



Records Management Briefing for Senior Officials and Political Appointees

Statutes, Regulations & Policy

- The Federal Records Act and related National Archives and Records Administration (NARA) regulations govern federal agencies' creation and preservation of records that document their organization, functions, policies, decisions, procedures and essential transactions (44 U.S.C. 31; 36 CFR Chapter XII, Subchapter B)
- A document is a record if it is:
 - *created or received by a federal agency* under "federal law or in connection with the transaction of public business" *and*
 - *"preserved or appropriate for preservation by that agency. . . as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them"* (44 U.S.C. 3301, Definition of Records)
- Records may be in *any* physical or electronic format, including paper, emails, instant messages, text messages, telephone messages, social media, Word documents, spreadsheets, and information systems



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Statutes, Regulations & Policy

- The EPA Chief Information Officer (CIO) is responsible for establishing policies/procedures and establishing and maintaining a continuing program to manage and secure records (EPA Delegation 1-84, Information Resources Management)
- EPA's **Records Management Policy** (CIO 2155.5) outlines the records management responsibilities of all EPA employees, including:
 - Creating records that document their activities
 - Filing records for safe storage and efficient retrieval
 - Disposing of records according to Agency records schedules
 - Safeguarding records against removal or loss
- A **records schedule** is an EPA document approved by NARA that provides specific, mandatory instructions for managing records, including when the records must be *closed*, how long the records must be *maintained* and the *final disposition* of the records (i.e., destruction or transfer to NARA)

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Types of Records

- **Permanent Records** – Records that have sufficient historical or other value to be preserved permanently by NARA, beyond the time the records are needed for administrative, legal or fiscal purposes
- **Temporary Records** – Records that have temporary value and can be destroyed either immediately or after a specified retention period, based on NARA-approved records schedules. There are two categories of temporary records:
 - **Transitory** – Records of short-term interest (90 days or less) that have minimal or no documentary or evidentiary value
 - **Substantive or Non-transitory** – Records with temporary value that must be preserved based on approved records schedules

Non-Records and Personal Papers

- **Non-Records** – documents with no real evidentiary value, including extra copies of documents maintained solely for reference/convenience and printed materials maintained for reference purposes
- **Personal Papers** – documents belonging to an individual that are *not* used to conduct agency business, that relate only to the individual's own affairs, and are used just for the individual's convenience. Examples include:
 - Leave and Earnings statements
 - Tax documents (W-2 forms)
 - Documents for professional, political or civic activities that are not used to conduct Agency business
 - Materials brought to the workplace from home or a previous job
 - Personal papers should be maintained separately from federal records



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Senior Officials' Records

- Records of EPA's Senior Officials are especially important because they document significant Agency decisions and commitments
- Many records of Senior Officials are considered to be permanent and are transferred to NARA after 15 years
- Examples of Senior Officials' records include:
 - Calendars, schedules, daily activity logs
 - Emails/attachments and other electronic documents that are federal records
 - Directives, policies, and guidance
 - Program development files
 - Verbal decisions and instructions
 - Controlled and major correspondence
 - Speeches and testimony
 - Files of meetings with the Administrator
 - Reports to the President or Congress



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Records Management Responsibilities

It is your responsibility to:

- Manage your records yourself or designate an individual who will manage them for you
- Ensure that your records are placed in an approved Agency recordkeeping system
- Complete *EPA Form 3110-49 – EPA Records Management Checklist for Separating/Transferring or Separated Personnel* and identify and transfer records *prior to* departing the Agency or moving to a different position within EPA

Note: Records you create or receive in the conduct of Agency business during your tenure belong exclusively to EPA. There may be criminal penalties for unauthorized removal or destruction of records. Departing officials and employees may not remove extra copies of records or other work material without prior approval.



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Records Management Guidance

- Document, in an approved Agency records management system, the substance of meetings and conversations where decisions are made, issues are resolved, or policy is established.
- In general, do *not* use a non-EPA messaging system (e.g., personal email or personal mobile device) to conduct Agency business. In rare situations when a non-EPA messaging system must be used and a federal record is created or received, you *must*
 - copy your EPA email account when initially creating or transmitting the record *or*
 - forward a complete copy of the record to your EPA email account within 20 days of the original creation or transmission of the record
- EPA strongly discourages the use of text messages to transmit Agency records. If a text message is a record, then the message and related contextual information (e.g., to, from, date, time and subject) must be forwarded to the EPA email system.
- Documents you create or receive may also need to be maintained pursuant to the Freedom of Information Act (FOIA), litigation or other legal requirements. Both records and non-records may be subject to FOIA or litigation requests.

