

REQUEST FOR RECORDS DISPOSITION AUTHORITY

(See Instructions on reverse)

TO: NATIONAL ARCHIVES and RECORDS ADMINISTRATION (NIR)
WASHINGTON, DC 20408

1. FROM (Agency or establishment)

Federal Mine Safety & Health Review Commission

2. MAJOR SUBDIVISION

Office of General Counsel

3. MINOR SUBDIVISION

4. NAME OF PERSON WITH WHOM TO CONFER

Sarah Stewart

5. TELEPHONE

(202) 653-5610

LEAVE BLANK (NARA use only)

JOB NUMBER

NI-470-96-1

DATE RECEIVED

6-7-96

NOTIFICATION TO AGENCY

In accordance with the provisions of 44 U.S.C. 3303a the disposition request, including amendments, is approved except for items that may be marked "disposition not approved" or "withdrawn" in column 10.

DATE

9-5-96

ARCHIVIST OF THE UNITED STATES

John W. Paul

6. AGENCY CERTIFICATION

I hereby certify that I am authorized to act for this agency in matters pertaining to the disposition of its records and that the records proposed for disposal on the attached _____ page(s) are not now needed for the business of this agency or will not be needed after the retention periods specified; and that written concurrence from the General Accounting Office, under the provisions of Title 8 of the GAO Manual for Guidance of Federal Agencies,



is not required;



is attached; or



has been requested.

DATE

6/4/96

SIGNATURE OF AGENCY REPRESENTATIVE

Thomas M. Gleichen

TITLE

General Counsel

7. ITEM NO.

8. DESCRIPTION OF ITEM AND PROPOSED DISPOSITION

Please see attached.

9. GRS OR SUPERSEDED JOB CITATION

10. ACTION TAKEN (NARA USE ONLY)

OFFICE OF GENERAL COUNSEL

Item 1. **Case Files Pending Before Review Commission**

Files of cases pending before the Review Commission, which contain copies of pleadings, orders, decisions, original edits of draft decisions, and orders by Commissioners.

Disposition: TEMPORARY. Cut off files upon completion of review by Review Commission. Destroy when information is published or when no longer needed for reference, whichever is later. This series will not be retired to the Federal Records Center.

Item 2. **Decisional Memoranda**

Pre-decisional opinions of recommended disposition of cases pending before the Review Commission.

Disposition: PERMANENT. Cut off files at the end of the calendar year in which a final decision disposing of the case has been issued by the Commission or U.S. Court of Appeals. Transfer to the National Archives in 3 year blocks when most recent record in block is 7 years old.

Annual accumulation: 40 to 50 ff of 15 pages or less each

Item 3. **Memoranda to Pre-Decisional Opinions**

Memoranda setting forth pre-decisional opinions of recommended disposition of motions or other procedural requests.

Disposition: PERMANENT. Cut off files at the end of the calendar year in which a final decision disposing of the case has been issued by the Commission or U.S. Court of Appeals. Transfer to the National Archives in 3 year blocks when most recent record in block is 7 years old.

Annual accumulation: 20 ff of ca. 2 pages each

Item 4. **Tally Sheets, and Original Edits of Draft Decisions and Orders**

Original edits and tally sheets of Commissioners relating to orders, decisions, and or procedural matters.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy when no longer needed for reference or when superseded, whichever is sooner.

Item 5. **Cases Pending Before U.S. Court of Appeals**

Files of cases pending before the U.S. Court of Appeals, which contain copies of pleadings, orders, decisions, and related correspondence.

Disposition: TEMPORARY. Cut off files upon final decision by U.S. Court of Appeals or final step of appeal process. Destroy when information is published or when no longer needed for reference, whichever is later. This series will not be retired to the Federal Records Center.

Item 6. **Chronological Files**

Chronological files, which contain copies of all correspondence or memoranda.

Disposition: TEMPORARY. Cut off files at end of calendar year. Destroy 2 years after cutoff, or when no longer needed for reference, whichever is sooner.

Item 7. **Tracking Records**

Tracking records that document the status of cases.

