UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY Plaintiffs, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, SCOTT PRUIT, THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, DAVID S. FERRIERO Defendants.	Case No. 1:18-cv-406 (JEB)

DECLARATION OF JOHN B. ELLIS

I, John B. Ellis, Agency Records Officer for the United States Environmental Protection Agency (EPA or Agency), declare that the following statements are true and correct, and that they are based upon my personal knowledge or on information supplied to me by employees in other EPA offices.

1.   I am the Agency Records Officer and I lead EPA's National Records Management Program (NRMP). I have served in these roles since July, 2006. The NRMP is located in EPA's Office of Environmental Information (OEI), Office of Enterprise Information Programs (OEIP),

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Enterprise Records Management Division (ERMD). I have considerable experience working with the EPA's policies and procedures for managing, preserving, and disposing of federal records.

2. The ERMD is responsible for providing leadership and direction for the Agency's records management program. This includes, for example, developing an overall records management strategy; producing and updating EPA records management policies, procedures, standards and guidance; working with other offices within EPA to develop policies and guidance on the application of technology to records management; developing records schedules which authorize disposal of temporary records and transfer of permanent records to the National Archives; conducting briefings on records management; coordinating the records program within the Agency and with outside parties such as NARA; providing records advice to programs across the Agency as well as with colleagues in other agencies; and representing the Agency in inter-agency records management groups, such as the Federal Records Council and the Federal Records Officers Network.

3. ERMD also provides a wide range of services to EPA records managers and staff, such as: developing guidance and training materials to meet the needs of the Agency's records management staff and others in the program offices and regions; responding to requests for technical assistance on all aspects of records management; coordinating communications and networking among Agency-wide records managers; promoting communications among records managers and records liaison officers through meetings, site visits, and conferences; and distributing agency best practices and publications throughout the agency.

4. On February 10, 2015, Renee P. Wynn, the then-Acting Assistant Administrator for the Office of Environmental Information and Senior Agency Official for Records

Management for EPA, signed the current Agency Records Management Policy, CIO 2155.3,

which replaced an Interim Records Management Policy from June 2013. The Records

Management Policy lists records responsibilities for all EPA employees, including the

requirement that employees are responsible for "[c]reating and managing the records necessary

to document the Agency's official activities and actions…in accordance with EPA recordkeeping

requirements." A current copy of the Agency Records Management Policy is attached as Exhibit
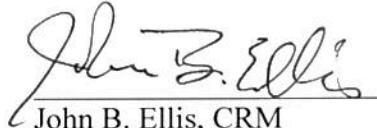
A to this declaration.

5.   The NRMP maintains an intranet page that provides all EPA employees access to

the Agency Records Policy as well as numerous detailed guidance and training materials

developed by the NRMP on behalf of the Agency.

6.   Since at least January 2013, the NRMP has provided EPA employees with a

"Frequently Asked Questions" or "FAQ" section of the NRMP's intranet page addressing verbal

communications, titled "Verbal Communications and Records." A current copy of the FAQ

"Verbal Communications and Records" is attached as Exhibit B to this declaration. Among

other things, it provides that "[a]ny oral communication where an Agency decision or other

commitment is made, and that is not otherwise documented, needs to be captured and placed in

your recordkeeping system." As examples, it references a "meeting or conference call where a

decision is made, if formal minutes or notes are not taken"; a "telephone call giving guidance to

a member of the regulated community"; a "voice mail message committing to take action"; or a

"telephone call responding to a member of the public about EPA policy." It recognizes that such

communications can come in many forms, including "a telephone conversation, a voice mail

message or series of voice mails, a formal meeting or even an informal chat with a coworker in

the hallway."

7.   EPA employees are required to take annual records management training developed by the NRMP. In Fiscal Year 2017, the annual records management training specifically provided as follows: "Verbal communications, voicemail or meetings, if they are records, must be documented by notes, or transcriptions, and the documentation managed as any other record according to the appropriate records schedule." A copy of the relevant training slide is attached as Exhibit C to this declaration. Functionally identical guidance appears in the Fiscal Year 2018 training.

Pursuant to 28 U.S.C. § 1746, I hereby affirm under penalty of perjury that the forgoing declaration is true and correct.

Executed this 1st day of May, 2018.