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Capstone Approach for Email Records Management

- Under the *Managing Government Records Directive (M-12-18)*, issued by the Office of Management and Budget (OMB) and NARA, federal agencies must manage both permanent and temporary email records in an accessible electronic format
- Capstone is an automated email records management approach that retains employees' emails, calendars and Teams messages for a specified period of time based on the position they hold within the Agency



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Capstone Approach to Email Records Management

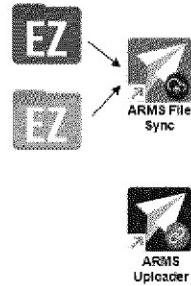
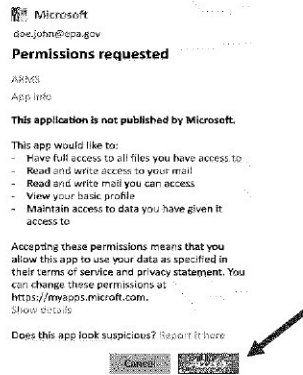
- EPA's initial Capstone approach includes the following retention categories for email records:
 - **Permanent Retention:** The email records of designated Capstone Officials are considered permanent and will be transferred to NARA after 15 years. These individuals are generally responsible for EPA policy- and mission-related actions and send and receive emails of permanent value.
 - **Temporary Retention:** The email records of non-Capstone employees are considered temporary and will be saved in the EPA email system for 10 years, before being deleted.
- **Exceptions:** Non-Capstone employees who have email records that are subject to retention periods longer than 10 years, based on EPA records schedules, must save those records into ARMS using the Record email category and the ARMS Uploader.

ARMS

- The Agency Records Management System (ARMS) is the new official recordkeeping system for electronic records at the EPA.
- This is the system that will be used when you manage your electronic records yourself or designate an individual who will manage them for you.
- Electronic records which need to be uploaded into ARMS include files from your OneDrive and emails.
- Once the files are uploaded, they can be searched and viewed in ARMS.

Getting Started with ARMS

You **must** visit <https://uploader.arms.epa.gov> and accept the Microsoft Permission Prompt to receive the New ARMS icons. Please allow a few hours for the icons to propagate once you press the Accept button.



The existing EzDesktop Shared and Private folders are replaced by the ARMS File Sync folder.

Drag electronic records into this folder then visit <https://uploader.arms.epa.gov> to complete your records submission.

Shared and private access control can now be specified in the ARMS uploader.

This is a direct link to the new ARMS uploader tool.

Uploading Records from OneDrive

- The ARMS Uploader syncs with your OneDrive location, offering a convenient method for uploading records to ARMS.

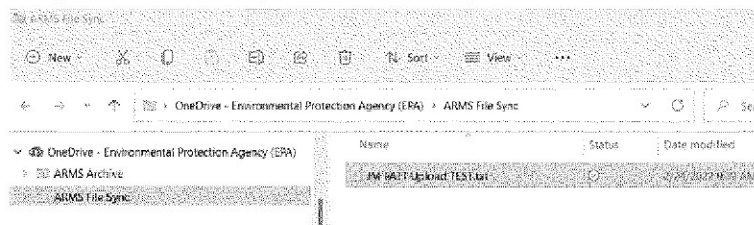


- Begin migrating records by adding your file to the **ARMS File Sync** folder in OneDrive. The **ARMS File Sync** folder is the intermediary queue that provides a method for users to migrate records from OneDrive to ARMS.

1. Open **File Explorer**.

2. Move files from your desktop storage location to your **OneDrive\ARMS File Sync**.

- When using the File Explorer method, do not expect to see your files in the OneDrive ARMS queue until the green check icon is presented in File Explorer.



Uploading Records from Email

- Users can access queued email records by selecting either the “**From Outlook**” tab or the “**Upload records from your Outlook**” button on the ARMS dashboard.

1. Select your email **MS Outlook**.

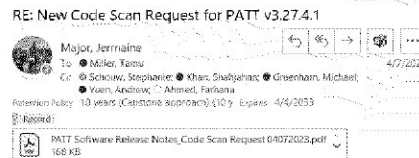
2. With your email highlighted, click the **Categorize** button.



3. Click the Record category to mark your email as a record.



4. The Record flag will be added to the heading of your email, confirming that the email has been categorized as a record.



