



Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

May 19, 2022

Kim Burch
Agency Records Officer
Federal Mine Safety and Health Review Commission
1331 Pennsylvania Avenue NW, Suite 520N
Washington, DC, 20004

Dear Kim Burch:

The National Archives and Records Administration (NARA) has become aware of an unauthorized removal of records from the Federal Mine Safety and Health Review Commission (FMSHRC). The report, submitted by the Chief Operating Officer, claims that an employee facing disciplinary actions removed sensitive agency records with a wide variety of content.

In accordance with 36 CFR 1230.16(b), NARA is requesting that the FMSHRC provide us with a response within 30 calendar days identifying the specific actions taken to address this allegation, and the steps taken to mitigate future risk. Please indicate if the records outlined in the allegation can be recreated or duplicated from other sources. Additionally, FMSHRC must take the necessary steps to recover the records that were downloaded. The employee must return the hard drive with the records and any copies of the records that were removed.

I appreciate your attention to this matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

cc. Leslie C. Bayless, Chief Operating Office, Senior Agency Official for Records Management



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August 3, 2023

Joshua Poole
Agency Records Officer
Federal Mine Safety and Health Review Commission
1331 Pennsylvania Avenue NW, Suite 520N
Washington, DC, 20004

Dear Joshua Poole

The National Archives and Records Administration (NARA) has received the Federal Mine Safety and Health Review Commission's (FMSHRC) report on the unauthorized removal of sensitive agency records by a Commission employee on May 5, 2022. The Agency Records Officer (ARO) reviewed the removed records and determined that all original records were present and accessible on the agency's network. The ARO recovered the employee's external hard drive with the removed records.

NARA acknowledges all of the steps taken to investigate the situation. FMSHRC does not have a dedicated Inspector General (IG) and entered into an interagency agreement for coverage. The IG investigation substantiated the allegations of unauthorized removal, but based on the information available, did not identify any laws, regulations, or agency policies that prohibited the employee's conduct. FMSHRC is unable to confirm if any copies were returned.

To mitigate future risk, FMSHRC recently upgraded its endpoint security system for its network and servers. This improved security is what alerted the Commission to the present unauthorized incident. The Commission has hired an IT Specialist to focus on information security and develop specific policies and directives governing employee use of government-furnished equipment and information. FMSHRC will continue to provide annual records management training to all employees. Employees and contractors are reminded of their responsibilities and that all official business records are government property and shall not be destroyed or removed.

Based on this information, NARA considers this issue resolved. I appreciate your attention to this matter. If you have any questions or wish to discuss further, please contact me at laurence.brewer@nara.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laurence M. Brewer". The signature is written in a cursive style with a large initial 'L'.

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

cc: Leslie C. Bayless, Chief Operating Officer, Senior Agency Official for Records Management