John B. Ellis, CRM
EPA Records Officer
Office of Environmental Information
U.S. Environmental Protection Agency

EXHIBIT A

⊕EPA **INFORMATION POLICY**

Records Management Policy	
EPA Classification No.: CIO 2155.3	CIO Approval Date: 02/10/2015
CIO Transmittal No.: 15-005	Review Date: 02/10/2018

Issued by the EPA Chief Information Officer,
Pursuant to Delegation 1-19, dated 07/07/2005

Records Management Policy

1. PURPOSE

- To advance a focus on overall records management responsibilities under the Federal Records Act (FRA), as amended, and other applicable authorities.

- To confirm and align principles, responsibilities and requirements for managing the Environmental Protection Agency's (EPA's) records to ensure that the Agency is in compliance with federal laws and regulations; EPA policies; and best practices for managing records.

- To provide the framework for specific guidance and detailed operating procedures governing records management.

2. SCOPE AND APPLICABILITY

This policy addresses all records made or received by EPA employees under federal law or in connection with the transaction of public business, and preserved or appropriate for preservation as evidence of EPA functions, organization and activities or because of the value of the information they contain. This policy applies to all EPA headquarters, regional, laboratory and other organizations.

3. AUDIENCE

The audience for this policy includes all EPA organizations, officials, and employees; those who oversee contractors and grantees; and non-EPA employees who manage Agency records, as appropriate.

4. BACKGROUND

The FRA, as amended, requires all federal agencies to make and preserve records containing adequate and proper documentation of their organization, function, policies, decisions,

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procedures and essential transactions. These records are public property and must be managed according to applicable laws and regulations.

The FRA also requires agencies to establish a records management program, defined as a planned, coordinated set of policies, procedures, and activities needed to manage their recorded information. Major elements include periodically issuing up-to-date records management directives, properly training those responsible for implementation and carefully evaluating the results to ensure adequacy, effectiveness and efficiency.

Records serve a number of purposes including: planning for administrative and program needs, providing evidence of EPA activities, protecting legal and financial rights, enabling oversight by Congress and other authorized agencies, documenting the Agency's history, and continuing key functions and activities in the event of an emergency or disaster. Records capture the Agency's institutional memory and preserve the historical record; they are of critical importance in ensuring that the organization continues to function effectively and efficiently. In conformance with the Presidential Memorandum, *Managing Government Records*, November 28, 2011, the Agency must "meet the executive branch-wide effort to reform records management policies and practices. [The results will improve] performance and promote openness and accountability by better documenting agency actions and decisions."

5. **AUTHORITY**
   a. 44 U.S.C. Chapter 31 – Records Management by Federal Agencies (Federal Records Act) [http://www.archives.gov/about/laws/fed-agencies.html]

   b. 44 U.S.C. Chapter 33 – Disposal of Records [http://www.archives.gov/about/laws/disposal-of-records.html]

   c. 44 U.S.C. Chapter 35 – Coordination of Federal Information Policy (Paperwork Reduction Act of 1980, as amended, Paperwork Reduction Reauthorization Act of 1995, and Government Paperwork Elimination Act) [http://www.archives.gov/about/laws/fed-information-policy.html]

   d. 36 CFR Chapter XII, Subchapter B – Records Management [http://www.archives.gov/about/regulations/regulations.html]

   e. OMB Circular A-123 – Management's Responsibility for Internal Control [http://www.whitehouse.gov/omb/circulars/a123/a123_rev.html]

   f. OMB Circular A-130 – Management of Federal Information Resources [http://www.whitehouse.gov/omb/circulars/a130/a130trans4.html]

   g. U.S. EPA, National Security Emergency Preparedness Policy (Order 2040.1A1) [http://intranet.epa.gov/ohr/rmpolicy/ads/orders/2040-1a1.pdf]

   h. U.S. EPA, Uniform Continuity of Operations (COOP) Plan Policy (Order 2030.1a) [http://intranet.epa.gov/ohr/rmpolicy/ads/orders/2030-1a.pdf]

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i. Federal Emergency Management Agency (FEMA) Federal Preparedness Circular 65 - Federal Executive Branch Continuity of Operations (COOP) [http://www.fema.gov/pdf/library/fpc65_0604.pdf]

j. Presidential Memorandum, Managing Government Records, November 28, 2011 [http://www.whitehouse.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records]

k. U.S. Environmental Protection Agency, Report on Managing Government Records, March 27, 2012. [http://intranet.epa.gov/records – click on "EPA's Response to Presidential Memo" under "Features"]

l. Memorandum for the Heads of Executive Departments and Agencies and Independent Agencies, from The Office of Management and Budget and the National Archives and Records Administration, Managing Government Records Directive, August 24, 2012 [http://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-18.pdf]

m. The Presidential and Federal Records Act Amendments H.R. 1233, signed by President Obama, November 26, 2014.