5. Open the ARMS Uploader then click the **From Outlook** tab option to view your email record awaiting submission in the queue.

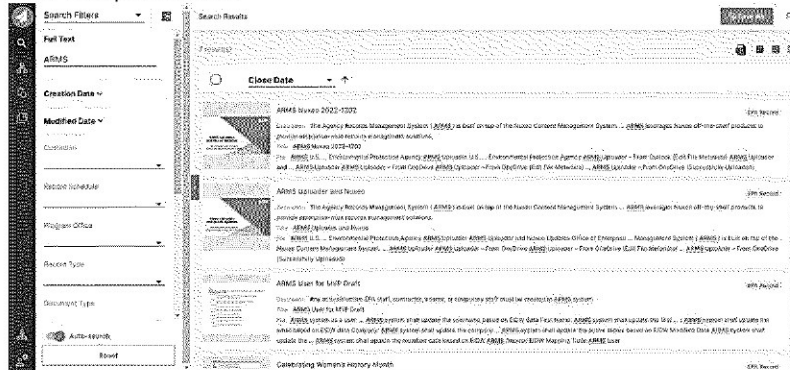
6. Emails containing attachments will automatically be linked and shown as such in the **From Outlook** tab.

Searching ARMS for Uploaded Records

- ARMS Search enables you to search a document using the document's metadata. You can for instance select metadata of the searched document or the date of specific events such as publication, or creation.
- ARMS Search leverages [Elasticsearch](#) to provide a quicker and more efficient search. The search form uses Elasticsearch aggregates for most fields: aggregate fields values are filtered so as to display only relevant values and show the count of matching documents for each value.

To search documents using ARMS Search:

1. Click on ARMS Search (indicated by a magnifying glass in the side navigation).
2. Fill in the fields with your criteria.





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<https://work.epa.gov/records-management>

<https://work.epa.gov/privacy>

<https://work.epa.gov/records-management/arms-overview>

<https://work.epa.gov/records-management/freedom-information-act-foia>



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Date: _____

Ethics presentation to DOGE SGEs

Presented by
Ferne Mosley, Attorney-Advisor
EPA HQ Ethics Office
February 19, 2025



Add a date to the cover page

Who is a Special Government Employee (SGE)?

An individual hired on a **temporary or intermittent basis** with the expectation that your service will **not exceed 130 days** in any 365-day period. See 18 U.S.C. § 202(a).

- SGEs are recruited primarily for subject matter expertise.
- SGEs are subject to federal ethics laws and regulations, including the Hatch Act, **with some limitations**.
- **You are a federal employee and you are held to a higher standard of ethical behavior.**

Who is a Special Government Employee?

How to count:

- Day counting is cumulative!
- Count all days you work as an SGE across **all** SGE appointments
- In a 365-day period

What to count:

- Count any day, *including any portion of a day*, that you work **or** receive compensation, including paid travel days.
- Do not count strictly administrative or non-substantive activities on uncompensated days.

For example: if you fill out paperwork or schedule a meeting, do not count that day. Use your time sheet to record your time.

Financial Disclosure – Form 3110-48

- Financial disclosure ensures the integrity of EPA operations
- Assists you to prevent conflicts of interest and other ethics violations, some of which are criminal.
- Forms are **confidential** – not releasable to the public or to others without a need to know or other protected disclosures.
- OGC/Ethics will review and certify your financial disclosure report.
- Your form must be received/updated prior to providing any advice to the Agency.
- **You are responsible for managing your conflicts with our assistance if you provide us all relevant facts in advance. There is no attorney-client privilege – our client is the U.S. government.** We serve as advisors to you to protect the integrity of Agency and government operations and programs.

Ethics Training Requirement

What?

- **You** must take SGE ethics training **each calendar year** of your appointment.

When?

- **New** SGEs: must complete training prior to the next meeting, but no later than 90 days after your appointment.
- Today's briefing covers CY 2025.

