



Mine Safety Review Commission

Records Retention Schedule

Prepared by the State Records Branch
Archives and Records Management Division
Approved by the State Archives and Records Commission



This records retention schedule governs retention and disposal of records created, used and maintained by the Mine Safety Review Commission. **Government records in Kentucky can only be disposed of with the approval of the State Archives and Records Commission (the Commission). If records do not appear on a Commission-approved records retention schedule, agencies should not destroy those records.** This agency-specific schedule was drafted by Mine Safety Review Commission personnel and Archives and Records Management Division staff, and reviewed and approved by the Commission. This schedule provides the legal authority for Mine Safety Review Commission to destroy the records listed, after the appropriate retention periods have passed.

Mine Safety Review Commission personnel should use this agency-specific schedule in combination with the *General Schedule for State Agencies (General Schedule)*, also approved by the Commission. The *General Schedule* applies to records that are created, used and maintained by staff at all or most state agencies. Agency-specific retention schedules are used only by specific agencies and apply to records that are created only by a particular state agency, or to records that a state agency is required to retain longer than the approved time period on the *General Schedule*. The *General Schedule* and agency-specific retention schedule should cover all records for the Mine Safety Review Commission.

This retention schedule applies to state agency records and information regardless of how it is created or stored. For example, information created and sent using e-mail is as much a public record as materials created or maintained in paper. Kentucky law defines public records, in part, as "documentary materials, *regardless of physical form or characteristics*, which are prepared, owned, used, in the possession of or retained by a public agency" (KRS 171.410[1]). This means that records management standards and principles apply to all forms of recorded information, from creation to final disposition, regardless of the medium. Records retention scheduling is important in developing, using, and managing computer systems and other electronic devices. Records management practices encourage cost-effective use of electronic media through accurate retention scheduling and legal destruction of records.

All state government employees are responsible for maintaining records according to the retention schedule, whether those records are stored electronically or in paper. Information must be accessible to the appropriate parties until all legal, fiscal, and administrative retention periods are met, regardless of the records storage medium.

This retention schedule covers the content of records created by the Mine Safety Review Commission, including records created or stored using computers and computer systems. The *General Schedule for Electronic and Related Records* applies to records related to computers or a computer system. Examples of these include system documentation and use records, backup files, or website format and control records.

Audits and Legal Action

Agency records may be subject to fiscal, compliance or procedural audit. If an agency should maintain records longer than the approved retention period, as may be the case with some federal audits, then all affected records should be retained until the audit has been completed and the retention period met. In no case should records that are subject to audit be destroyed until the audit has been completed and retention periods met, or the records have been officially exempt from any audit requirements.

Records may also be involved in legal or investigative actions, such as lawsuits, administrative hearings or open records matters. These records must be retained at least until all legal or

investigative matters have concluded, regardless of retention period. This includes all appeals of lawsuits.

Vital Records

Vital records are essential to the continued functioning of an agency during and after an emergency. Vital records are also essential to the protection of the rights and interests of an agency and of the individuals for whose rights and interests it has a responsibility. Vital records are identified in the retention schedule with a (V).

Confidential Records

While all records created, used and maintained by government agency personnel are public records, not all of those records are open to public inspection. Whether a record is open to public inspection is determined by the state's Open Records laws and other relevant state or federal statutes and regulations. Restriction of public inspection of confidential records may apply to the whole record or only to certain information contained in the record.

Kentucky's public records are considered open for public inspection unless there is some specific law or regulation that exempts them. Agency personnel who believe certain records are confidential should submit a citation from Kentucky Revised Statutes, Administrative Regulations, Code of Federal Regulations, or similar authority. **State agency heads have the responsibility to know all the appropriate confidentiality laws, statutes and regulations that apply to the records maintained by their agency and to see that those laws are enforced.** Even though a record series may or may not be marked confidential on a retention schedule, contradictory laws or regulations that are passed after the schedule has been approved must be honored.