6. **POLICY**
   a. **EPA's Responsibility and Commitment**

   As a regulatory agency charged with protecting human health and the environment, the EPA is committed to managing the Agency's records properly to comply with legal requirements and to support the Agency's mission. Records identification, management and access are essential in allowing the Agency to meet its mission. The accuracy and consistency of how records are identified, captured, stored and retrieved provide the cornerstone to the effective functioning and transparent operation of the Agency. EPA is required to preserve Agency records in accordance with applicable statutory and regulatory requirements and to facilitate access to information by EPA staff, partners, stakeholders and the public, as appropriate.

   The Records Management Policy establishes specific requirements to effectively and efficiently identify, manage, search, retrieve and provide access to records throughout their lifecycle.

   b. **Creating and Receiving Records**

   According to the FRA, every federal agency is required to "make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities." Records contain the information that documents how EPA carries out its mission. The Agency's past and current work generates records. Records typically include information which is:
   - Created in the course of doing Agency business;
   - Received for action;

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- Needed to document EPA activities and decisions;
- Required to support EPA's financial and other obligations and legal claims; or
- Communicated to assert EPA requirements or guidance.

All EPA staff generate and receive records and are legally required to maintain them.

Records document the Agency's business and can be found in all media such as paper, email, instant messaging (IM), text messages, telephone messages, voice mail messages, presentations, websites, social media (e.g., Facebook, Twitter, etc.), word processing documents, spreadsheets, and information systems. If electronic records are created using any of these media, they need to be transferred to an electronic records management system.

Not all information created or received constitutes a record. Non-records include reference material, supplementary or convenience copies, a draft document or working paper with no substantive comments, and personal information which is unrelated to EPA business.

Some records are transitory in nature, which means they are of short-term (180 days or less) interest, including in electronic form, and have minimal or no documentary or evidential value.

Official Agency business should first and foremost be done on official EPA information systems. The FRA now prohibits the creation or sending of a federal record using a non-EPA electronic messaging account unless the individual creating or sending the record either: (1) copies their EPA email account at the time of initial creation or transmission of the record, or (2) forwards a complete copy of the record to their EPA email account within 20 days of the original creation or transmission of the record. These FRA requirements are designed to ensure that any use of a non-EPA information system does not affect the preservation of federal records for FRA purposes, or the ability to identify and process those records if requested under the Freedom of Information Act (FOIA), Privacy Act or for other official business (e.g., litigation, congressional oversight requests, etc.). EPA strongly discourages the use of personal email or other personal electronic messaging systems, including text messaging on a personal mobile device, for sending or receiving Agency records, but to the extent such use occurs, the individual creating or sending the record from a non-EPA electronic messaging system must copy their EPA email account at the time of transmission or forward that record to their EPA email account within 20 days of creation or sending.

Additionally, EPA discourages the use of text messaging on a mobile device for sending or receiving substantive (or non-transitory) Agency records. However, EPA recognizes that some Agency staff perform time-sensitive work that may, at times, require the creation of substantive (or non-transitory) records in the form of text messages for emergency or environmental notification purposes. In those limited instances, staff must continue to save and manage any text message records related to their work, as discussed below.

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c. **Managing Records**

Records are managed for the benefit of EPA and its staff, partners, stakeholders and the public. EPA is committed to maintaining and converting its records to electronic formats, where practical, to facilitate moving away from paper toward more effective and efficient electronic solutions. Non-transitory records should be stored in approved records management systems with records management capabilities or registered information management systems associated with an approved records schedule.

It is important not to use non-EPA systems to conduct Agency business, since such use could potentially lead to the mismanagement of Agency records and/or the unauthorized disclosure of Agency information. In the rare situation when a non-EPA messaging system must be used and a federal record is created or received on a non-EPA messaging system (such as a personal email account or personal mobile device), pursuant to the FRA, staff must either: (1) copy their EPA email account at the time of initial creation or transmission of the record, or (2) forward a complete copy of the record to their EPA email account within 20 days of the original creation or transmission of the record. Once the message is sent or forwarded to the EPA messaging system, you must save the record in an approved EPA electronic records management system. Once the electronic files have been captured in an approved EPA records management system, they should be removed from non-EPA messaging systems, unless there is a specific obligation (such as a litigation hold) to maintain the files on all systems on which they appear.

