

<b>REQUEST FOR RECORDS DISPOSITION AUTHORITY</b>		JOB NUMBER N1-470-96-2	
To: NATIONAL ARCHIVES and RECORDS ADMINISTRATION (NIR) WASHINGTON, DC 20408		DATE RECEIVED 5/12/97	
1. FROM (Agency or establishment)  Federal Mine Safety and Health Review Commission		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request, including amendments, is approved except for items that may be marked "disposition not approved" or "withdrawn" in column 10.	
2. MAJOR SUBDIVISION  Offices of the Chairman and Commissioners			
3. MINOR SUBDIVISION  Legal Counsels and Executive Director			
4. NAME OF PERSON WITH WHOM TO CONFER  Elizabeth Symonds	5. TELEPHONE  202-653-5661	DATE 8-26-97	ARCHIVIST OF THE UNITED STATES <i>John W. Paul</i>
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 <u>7</u> 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,  <input checked="" type="checkbox"/> is not required; <input type="checkbox"/> is attached; or <input type="checkbox"/> has been requested.			
DATE 5-6-97	SIGNATURE OF AGENCY REPRESENTATIVE <i>Richard R Baker</i>	TITLE Executive Director	
7. Item No.	8. DESCRIPTION OF ITEM AND PROPOSED DISPOSITION	9. GRS OR SUPERSEDED JOB CITATION	10. ACTION TAKEN (NARA USE ONLY)
	<u>Please see attached.</u>		

Federal Mine Safety and Health Review Commission, Attachment to SF 115 - N1-470-96-2  
Offices of the Chairman, Commissioners, Legal Counsels to the Chairman and the  
Commissioners, and Executive Director

## **Records of the Chairman, Commissioners, and Legal Counsels**

### **Item 1. Cases Pending Before Review Commission**

a. Commissioners' Files: Copies of cases pending before the Review Commission, that contain copies of pleadings, orders, decisions, and notes by the Commissioners.

Disposition: TEMPORARY. Cut off files when decision by Commission has been reached. Move to Closed Case Files. Destroy decision drafts when superseded by final decision.

b. Counsels' Files: material almost identical to that in the Chairman's and Commissioners' files, but includes counsels' notes of case-related discussions with the Chairman, Commissioners, and counsels.

Disposition: TEMPORARY. Cut off files when decision by Commission has been reached. Move to Closed Case Files. Destroy decision drafts when superseded by final decision.

### **Item 2. Closed Case Files**

Files of cases reviewed and decided upon by the Commission.

Disposition: TEMPORARY. Destroy 60 days after issuance of decision. If appealed to the Courts, destroy after appeals process has been exhausted.

### **Item 3. Case-Related Files**

Monthly reports (statistical) from Administrative Law Judges, documenting the work load of each judge and the type of case; monthly reports by the FMSHRC Office of General Counsel; and similar administrative information on case processing.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy one year after cutoff.

Item 4. **Decisions and Orders**

Decisions and orders issued by the Administrative Law Judges.

Disposition: TEMPORARY. If the Commission grants the review of an ALJ decision, place the records in active case file and follow disposition instructions for item 1. If the Commission votes to deny review, place records in denials file and follow disposition instructions for item 7.

Item 5. **Petitions for Discretionary Review (PDR) - Directions for Review (DFR)**

Copies of a petition by a party requesting review by the Commission of an ALJ decision (PDR) and Commission issuance, signed by at least two Commissioners, indicating that the case will be reviewed (DFR) The official record is maintained in the Docket Office's case files. Additional copies are maintained by each Commissioner or by their legal counsels in their copies of the open case files (item 1).

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy when no longer needed for reference.

Item 6. **Petitions for Discretionary Review - Voting Records**

Records documenting the Commissioners' votes on whether to grant or deny review of a case. Located on a shared drive in WordPerfect.

a. Electronic records showing how each Commissioner voted on the PDR.

Disposition: TEMPORARY. Delete from the word processing system when printed out in paper and placed in official case file. {GRS 20, item 13}

b. Paper record keeping system: Votes printed out from shared drive are maintained by Chairman's counsel. (The official record is maintained in the Docket Office in the case files).

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy one year after cutoff.

c. Cumulative report for each calendar year.

c.1. Electronic: Disposition: TEMPORARY. ~~Cut off electronic file at end of each calendar year. Destroy 1 year after cutoff.~~  
Delete from word processing system when printed out in paper and no longer needed for updating and revision. GRS 20, item 13

c.2. Textual: Disposition: TEMPORARY. Cut off paper file at end of each calendar year. Destroy 3 years after cutoff.