Disposition: TEMPORARY. Destroy when no longer needed for reference.

Item 8. **Administrative Law Judges Suspense Files**

Administrative Law Judges (ALJ) suspense files, which contain copies of all ALJ decisions.

Disposition: TEMPORARY. Destroy when no longer needed for reference.

Item 9. **Petitions for Discretionary Review (PDR)**

PDR suspense files, which contain copies of petitions for discretionary review.

Disposition: TEMPORARY. Destroy when no longer needed for reference.

Item 10. **Petitions for Interlocutory Review (PIR)**

PIR suspense files, which contain copies of petitions for interlocutory review.

Disposition: TEMPORARY. Destroy when no longer needed for reference.

Item 11. **Rulemaking Files**

Rulemaking files, which contain proposed rules, comments received on proposed rules, intermediate drafts and edits, tally sheets, and final rules.

Disposition: TEMPORARY. Cut off files upon publication of final rule. Destroy 3 years after publication or when no longer needed for reference, whichever is later.

Item 12. **Subject Files**

Subject matter files, which contain **copies** of proposed legislation relating to the agency, documents relating to internal administration of agency, staffing, training, compilations of legal research, **copies** of press releases and reports, tally sheets, and documents relating to status of Review Commission meetings under the Sunshine Act.

Disposition: TEMPORARY. Cut off files at end of calendar year. Destroy 2 years after cutoff or when no longer needed for reference, whichever is later.

Item 13. **Speeches**

Speeches of the OGC.

Disposition: PERMANENT. Cut off files at end of calendar year. Transfer to the National Archives in 3 year blocks when most recent record in block is 7 years old.

Item 14.

Freedom of Information Act Files

Files created in response to requests for information under the Freedom of Information Act, consisting of the original request, a copy of the reply, and all related supporting files which may include the official file copy of requested record or copy thereof.

a. Correspondence and supporting documents (EXCLUDING the official file copy of the records requested if filed herein).

(1) Granting access to all the requested records.

Destroy 2 years after date of reply. {GRS 14, item 11.a.(1)}

(2) Responding to requests for non-existent records; to requestor who provided inadequate descriptions; and to those who fail to pay agency reproduction fees.

a) Request not appealed.

Destroy 2 years after date of reply. {GRS 14, item 11.a.(2)(a)}

b) Request appealed.

Destroy as authorized under GRS 14, item 12.

(3) Denying access to all or part of the records requested.

a) Request not appealed.

Destroy 6 years after date of reply. {GRS 14, item 11.a.(3)(a)}

b) Request appealed.

Destroy as authorized under GRS 14, item 12.

b. Official file copy of requested records.

Dispose of in accordance with approved agency disposition instructions for the related records or with the related FOIA request, whichever is later.

{GRS 14, item 11.b}

Item 15.

FOIA Appeals Files

Files created in responding to administrative appeals under the FOIA for release of information denied by the agency, consisting of the appellant's letter, a copy of the reply thereto, and related supporting documents, which may include the official file copy of records under appeal or copy thereof.

- a. Correspondence and supporting documents (EXCLUDING the file copy of the records under appeal if filed herein).

Destroy 6 years after final determination by agency, 6 years after the time at which a requester could file suit, or 3 years after final adjudication by the courts, whichever is later. {GRS 14, item 12.a}

- b. Official file copy of records under appeal.

Dispose of in accordance with approved agency disposition instructions for the related record or with the related FOIA request, whichever is later. {GRS 14, item 12.b}

Item 16.

Supervisor's Personnel Files and Duplicate Official Personnel Folder Documentation

- a. Supervisor's Personnel Files

Correspondence, forms, and other records relating to positions, authorizations, pending actions, position descriptions, requests for personnel action, and records on individual employees duplicated in or not appropriate for the OPF.

Disposition: TEMPORARY. Review annually and destroy superseded or obsolete documents, or destroy file relating to an employee within 1 year after separation or transfer. {GRS 1, item 18a}

- b. Duplicate Documentation.

Other copies of documents duplicated in OPFs not provided for elsewhere in this schedule.