Additionally, emails forwarding a news article or Web links from a personal email account to EPA's system and emails from EPA forwarding a document to a personal email account both create a copy of the email in EPA's email system. Users can then properly preserve the copy of the email record in a recordkeeping system to meet their preservation requirements, if needed.

Similarly, users of text messaging, instant messaging or other transient messaging technologies on EPA information systems are responsible for ensuring that messages that result in the creation of a substantive (or non-transitory) federal records are saved for FRA purposes and placed in a recordkeeping system. For example, if a text message on an EPA mobile device is received or sent that qualifies as a substantive (or non-transitory) federal record, it must be saved into an approved recordkeeping system. In order to comply with this requirement, you can forward the text message into the EPA system, so that you may then save it in an approved recordkeeping system such as EZ Email Records. When forwarding the text message from the mobile device to the EPA email system, be sure to include the time, date, subject, and sender/recipient of the message whenever possible. Guidance on how to email a text message from a mobile device to yourself is available at http://intranet.epa.gov/mobiledevices/pdf/Instructions-Saving-Text-Messages.pdf.

Instant messages (such as Lync chats) that constitute substantive (or non-transitory) records should also be saved into an approved Agency recordkeeping system. Guidance on how to save instant messages (Lync chats) is available at http://intranet.epa.gov/ecms/guides/im.htm.

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d. **Access**

EPA records must be maintained in an appropriate manner, captured and organized to ensure timely search and retrieval for internal Agency use as well as for responses to outside inquiries. Sensitive records (e.g., sensitive personally identifiable information (SPII), and other Controlled Unclassified Information (CUI)) must be maintained with restricted access in accordance with statutory and regulatory requirements.

e. **Implementation**

Each office within EPA must establish and maintain a records management program with the following minimum requirements.

1. Create, receive and maintain records providing adequate and proper documentation and evidence of EPA's activities.

2. Manage records in any format (e.g., paper, emails, IMs, text messages, electronic documents, spreadsheets, presentations, images, maps, videos, blogs and other social media tools that generate communications) in accordance with applicable statutes, regulations, and EPA policy and guidance, including records schedules.

3. Maintain electronic records (e.g., emails, IMs, text messages, electronic documents, spreadsheets, presentations, images, maps, videos, blogs and other social media tools that generate communications) electronically in an approved electronic records system. Non-email electronic records, including electronic records that cannot be forwarded to and managed as an email record, should be saved in their native format in an organized way on an EPA network drive until an approved electronic records management system is available for desktop records.

4. Transfer or migrate records in paper and legacy electronic systems to approved or registered information management systems which are associated with a records schedule for manual management of disposition where practicable and when available. The Registry of Environmental Applications and Databases (READ) often captures information on systems which have a records schedule and require manual disposition.

5. Ensure that non-electronic records are managed appropriately in paper-based official recordkeeping systems which facilitate their preservation, retrieval, use and disposition, if they are not appropriate for scanning (or digitization).

6. Maintain records so they can be accessed by staff with a need to know the information for appropriate business reasons and maintained for the required retention period.

7. Secure records to protect the legal and financial rights of the government and persons affected by government activities.

8. Implement a plan to protect essential (vital) records and assess damage to and recover any records affected by an emergency or disaster (e.g., financial, legal and emergency operating records).

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9. Ensure that instructions for the management and disposition of records as specified in the approved records schedules are followed.

7. RELATED DOCUMENTS

a. EPA Records Management Manual [http://www.epa.gov/records/policy/manual/index.htm]

b. Additional documents, including forms, guidance and other relevant information are maintained on EPA's records management website. [http://www.epa.gov/records/]

c. International Standard ISO 15489-1:2001 – Information and documentation – Records management – Part 1: General. [http://www.iso.org/iso/catalogue_detail?csnumber=31908]

d. International Standard ISO/TR 15489-2:2001 – Information and documentation – Records management – Part 2: Guidelines. [http://www.iso.org/iso/catalogue_detail.htm?csnumber=35845]

e. NARA Bulletin 2013-03: Guidance for agency employees on the management of federal records, including email accounts, and the protection of federal records from unauthorized removal. [http://www.archives.gov/records-mgmt/bulletins/2013/2013-03.html]

