



# West Virginia Division of Highways Policy: **Records Retention and Disposal Schedule**

*Issued by the Commissioner of Highways*

Policy No: DOH 1.7

Issue Date: 8/1/2020

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## 1.0 PURPOSE

The purpose of this policy is to ensure compliance with federal and state laws and regulations and to eliminate accidental destruction of documents while recognizing the agencies' need to process documents and manage valuable storage space efficiently.

It is important to retain documents for the required length of time, as indicated in the **Records Retention and Disposal Schedule**, and for the period of any Litigation Hold, as described in more detail below. However, to balance storage space concerns, it is also important to destroy documents when the requisite time period has passed.

Before destroying any records, the West Virginia Division of Highways (DOH) must obtain approval from the West Virginia Department of Administration (DOA) and the Division of Culture and History Archivist. All DOH organizations must, when possible, designate automatic destruction dates on boxes of documents sent to storage, and organizations must also adopt a regular practice of reviewing electronic document retention periods to ensure compliance with this policy.

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## 2.0 SCOPE

This policy applies to all DOH employees who maintain records.

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## 3.0 DEFINITIONS

- 3.1 **AC (After Cutoff)**: The breaking or ending of files at regular intervals, usually at the close of a fiscal or calendar year, to permit their disposal or transfer in complete blocks and, for correspondence, to permit the establishment of new files.
- 3.2 **Administrator**: Secretary of the DOA, as designated by statute as State Records Administrator.
- 3.3 **Agency Head**: Chief Executive Officer of the Agency.
- 3.4 **Agency Records Manager**: Employee appointed by the agency head to manage the agency's records inventory and to act as liaison with the Administrator.
- 3.5 **Archives**: West Virginia State Archives.
- 3.6 **Inactive Record**: A record that is no longer an Active Record but still must be maintained pursuant to the Records Retention Schedule.
- 3.7 **Non-Record**: Duplicates of official records created for convenience, drafts, personal notes related to drafts, or any material not originally created in the transaction of state

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business.

- 3.8 **Record**: Document, book, paper, spreadsheet, correspondence, electronic file, photograph, sound recording, video recording, or other material, regardless of format or characteristics, made or received pursuant to law or in connection with the transaction of official state business.
- 3.9 **Record Center**: Vendor storage facility of records that are required to be retained for long-term.
- 3.10 **Records Retention Authorization**: The request by the DOH for approval of the DOH's Retention and Disposal Schedule.
- 3.11 **Record Series**: A group of identical or related records which are normally used and filed as a unit, and which permit evaluation as a unit for retention scheduling purposes.
- 3.12 **Retention and Disposal Schedule**: A schedule of approved retention periods for the records of the DOH in the format prescribed by the Administrator.
- 3.13 **Retention Period**: A period during which records must be held before they may be legally disposed. The retention period is usually stated in terms of months or years, but sometimes is contingent upon the occurrence of an event, e.g., employee terminations and contract expiration. The retention period includes the life span of each record from creation to final disposition.

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## 4.0 DUTIES/RESPONSIBILITIES

### 4.1 STATE RECORDS ADMINISTRATOR

- A. Provides guidance to DOH in developing retention and disposal schedules, on records management best practices, and opportunities for efficiencies.
- B. Seeks assistance of the State Archivist, as required, in determining whether a record has archival value.
- C. Secures a facility for a statewide records center for use by DOH to store physical records.
- D. Approves or rejects Records Retention Authorizations and requests to destroy records in conjunction with the State Archivist submitted by DOH.
- E. Prepares an annual report on the administration of all the statewide records management program established pursuant to the statute.

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### 4.2 AGENCY HEAD

- A. Establishes and maintains an active, continuing program for the economical and efficient management of the records of the agency.
- B. Maintains records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state, and of persons directly affected by the agency's activities.
- C. Submits to the Administrator a Records Retention Authorization proposing the length of time each state record series warrants retention for the administrative, legal, fiscal or historical purposes after it has been received or created by the agency.
- D. Uses the Records Center to store inactive physical records.
- E. Furnishes Administrator a listing of people within the agency authorized to retrieve records, or information contained in records, from the Records Center.
  - This list shall be reviewed and updated semi-annually. Interim additions and deletions to this list shall be furnished as appropriate.
- F. Complies with the rules, regulations, standards and procedures issued by the Administrator.
- G. Cooperates with the Administrator in the conduct of surveys.