General Ethics Obligations of SGEs – Public Service is a Public Trust

Standards of Ethical Conduct for Employees of the Executive Branch – applies to SGEs

- General ethics requirements (highlights, not all inclusive)
 - You may not use or disclose non-public information for personal use or otherwise use your public office for private gain or the gain of others;
 - You may not accept (or solicit) gifts that are offered because of your official position or from prohibited sources, unless an exception applies;
 - You must meet all federal financial obligations, such as taxes and other debts;
 - You must act impartially, giving no preferential treatment to those who you know or are affiliated with in a non-governmental capacity;
 - You must conserve government resources and use them for authorized purposes.
- See 14 General Principles of Ethical Conduct

General Ethics Obligations of SGEs

Non-EPA Activity

- You may not refer solely to your EPA affiliation as that implies that you are acting in an official capacity.
- You may only include your EPA role as part of a larger biographical sketch.
- You may not imply or infer that the EPA or the federal government agrees with your personal views.
- For outside activities relating the EPA mission, we recommend providing a disclaimer to avoid confusion.

General Ethics Obligations of SGEs – Public Service is a Public Trust

Federal criminal laws - Title 18 of the United States Code

- You may not participate in “particular matters” affecting your personal financial interests; includes those of your spouse, minor children, organizations if you have fiduciary obligations (e.g., board member, officer, trustee) (See 18 USC § 208).
 - Financial interests include, stocks/stock options, bonds, mutual funds/ETFs, cryptocurrency, salary, employment, prospective employment, etc., unless the holding is exempt from the law by regulation.
- “Particular matters” include contracts, grants, litigation, enforcement actions, among other actions affecting the legal rights of specific parties, and rulemaking or legislative matters affecting a discrete and identifiable class of persons or industry.
 - You must disqualify yourself if you have a conflicting financial interest, absent a waiver issued in advance by OGC/Ethics in consultation with the US Office of Government Ethics. See 18 USC § 208(b)(1).
- You may not accept anything of value in exchange for performing or not performing an official act (that is a bribe!) (See 18 USC § 201)

General Ethics Obligations of SGEs

Representational conflicts 18 USC §§ 203/205

- **SGE serving < 60 days**

- You cannot represent someone to the EPA on any specific party matter in which you personally and substantially participated;
- Can't receive compensation for such representational services by you or another;

- **SGE serving > 60 days**

- Cannot represent back to EPA on *any* specific party matter or accept compensation.
- This is why day-counting is so important!

Hatch Act – applies to “political activity” when you are in a duty status. 5 USC § 7232

- May not engage in political activity in a federal building;
- May not wear or display partisan political items, e.g., buttons, hats, mugs, candidate photos, or posters; includes those from the most recent presidential race
- May not solicit, accept, or receive political contributions.

At no time may you use your EPA affiliation:

- to interfere with the outcome of an election;
- while engaging in personal political activities.

General Ethics Obligations of SGEs – Gifts from non-federal sources

The purpose of the gift rules is to avoid the appearance of undue influence in the performance of your official duties.

General rule:

You may not accept (or solicit) anything of value from a **“prohibited source,”** or offered **because of your government position.**

A **“prohibited source”** is anyone/entity that has or is seeking business before the Agency, is regulated by the Agency, or that can be substantially affected by the performance or non-performance of your official duties.

Government position – it is clear that your government position is the motivation for the gift.

Common exceptions and exclusions:

- Gifts based on outside business and personal relationships of you and/or your spouse;
- “widely-attended gatherings” – a large group with a broad range of ideals, e.g., government, academia, corporate, and/or non-profit representatives;
- Gifts offered to a group or class unrelated to government employment;
- Items offered to **all** government employees, regardless of the type of duties or agency where you work, e.g., government rates for hotels/rental cars; among others.

General Ethics Obligations of SGEs

Seeking non-federal employment

You must disqualify yourself from participating in a particular matter that will have a direct and predictable effect on the financial interests of a prospective employer,

You are "seeking employment" when:

- 1) You (or your representative) make an unsolicited inquiry for an open position, e.g., sending a resume;
- 2) You (or your representative) engage in employment negotiations – a two-way discussion geared towards reaching an agreement for future employment, even if you don't discuss salary (at this time, the criminal financial conflict of interest law applies);
- 3) You give something other than an affirmative rejection to the possibility of future employment.

It ends when either party affirmatively rejects the possibility of future employment.

Post-government employment 18 USC § 207

- You may not appear before or communicate with the government on behalf of another on the same specific party matter that you personally and substantially participated in as an SGE with the intent to influence government action.
- This is a ban for the lifetime of the matter.
- This is a criminal law.

For more information

- Contact EPA Ethics –
Justina Fugh, Director/Ethics Office
Fugh.Justina@epa.gov

General email: Ethics@epa.gov

- US Office of Government Ethics –
www2.oge.gov
- US Office of Special Counsel –
www.osc.gov/Hatch



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