f. NARA Bulletin 2013-02: Guidance on a new approach to managing email records. [http://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html]

g. NARA Bulletin 2012-02: Guidance on managing content on shared drives, December 6, 2011. [http://www.archives.gov/records-mgmt/bulletins/2012/2012-02.html]

h. EPA Privacy Policy, CIO 2151.0 [http://www.epa.gov/privacy1/policy/2151/index.htm]

i. EPA Guidance, Frequent Questions about E-Mail and Records [http://www.epa.gov/records/faqs/email.htm]

j. EPA Guidance, Managing Social Media Records - DRAFT - 12/05/12

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8. ROLES AND RESPONSIBILITIES

a. The EPA's Administrator is responsible for creating and preserving records that adequately and properly document the organization, functions, policies, decisions, procedures and essential transactions of EPA. This responsibility is delegated to the Assistant Administrator (AA) for the Office of Environmental Information (OEI) and Chief Information Officer (CIO). As mandated by the Presidential Memorandum of November 28, 2011, the Administrator is also responsible for designating a Senior Agency Official (SAO) at the Assistant Secretary level or its equivalent who has direct responsibility for ensuring that the Agency efficiently and appropriately complies with all applicable records management statutes, regulations, and NARA policy, and requirements of the OMB/NARA Directive of August 24, 2012 – Managing Government Records. The Administrator has designated the OEI AA/CIO as this SAO for records management.

b. OEI is responsible for leadership, planning, overall policy, guidance and general oversight of records management in the Agency, and its incorporation into the broader information resources management framework. OEI is responsible for the following:

1. Incorporating records management requirements and policies into the Agency's overall information resources management (IRM) policy and planning.

2. Designating an Agency Records Officer responsible for:

- Leading and managing the Agency-wide national records management program.

- Ensuring Agency senior officials are aware of their programmatic and individual records management responsibilities and requirements.

- Advising EPA on records management issues and developing Agency-wide records management policies, procedures, guidance, and training materials.

- Coordinating the approval of the Agency's records schedules and the transfer of records to NARA.

- Coordinating records management issues with other federal agencies, including federal oversight agencies such as the Office of Management and Budget (OMB), NARA, and the General Services Administration (GSA).

- Providing technical advice and training to all Agency organizations on establishing and maintaining effective records management programs.

- Evaluating recordkeeping practices to determine the effectiveness of the program.

- Obtaining NARA's Certificate in Federal Records Management.

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3. Promulgating and communicating Agency-wide policies and guidance that reflect records management missions and goals and incorporate federal requirements.

4. Designating other records management staff as required by regulations or as deemed necessary.

5. Assigning overall responsibility for the records management aspects of centrally provided information technology infrastructure, including local area network applications.

6. Ensuring senior Agency officials are aware of their records management responsibilities.

7. Conducting periodic evaluations of records management programs within the Agency as part of the Agency's IRM review and oversight program.

c. Assistant Administrators, Chief Financial Officer, General Counsel and Regional Counsel, Inspector General, Regional Administrators and Laboratory/Center/Office Directors are responsible for the following:

1. Being an advocate for records management in their organization.

2. Personally demonstrating the importance of records management and ensuring their organization is aware of the importance of and processes for managing records.

3. Demonstrating their commitment to the proper management of records in their organization through appropriate means (e.g., sending out messages, being present during days devoted to records management, encouraging managers and staff to take records training).

4. Designating a Records Liaison Officer (RLO) accountable to the Information Management Official (IMO) or other official designated to oversee the program. The IMO or other official designated to oversee the program reports to the Assistant Administrators, Chief Financial Officer, General Counsel, Inspector General, Regional Administrators and Laboratory/Center/Office Directors on a quarterly basis.

5. Ensuring the RLO has adequate skills, resources, time and appropriate authority to perform the job.

6. Overseeing the implementation of a records management program within their area of responsibility to accomplish the objectives identified in federal regulations and EPA policies and procedures. Minimum program components include responsibilities for:

- Identifying recordkeeping requirements for major programmatic and administrative records.

- Ensuring that records are identified, proper records schedules are assigned, and the records are properly stored.

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- Developing file plans and indexing approaches where appropriate to simplify the use of, access to, and integration of information within the organization.

- Drafting and updating records schedules for records created and maintained by the organization.