Item 7. **Petitions for Discretionary Review - Denials**

Parties can petition the Commission for review of an ALJ decision on a case. These files document the Commission's denial of a review of an ALJ decision. Included is a copy of the official record maintained in the Docket Office's case files.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy when no longer needed for reference.

Item 8. **Petitions for Interlocutory Review**

Files consist of petitions to the Commission, submitted before a final ALJ decision is issued, and copies of interim level decisions or orders by the Commission. Included is a copy of the official record maintained in the Docket Office's case files.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy when no longer needed for reference.

Item 9. **Commission Decisions**

Copies of legal opinions (decisions) issued by the Commission. Official record is maintained in the Docket Office's official case files. Published copies of decisions in bound volumes are also retained in the Docket Office.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy one year after cutoff.

Item 10. **Default Orders and Other Orders**

Orders issued by the Commission.

a. Records of the Chairman and Commissioners.

Filing Instruction: Place in files of the counsels to the Chairman and Commissioners.

b. Records of the counsels.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy one year after cutoff.

Item 11. **Developments in the U.S. Court of Appeals**

Occasional statistical reports prepared by the FMSHRC Office of General Counsel and submitted to the Commissioners for informational purposes.

Disposition: TEMPORARY. Destroy at end of calendar year.

Item 12. **Court of Appeals Activity in Mine Act Cases**

Information regarding cases pending or resolved in the courts of appeals (memos from General Counsel, copies of court decisions, and similar information). Files retained in the Chairman's, Commissioners', and the counsels' offices.

a. Disposition: TEMPORARY. Destroy Chairman's and Commissioners' files at end of calendar year.

b. Disposition: TEMPORARY. Cut off at end of calendar year. Destroy counsels' files one year after cutoff.

Item 13. **Commission Case Processing and Production Files**

Monthly production reports, annual production reports, weekly pipeline reports. Duplicate copies are maintained in the Chairman's, Commissioners', and counsels' files.

a. Disposition: TEMPORARY. Destroy monthly production reports and pipeline reports at end of calendar year.

b. Disposition: TEMPORARY. Destroy counsels' copy of annual production reports when 3 years old.

Item 14. **Fatality Reports** (nonrecord)

Copies of statistical reports received from the Department of Labor on fatalities in the mines.

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

Item 15. **Rulemaking Files**

Chairman's and Commissioners' copies of rulemaking files, which contain copies of 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 cutoff.

Item 16. **Legislative Reference Files**

Files contain copies of Congressional bills, testimonies before Congressional committees, correspondence, memoranda, and other documents regarding Congressional legislation pertaining to the Commission.

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

Item 17. **Chronological Files of the Chairman and Commissioners**

Copies of correspondence and memoranda generated by the Chairman and each Commissioner.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy 1 year after term of author expires.

Item 18. **Subject Files**

Subject files contain substantive information regarding legal issues involving the Mine Act, administrative and budget issues, Commission staff information, contacts with the White House and other federal agencies, vacancy announcements, merit pay, SES issues, office space, and similar administrative information.

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

Item 19. **Administrative Meeting Files**

Files containing notices, agendas, and minutes of administrative staff meetings. Retained in binders in Chairman's counsel's office.

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy 3 years after cutoff.

Item 20. **Biographies of Chairman and Commissioners**

Disposition: PERMANENT. Transfer to NARA in 3 year blocks when most recent record in block is 3 years old.

Item 21. **Speeches**

Speeches by Chairman and Commissioners.

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

Item 22. **Historical Files**

Historical files contain information about the first years of the Commission's activities.

Disposition: PERMANENT. Transfer immediately upon approval of this schedule to the National Archives and Records Administration.

**Records of the Executive Director**

Item 23. **Legislative Reference Files**

Information pertaining to legislative proposals before Congress.

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

Item 24. **Annual Reports to Congress**

Included among the annual reports submitted by the Federal Mine Safety and Health Review Commission are Disabled Veterans Affirmative Action Plan, Equal Access to Justice Activity, Equal Employment Opportunity Recruitment Program, Equal Employment Opportunity Workforce Profile, Federal Managers' Financial Integrity Act, Inspector General report, and Small Business Procurement Goals.

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

Item 25. **Annual Budget Submissions**

Information regarding budget submitted to OMB and to Congress with supporting worksheets.

Disposition: TEMPORARY. Cut off at end of each fiscal year in which budget has been approved. Destroy 7 years after cutoff.

Item 26. **General Correspondence**

Disposition: TEMPORARY. Cut off at end of calendar year. Destroy 2 years after cutoff.

For disposition instructions for records created/received as a result of FOIA and PA, see General Records Schedule Chapter 14.