Disposition: TEMPORARY. Destroy when 6 months old. {GRS 1, item 18b}

Item 17.

Financial Disclosure Reports

a. Reports and related documents submitted by individuals as required under the Ethics in Government Act of 1978 (PL 95-521).

1) Records including SF 278A for individuals filing according to Section 201b of the Act, and not subsequently confirmed by the U.S. Senate.

Destroy 1 year after nominee ceases to be under consideration for appointment; EXCEPT those documents needed in the ongoing investigation will be retained until no longer needed in the investigation.
{GRS 1, item 24.a.(1)}

2) All other records including SF 278.

Destroy when 6 years old; EXCEPT those documents needed in an ongoing investigation will be retained until no longer needed in the investigation.
{GRS1, item 24.a.(2)}

b. All other statements of employment and financial interests and related records, including confidential statements filed under Executive Order 11222.

Destroy when 6 years old EXCEPT those documents needed in an ongoing investigation will be retained until no longer needed in the investigation.
{GRS 1, item 24.b}

Item 18.

Ethics Opinions

Ethics files containing copies of ethics opinions by DAEO or alternate DAEO.

Disposition: TEMPORARY. Destroy when 6 years old or when no longer needed for reference, whichever is later.

Item 19.

Ethics Files

Ethics files containing documents relating to recusals, waivers, certificates of divestiture, and ethics agreements.

Disposition: TEMPORARY. Destroy when 6 years old or when no longer needed for reference, whichever is later.

Item 20.

Ethics Training

Ethics files containing documents relating to ethics training.

Disposition: TEMPORARY. Destroy when 6 years old or when no longer needed for reference, whichever is later.

Item 21.

Ethics Reports

Ethics reports to the Office of Government Ethics.

Disposition: TEMPORARY. Destroy when 6 years old or when no longer needed for reference, whichever is later.

Item 22.

Office Administrative Files

Copies of routine administrative records, including correspondence, forms and other documents relating to travel.

Disposition: TEMPORARY. Destroy when 2 years old, or when no longer needed, whichever is sooner. {GRS 23, item 1}

Item 23.

Employment Applications

Applications, including OF 612, resumes, and any other application that an agency may develop for unique jobs with specialized requirements, and related records, EXCLUDING records relating to appointments requiring Senatorial confirmation and applications resulting in appointment which are filed in the OPF.

Disposition: TEMPORARY. Destroy upon receipt of OPM inspection report or when 2 years old, whichever is earlier. {GRS 1, item 15}

DOCKET OFFICE

Item 24. Case files

These are file folders that contain documents pertaining to cases of citations written to mine operators of coal, sand and gravel or metal mines, under the Mine Safety and Health Act of 1977. The files begin usually with actual citations and continue through with the final written disposition of the Administrative Law Judge and the Commission.

Disposition: TEMPORARY. Cut off files at close of case. Retire to the Washington National Records Center 1 year after cutoff. Destroy 7 years after cutoff.

Item 25. Audio tapes

These tapes are cassette tapes made of the Commission meetings, held approximately once a week. These meetings are attended by the Commissioners and agency counsels for the purpose of discussion of a particular case in an open or closed discussion.

Disposition: TEMPORARY. Destroy or record over when 2 years old.

Item 26. Commission Blue Books

Blue books are printed volumes of Commission and Administrative Law Judge decisions and orders that merit publication. These books are published once a month. Approximately 35 sets are kept by Commission employees for cite and research purposes. The docket office has been designated as the office of record.

Disposition: PERMANENT. Transfer to the National Archives at end of each calendar year.

Item 27. Docket Cards

Docket cards are written records of every document that has been filed or issued in a particular case against a mine operator. There is a corresponding docket card with every case file. These are 5x7 pre-printed cards with blocks to identify mine operator, mine name, date of receipt, date of disposition, Administrative Law Judge assigned, and other standard information. It also includes lines where all other information pertaining to that particular case can be entered.

Disposition: TEMPORARY. Destroy when no longer needed for administrative purposes.