- Implementing approved records schedules to ensure records are not destroyed without proper authorization.

- Reviewing file plans and procedures at least every three years to ensure they are current and updating them as necessary.

- Assisting in planning and implementing information management technology and reviewing the purchase of records management equipment and services to ensure they conform to federal statutory and regulatory requirements.

- Implementing an essential (vital) records plan to ensure the continuation of key functions and activities in the event of an emergency or disaster.

- Providing records management briefings for all managers and training to staff within their organizations, as needed.

- Actively supporting managers, RLOs, staff and others in carrying out their records management responsibilities.

7. Developing records management oversight roles and communication networks with all program units including field offices and other facilities, as appropriate, to ensure that the records management program is implemented at all sites under their jurisdiction.

8. Developing and disseminating directives and operating procedures, as needed, to supplement Agency-wide policy to meet the unique records management needs of their organizations and to support a records management program within the organization.

9. Ensuring records and other types of required documentary materials are not unlawfully removed from EPA by current or departing officials, employees, or agents.

d. The General Counsel and Regional Counsel provide legal advice and counseling on records management issues as well as assist in determining the retention of Agency records that may be needed for legal purposes.

e. The Inspector General assists in determining the retention of Agency records that may be needed for internal investigation and audit purposes.

f. Managers and supervisors (Office Directors, Division Directors, Branch Chiefs, etc.) are responsible for:

1. Ensuring that a records management program is implemented within their organization.

2. Understanding and emphasizing the importance of records management to staff.

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3.   Designating selected staff as records contacts in order to meet recordkeeping requirements and responsibilities as described in this document.

4.   Providing support, time, and resources for records contacts to successfully carry out their recordkeeping responsibilities.

5.   Ensuring that the organization's file plans are current.

6.   Obtaining training so that they and their staff can carry out their recordkeeping responsibilities.

7.   Implementing an essential (vital) records program within the organization.

8.   Participating in records program reviews and assessments and developing and implementing corrective action plans to address gaps.

9.   Supporting initiatives to move from paper to electronic recordkeeping.

10. Ensuring that all records of separating employees have been identified, that temporary records that have met their retention are properly disposed of according to applicable records schedules, and that records that must be preserved have been assigned to other employees.

g.   Headquarters, Regional, Laboratory/Center/Office RLOs are responsible for:

1.   Creating and updating procedures for their offices in accordance with established EPA and program policies.

2.   Performing evaluations of their records management and essential records program.

3.   Developing file plans and procedures so records are organized and can be found when needed.

4.   Assisting with disposition activities, including retirement of inactive records, transfer of permanent records to NARA, and destruction in accordance with approved records schedules.

5.   Reviewing office-specific records schedules annually to ensure they are current, and initiating changes if not.

6.   Ensuring sensitive records are protected in accordance with federal and EPA requirements, and making sure designated individuals maintain access lists to ensure such information is released only to authorized individuals.

7.   Coordinating the identification and maintenance of essential (vital) records and submitting an annual inventory and certification of essential (vital) records through senior management to the Agency Records Officer.

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8. Reviewing and verifying their organizations' section of the Federal Records Centers invoices on a monthly basis verifying the status of their off-site records and costs.

9. Conducting briefings and training sessions on the records management program.

10. Reviewing and recommending requests for records management equipment, services and supplies.

11. Obtaining NARA's Certificate in Federal Records Management.

12. Completing Records Management Training for RLOs and Records Contacts [http://intranet.epa.gov/records/training/rlo/index.html].

13. Organizing, maintaining and training a network of records contacts within the organization.

h. Records contacts are responsible for:

1. Working within their organization as a liaison between the RLO and staff to provide records management training, guidance and support.

2. Being qualified and active in records management issues and participating in records management training when resources are available.

3. Creating file plans specific to their organization.

i. Completing Records Management Training for RLOs and Records Contacts [http://intranet.epa.gov/records/training/rlo/index.html].Information resources and system managers are responsible for:

1. Working with the local RLO, the Agency Records Officer and NARA to establish and update records schedules for electronic systems.

2. Implementing proper recordkeeping procedures for existing information systems and ensuring recordkeeping requirements are included in proposed systems.

3. Ensuring that information systems intended to carry out electronic records management comply with NARA's and EPA's requirements for electronic recordkeeping systems (these requirements available on the NRMP Intranet site [http://intranet.epa.gov/records/]

4. Maintaining electronic information systems in accordance with approved records schedules and NARA requirements.

5. Working with their RLO to transfer permanent systems to the National Archives in accordance with approved records schedules and NARA requirements.