### 4.3 AGENCY RECORDS MANAGER

- A. Is conversant with the requirements of the Records Management Program and the types of records created and retained by the agency.
- B. Acts as a liaison between the agency and the Administrator.
- C. Coordinates the biennial inventory of the agency's total records inventory, both physical and electronic, and submit to the Administrator as required.
- D. Reviews biennially the agency's Retention and Disposal Schedule to determine if revisions are necessary and certify by letter to the Administrator this review has been completed.
- E. Coordinates the transfer between agency and Records Center regarding packing, transferring and retrieval of records stored in the Records Center.

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- F. Prepares and submits to the Administrator all completed forms as required.
- G. At least annually, reviews the Records and Disposal Schedule and requests approval to destroy records that have reached the required retention period.

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### 5.0 RECORDS RETENTION

All DOH Districts and Divisions must retain records as required by law and by good business practice and must follow the “Records Retention and Disposal Schedule”. Documents that are not specifically listed but are nonetheless substantially similar to those listed in the **Records Retention and Disposal Schedule**, will be retained for the specified length of time.

It is important to remember that a “document” or “record” is not limited to hard copies and includes, but is not limited to, electronically stored information (ESI) (i.e., e-mail messages, text messages, videos and electronic files produced or created by scanning original paper documents, among other methods), books, photographs, or sound recordings. ESI should be treated as paper documents with respect to retention. If a DOH employee has reason to retain an e-mail (including, but not limited to, e-mail falling into one or more categories listed in the **Records Retention and Disposal Schedule**), whether sent or received, the message should be printed or saved to an “archive” computer file folder created for retention purposes for the appropriate time period.

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### 6.0 CONVERSION OF ORIGINAL DOCUMENTS TO ELECTRONIC FORM

- 6.1 Electronic records should be utilized in place of physical records when appropriate.
- 6.2 Electronic records are subject to the same requirements as physical records under statute and pursuant to this rule, including retention policies and destruction approval.
- 6.3 See West Virginia Code §5A-8-10(b), and 44 United States Code §3302 and 3312. Such electronic documents are referred to as “Preservation Duplicates” and have the same force and effect as the original record, whether the original record exists or not.
- 6.4 If conversion of a document into electronic format is being considered, care must be taken to ensure that the Public Records Management and Preservation Act is observed. The process used must result in a complete, accurate, durable, and unalterable electronic form of the document. The resulting Preservation Duplicate document must be quickly locatable and retrievable.
- 6.5 Physical documents or original paper documents may be converted into an electronic format for retention purposes provided the resulting digital document accurately reproduces and forms a durable and unalterable medium for reproducing the original. The agency should indicate this practice on the Records Retention Authorization.

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### 7.0 DOCUMENT DESTRUCTION

DOH employees in possession of documents or records are responsible for identifying when documents or records have met retention requirements and for ensuring their destruction.

#### 7.1 PAPER DOCUMENTS

Once approved by the Administrator as part of the **Records and Retention Schedule**, the agency is not required to request destruction of physical documents that are convenience copies of an electronic record created for retention purposes.

When final approval is obtained for destruction, any documents containing legal, financial, personnel-related, or other documents that are otherwise confidential or containing Personally Identifiable Information (PII) shall be shredded.

#### 7.2 ELECTRONIC DOCUMENTS

When final approval is obtained for destruction, any documents containing legal, financial, personnel-related, or other documents that are otherwise confidential or containing PII shall be accomplished by other means designed to completely obliterate the document.

#### 7.3 MISCELLANEOUS

- A. All document destruction or permanent archiving shall be processed through the Records Manager, who shall keep a permanent list of records destroyed or archived.
- B. DOH's Information Services Division will be instructed to destroy Electronic Media Storage.

### 8.0 EXCEPTION TO SCHEDULED DOCUMENT RETENTION AND DESTRUCTION

- 8.1 To comply with the Sarbanes-Oxley Act of 2002, documents or records that are relevant to any official investigation or litigation, whether underway or potential (on "Litigation Hold"), must be retained by DOH Divisions and Districts until such time as the agency's legal counsel determines that retention is no longer necessary. This exception supersedes any previously or subsequently established retention and destruction schedule for those documents or records, including, but not limited to the **Records Retention and Disposal Schedule**.
- 8.2 The DOH Legal Division will give notice describing the records to be retained through a "Litigation Hold" or "Preservation Hold" memorandum. These records described must

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be retained resulting in the suspension of the retention schedule.

- 8.3 Failure to adhere to a Litigation Hold resulting in the destruction of documents, whether paper or electronic, may subject the DOH and individual employees to severe civil and criminal penalties.
- 8.4 Destruction shall resume only upon resolution of the official investigation or lawsuit after consultation with the Legal Division.