

§ 801.14 Public access to records.

(a) **Purpose.** The Commission, as an independent compact agency, is not subject to any of its member jurisdictions' laws regarding public access to records. Nevertheless, the Commission wishes to assure, to the maximum extent practicable, the availability of Commission records consistent with the Susquehanna River Basin Compact. The Commission shall maintain an "Access to Records Policy" that outlines the details and procedures related to public access to the Commission's records. Any revisions to this policy shall be consistent with this section and undertaken in accordance with appropriate public notice and comment consistent with requirements of 18 CFR 808.1(b).

(b) **Scope.** This section shall apply to all recorded information, regardless of whether the information exists in written or electronic format. There is a strong presumption that records shall be public, except where considerations of privacy, confidentiality, and security must be considered and require thoughtful balancing. The Commission shall identify types of records that are not subject to public access:

- (1) Personnel or employment records, excluding salary information;
- (2) Trade secrets, copyrighted material, or any other confidential business information;
- (3) Records exempted from disclosure by statute, regulation, court order, or recognized privilege;
- (4) Records reflecting internal pre-decisional deliberations, including deliberations between the commission and representatives of member jurisdictions;
- (5) Records reflecting employee medical information, evaluations, tests or other identifiable health information;
- (6) Records reflecting employee personal information, such as social security number, driver's license number, personal financial information, home addresses, home or personal cellular numbers, confidential personal information, spouse names, marital status or dependent information;
- (7) Investigatory or enforcement records that would interfere with active enforcement proceedings or individual due process rights, disclose the identity of public complainants or confidential sources or investigative techniques or endanger the life or safety of Commission personnel; or
- (8) Records related to critical infrastructure, excluding financial records, emergency procedures, or facilities.

(c) **Procedures.** The Access to Records Policy will detail the necessary procedures for requesting records and processing records requests:

- (1) Requests shall be in writing and shall be reasonably specific;
 - (2) The Commission shall identify an Access to Records Officer to handle requests;
 - (3) The Commission shall respond to a records request within a reasonable time and in consideration of available resources and the nature of the request;
 - (4) The Commission shall not be required to create a record that does not already exist, or to compile, maintain, format or organize a public record in a manner in which the Commission does not currently practice;
 - (5) A procedure shall be identified for electronic transfer, copying or otherwise providing records in a manner that maintains the integrity of the Commission's files; and
 - (6) A procedure shall be identified for handling review of requests that seek access to information that has been identified as confidential and for notifying the person(s) who submitted the confidential information that it is subject to a records request.
- (d) **Fees.** The Commission shall adopt and maintain a "Records Processing Fee Schedule." The fees shall be calculated to reflect the actual costs to the Commission for processing records requests and may include the costs of reproducing records and the cost to search, prepare and/or redact records for extraordinary requests.
- (e) **Appeals.** Any person aggrieved by a Commission action on a records request shall have 30 days to appeal a decision in accordance with 18 CFR 808.2.
- (f) **Disclosure to consultants, advisory committees, and State and local government officials and employees.** Data and information otherwise exempt from public disclosure may be disclosed to Commission consultants, advisory committees, and state and local government officials and employees for use only in their work in cooperation with the Commission. Such persons are thereafter subject to the same restrictions with respect to the disclosure of such data and information as any other Commission employee.