6. Ensuring that EPA Internet and Intranet postings containing records are maintained in accordance with Agency recordkeeping requirements.

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7. Ensuring that prior approval is obtained before the removal of SPII from the Agency network or facility.

8. Coordinating the handling of electronic records and information with the local RLO/records management program and legal office when appropriate.

j. Project Officers (PO)/ Contracting Officer Representatives (CORs) and Senior Employee Employment (SEE) program coordinators/monitors are responsible for:

1. Creating and maintaining appropriate records of the management and oversight of their related projects, contracts, staff and SEE employees.

k. Continuity of Operations Program (COOP) planners are responsible for:

1. Working with records management staff to implement the essential (vital) records plan to ensure the continuation of designated COOP essential functions.

2. Ensuring that essential (vital) records are accessible from designated COOP locations.

l. All EPA employees are responsible for:

1. Creating and managing the records necessary to document the Agency's official activities and actions, including those records generated by EPA contractors and grantees, in accordance with EPA recordkeeping requirements.

2. Destroying records only in accordance with approved records schedules and never removing records from EPA without authorization.

3. Filing records for safe storage and efficient retrieval and maintaining and disposing of personal papers and non-record materials separately from records.

4. Ensuring that when secondary email accounts for individuals, groups or systems are created for business reasons, the records thus created are appropriately managed.

5. Identifying all records, in any format, in the employee's possession, and transferring them to another EPA custodian before separating or transferring to another organization. Note: Non-records and records which have met their disposition per appropriate records schedule should be destroyed unless subject to FOIA, litigation or audit. Records containing SPII must be shredded.

6. Taking annual records management training and any other related training and participating in records management activities such as records management days, records clean-up days, etc.

7. Contractors, grantees and others doing work on behalf of EPA are required to take annual records management training, as appropriate.

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9.   DEFINITIONS

Definitions can also be found on EPA's National Records Management Program Website at http://intranet.epa.gov/records/.

Approved Records Management System: An agency records management application approved for storing electronic federal records, including applications certified as compliant with the DOD 5015.2-STD standard or meeting the NARA standards for a records management application. Examples include EPA's Correspondence Management System and People Plus. [Need better example].

Authorized Federal Information Management System: A major information system managed by a federal agency which is used by other federal agencies. Records in these systems are managed by the agency owning the system. Examples include Concur, Employee Express and eOPF.

Destruction: In records management, the major type of disposal action. Non-records and records which have reached the end of their retention period per the appropriate record schedule can be legally destroyed. Records containing SPII must be shredded, pulped or burned, and never simply placed in the trash.

Disposition: The actions taken regarding records no longer needed for current government business. These actions include transfer to agency storage facilities or federal records centers, transfer from one Federal agency to another, transfer of permanent records to the National Archives, and disposal of temporary records. Disposition is the third stage of the records life cycle, and the actions taken regarding non-record materials when no longer needed, including screening and destruction.

Electronic messaging account: The term "electronic messaging account" means any account that sends electronic messages for purposes of communicating between individuals.

Official EPA Information System: Any information system that EPA employees are permitted to access, create, share, store or transmit information on for official government business.

Official Recordkeeping System: An "information management system which captures, manages and provides access to records through time" and can be electronic or paper-based, until an appropriate electronic recordkeeping system becomes available.

Records Schedule: Also called records disposition schedule, records control schedule, records retention schedule, records retention and disposition schedule, or schedule. A document that describes agency records, establishes a period for their retention by the agency,

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and provides mandatory instructions for what to do with them when they are no longer needed for current government business. The term refers to: (1) an SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of federal records; (2) a General Records Schedule (GRS) issued by NARA; and (3) a printed agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SF 115s or issued by NARA in the GRS. (Source: 36 CFR 1220.14)

Registered Information Management System: An Agency electronic information system which has an associated records schedule or an information management system which holds records and is manually managed. Such EPA systems should be registered in the Agency's Registry of EPA Applications and Databases (READ) so they can be identified for scheduling, and the retention periods tracked. Examples include the Toxics Release Inventory Processing System (TRIPS), Safe Drinking Water Information System (SDWIS), and the Air Quality System (AQS).