Copies of Records

Agency personnel often make copies of records for internal use or reference purposes. Agencies should designate one copy as the official copy and make sure it is retained according to the records retention schedule. Agencies can destroy all other copies when no longer useful.

Updating the Retention Schedule

Per 725 KAR 1:010, the head of each state government agency is required to designate a member of his or her staff to serve as a records officer. The agency records officer represents that agency in its records-related work with the Archives and Records Management Division. The agency records officer is responsible for assisting the Archives and Records Management Division in drafting a records retention schedule, and in finding any schedule updates to bring before the Commission. The retention schedule should be reviewed on a regular basis to suggest appropriate changes to the Commission.

Mine Safety Review Commission

The Mine Safety Review Commission was created during the 2001 session of the General Assembly. It was created as an independent agency, attached to the Public Protection and Regulation Cabinet. The Commission conducts hearings and issues orders regarding a licensee, coal operation, or other persons involved in the mining of coal, in accordance with KRS 351.194. It also makes recommendations to the Department of Mines and Minerals that it believes appropriate upon its review, consideration and analysis of:

- All reports of coal mining fatalities;
- any case in which a miner or a mine owner or operator has a history of significant and substantial safety violations, even though there has been no serious injury or death resulting from the violations;
- any case in which a miner or mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard; and
- any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to the certification of an individual certified by the Department.

RECORDS RETENTION SCHEDULE

Signature Page

Mine Safety Review Commission

June 2002

Agency

Schedule Date

Unit

Change Date

6/13/02

Date Approved by Commission

APPROVALS

The undersigned approve of the following Records Retention Schedule or Change:

David V. Cobb

June 20, 2002

Agency Head

Date of Approval

Debra Schuler

June 6, 2002

Agency Records Officer

Date of Approval

[Signature]

6/13/02

State Archivist and Records Administrator
Director, Public Records Division

Date of Approval

[Signature]

6/17/02

Chairman, State Archives and Records Commission

Date of Approval

The undersigned Public Records Division staff have examined the record items and recommend the disposition as shown:

Alanna Moses

6/4/02

Records Analyst/Regional Administrator

Date of Approval

Jim Ingle

6/13/02

Appraisal Archivist

Date of Approval

Alanna Moses

6/4/02

State/Local Records Branch Manager

Date of Approval

The determination as set forth meets with my approval.

Bruce Legkies

6/13/02

Auditor of Public Accounts

Date of Approval

STATE ARCHIVES AND RECORDS COMMISSION
Archives and Records Management Division
Kentucky Department for Libraries and Archives

STATE AGENCY RECORDS
RETENTION SCHEDULE

Energy and Environment Cabinet
 Mine Safety Review Commission

Record Group
Number
1828

Series	Records Title and Description	Function and Use
05328	Administrative Hearing Files (V)	This series documents administrative hearings held in regard to safety violations in underground and surface mines, as provided for in KRS 351.194. The violations can be of a technical nature or can be those that result in the death of or injury to a miner. The law creating the Commission was passed during the 2001 session of the General Assembly. (Previously, the Mining Board, Department of Mines and Minerals, had responsibility for the conduct of hearings.) The series is created upon receipt of information from the General Counsel, Department of Mines and Minerals, that probable cause exists that laws have been violated. The Department is responsible for carrying out investigations of alleged violations. Probable cause is based on the facts and findings of the investigations. The Commission must notify the licensee, coal operation, or other persons against whom the allegations are made within 20 days, of the hearing time and date. The Commission has 90 days in which to issue its order. Appeals to orders must be filed in Franklin Circuit Court within 30 days of the entry of the order. Orders of the Commission include the imposition of civil penalties, revocation, suspension, or probation of mine licenses and miner certifications.
	Access Restrictions	None
	Contents	Series may contain: Complaint; notice of hearing; entries of appearances by attorneys; answers; discovery requests; motions; orders; transcripts; appellate documentation; dismissal of charges; final order
	Retention and Disposition	Retain in Agency and destroy five (5) years after case closure and after all appeals have been exhausted