRC-08.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the General Counsel, Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710.

SYSTEM MANAGER(S):

Chief FOIA Officer, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710, FOIA@fmshrc.gov, (202) 434-9900.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 823; 44 U.S.C. 3101 et seq.; 5 U.S.C. 552 et seq.; 29 CFR part 2702

PURPOSE(S) OF THE SYSTEM:

The information in this system is being collected to enable FMSHRC to carry out its responsibilities under the FOIA. These responsibilities include enabling FMSHRC staff to receive, track, process, and respond to access requests and administrative appeals; to assist and participate in litigation regarding agency action on such requests and appeals; to prepare reports to the Department of Justice (DOJ), the Attorney General, the Office of Government Information Services (OGIS) and any other Federal government entity with oversight over the Commission’s FOIA activities; for the purpose of responding to inquiries submitted to DOJ’s Office of Information Policy regarding federal agency compliance with the FOIA; and for the purpose of assisting the Commission in carrying out any other responsibilities under the FOIA and applicable executive orders or regulations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system covers individuals and/or their representatives who request records or information from the Commission pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. 552;

individuals who are the subject of or who fall within the scope of a FOIA request or appeal; attorneys or other persons representing individuals submitting such requests and appeals; individuals whose requests and/or records have been referred to FMSHRC or whose requests or and/or records have been the subject of a consultation with FMSHRC; individuals who submit requests for information on other individuals; individuals filing an administrative appeal of a denial, in whole or in part, of any such request; and the FMSHRC personnel assigned to handle such requests and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system covers records received, created, and compiled in response to a FOIA request or administrative appeal, including: the original request; the original appeal; responses to the request or appeal; related internal memoranda; correspondence with other Federal agencies; request and appeal determinations; and related electronic tracking data. These records may contain personal information retrieved in response to a request, including a requester's and/or their representative's contact information, such as their names, telephone numbers, and e-mail and mailing addresses; FOIA tracking numbers; unique case identifier or other identifier assigned to the request or appeal; and office contact information of Commission employees and contractors.

RECORD SOURCE CATEGORIES:

Persons requesting information from the Commission or filing administrative appeals pursuant to the FOIA; agency employees assigned to handle processing the requests; agency records searched and identified as responsive in the process of responding to such requests; other agencies or entities that have referred to Commission requests concerning Commission records, or that have consulted with the Commission regarding handling of particular requests; and submitters or subjects of records or information that have provided assistance to the Commission in making access determinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), the records or information contained therein may specifically be disclosed outside of the Commission as a routine use, as defined by 5 U.S.C.552a(a)(7), pursuant to 5 U.S.C. 552a(b)(3) in the following circumstances:

1. To appropriate agencies, entities, and persons when the Commission: (a) suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and (c) has determined that 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 compromise and prevent, minimize, or remedy such harm.
2. To a federal, state, or local agency or entity for the purpose of: (a) consulting with that agency or entity to enable the Commission to make a determination as to the propriety of access to information; (b) verifying the identity of an individual or the accuracy of information submitted

by an individual who has requested access to information; or (c) processing payment of fees associated with FOIA request.

3. To a federal agency or entity that furnished the record or information for the purpose of: (a) permitting that agency or entity to make a decision as to access to the record or information; or (b) providing guidance or advice regarding the handling of particular requests.

4. To a Congressional office requesting the information on behalf of and at the request of the individual who is the subject of the record.

5. To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment 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, permit, grant, or other benefit.

6. To the DOJ in order to obtain advice on FOIA matters or regarding the agency's FOIA disclosure obligations.

7. To any Congressional Committee, subcommittee or joint committee, to the extent of matter within its jurisdiction, the Government Accountability Office, or others charged with monitoring the work of the Commission or conducting records management inspections.

8. To members of advisory committees that are created by the Commission or by Congress to render advice and recommendations to the Commission or to Congress, to be used solely in connection with their official designated functions.

9. To the National Archives and Records Administration, 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 the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

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

11. To members of the public who visit FMSHRC's website and gain access to information pertaining to a case, including decisions and orders, in accordance with 5 U.S.C. 552(a)(2) and 29 CFR 2702.7(b), recordings of oral arguments, and notices of meetings in accordance with 5 U.S.C. 552b(e)(1), and published on the website, unless it is determined that release of the information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

12. To interns, consultants, experts, contractors, and others who have been engaged by the Commission to assist in the performance of a service related to this system of records and who need access to the records for the purpose of assisting the Commission in the efficient administration of its programs, including by performing clerical, stenographic, or data analysis functions, or by reproduction of records by electronic or other means. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

13. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Commission determines that the records may be relevant and necessary to the proceeding; or in an appropriate proceeding before another administrative or adjudicative body when the adjudicator determines the records to be relevant and necessary to the proceeding and the use of such records is compatible with the purpose for which the Commission collected the records.

14. In connection with any pending or potential litigation challenging or seeking to enjoin actions by the Commission under the FOIA, as amended, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which the Commission collected the records.

15. To respond to subpoenas, specifically approved by a court, in any pending or potential litigation or other proceeding, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which the Commission collected the records.

16. To an agency, organization, or individual for audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function when necessary to accomplish an agency function related to the system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FMSHRC officers and employees.

17. To a third party authorized, in writing, to receive such information by the individual who is the subject of the record.

18. To such recipients and under such circumstances and procedures as are mandated by federal statute.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored in electronic and/or paper format. Electronic records are stored in computerized databases on the Commission's server as well as in secured FedRAMP certified cloud environment. Paper records are stored in locked file rooms and/or file cabinets located in the Office of the General Counsel.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by a unique tracking number assigned to the request or appeal. Records are also retrieved by the requester's or appellant's name, the date, and the subject of the request.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained and disposed in accordance with the General Records Schedules issued by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are safeguarded in a secured environment. The building where the records are stored has security cameras and security guard service. Access to the Commission's office in Washington, DC may be gained only by using an electronic key, which is provided only to Commission personnel. Paper records are kept in limited access areas during duty hours and in locked file cabinets and/or locked offices at all other times. Access is limited to those personnel whose official duties require access. Computerized records are safeguarded through use of information technology security controls, as dictated by the Federal Information Security Modernization Act (FISMA) and the National Institute of Standards and Technology (NIST), and access is limited to those personnel whose official duties require access. Contractors and other recipients providing services to the Commission shall be required to maintain the same or equivalent safeguards.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records should address written inquiries to: Executive Director, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on how such requests should be drafted, refer to FMSHRC's regulations contained in 29 CFR part 2705.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to: Executive Director, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on the specific procedures for contesting the contents of a record, refer to FMSHRC's regulations contained in 29 CFR part 2705.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to: Executive Director, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on the specific procedures for sending a notification request, refer to FMSHRC's regulations contained in 29 CFR part 2705.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

Stacey George,

Chief FOIA Officer and Acting Senior Agency Official for Privacy,

Federal Mine Safety and Health Review Commission.

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