Transitory Record: Records of short-term (180 days or less) interest, including in electronic form (e.g., e-mail messages), which have minimal or no documentary or evidential value. An example of a transitory record is a record documenting routine activities containing no substantive information, such as routine notifications of meetings, scheduling of work-related trips and visits, and other scheduling related activities. See NARA GRS 23/ EPA 167.

10. WAIVERS

a. **Waiver Process.** The Agency Records Officer may grant waivers to any provisions of this Policy for sufficient cause.

b. **Applications.** Applications for waivers to specific provisions should contain: (1) identification of the Policy provision; (2) a listing of reasons why the Policy cannot be applied or maintained; (3) an assessment of impacts resulting from non-compliance; and (4) the signature of the AA, RA or Laboratory/Center/Office Director, the Chief Financial Officer, the General Counsel, or the Inspector General responsible for the records management program in question.

c. **Notification.** The Agency Records Officer will notify the requesting office in writing of the decision on the waiver request within two weeks of receipt of the request. Circumstances will dictate whether the waiver may be renewed.

11. RELATED PROCEDURES, STANDARDS AND GUIDANCE

Required procedures and implementation guidelines for this Policy are found on the records management website [http://www.epa.gov/records/]. Supporting procedures to implement this Policy at the Program Office or other Administrative level must be approved by the Agency Records Officer in OEI.

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12. MATERIAL SUPERSEDED

CIO 2155.2: Interim Records Management Policy, Dated 06/28/13

EPA *IRM Policy Manual*, Chapter 10, 1996

Vital Records Order (Order 2160.1)

13. ADDITIONAL INFORMATION

For further information about this Policy, please contact the EPA Office of Environmental Information, Office of Information Collection.

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Renee P. Wynn
Acting Assistant Administrator for Environmental Information
and Chief Information Officer
U.S. Environmental Protection Agency

EXHIBIT B

Verbal Communications and Records

- What is a "verbal communication"?

- What kind of verbal communications might be a record?

- What types of communications are included?

- What is the best way to capture conversations that are records?

- Does this mean that I have to write a transcript of every conversation?

What is a "verbal communication"?

Verbal communication can mean a telephone conversation, a voice mail message or series of voice mails, a formal meeting or even an informal chat with a coworker in the hallway.

What kind of verbal communications might be a record?

Any oral communication where an Agency decision or commitment is made, and that is not otherwise documented, needs to be captured and placed in your recordkeeping system. For example:

- A meeting or conference call where a decision is made, if formal meeting minutes or notes are not taken;

- A telephone call giving guidance to a member of the regulated community;

- A voice mail message committing to take action; or

- A telephone call responding to a member of the public about EPA policy.

What types of communications are included?

- Face-to-face meetings;

- Conference calls (including audio or video);

- Telephone calls (including cell phones, walkie-talkies, CB radios or Voice over IP (VoIP)); or

- Voice mail messages (including telephone or computer).

What is the best way to capture conversations that are records?

Write a memo to the file. Be sure to include:

- Date and time of the communication;

- Type of communication (e.g., voice mail, telephone call);

- Participants;

- Subject; and

- Details on any decisions or commitments.

An alternative, for recorded meetings, is to create or obtain a transcript which can be saved as a record.

The second option would be to save the meeting's recorded Wave file as a record. This is not recommended for three reasons: (1) it is easier to maintain text files, (2) it's easier to search text files, and (3) it is cheaper to store text files than audio files.

Does this mean that I have to write a transcript of every conversation?

No, not all verbal communications are records. Only write a memo to the file or create or obtain a transcript for verbal communications if they are:

- Needed to document your activities as a federal employee, contractor, or other EPA agent; and

- Not otherwise captured in your recordkeeping system.

EXHIBIT C

Table Of Contents

What is a Record? General Definition

A record:
- Is created in the course of business
- Is received for action
- Is needed to document your activities and decisions as an EPA employee or contractor
- Supports financial obligations and legal claims
- Communicates EPA requirements or guidance
- Exists in any format (paper or electronic) and in any media such as:

  - spreadsheets
  - textual documents
  - databases
  - photographs and maps
  - text messages
  - instant messages

  - voicemail
  - information on mobile devices
  - documented verbal communications
  - messages created in social media tools or applications
  - email messages

Verbal communications, voicemail or meetings, if they are records, must be documented by notes, or transcriptions, and the documentation managed as any other record according to the appropriate records schedule.

Next

EPA

10:43 / 55:41 Minutes