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Mobile and Portable Devices, and Records

NRMP Help Desk

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What are Mobile and Portable Devices?

Mobile and portable devices include, but are not limited to, laptops, tablets, netbooks, smart phones, and USB drives.

As of October 2014, the iPhone or Windows phone are the only smart phones available through the EPA Working Capital Fund. Exceptions to this rule require an approved reasonable accommodation. The link below will take you to the eBusiness MD Catalog, which lists all of the current available mobile devices through the Working Capital Fund.

[eBusiness MD Catalog](#)

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When and how should I use my Mobile or Portable Device?

Agency-issued mobile and portable devices are to be used for your official work. When using your device, be mindful that you are responsible for following the procedures described below for managing federal records.

As reflected in the Agency's Records Policy, all official business should first and foremost be done on Agency devices, and not on personal devices. The 2014 amendments to the Federal Records Act add clear responsibilities to employees who use a non-official messaging system to send or receive federal records. (see "My Mobile Device was not provided by the Agency. Do these rules still apply to me?" question below for more information on those requirements). EPA strongly discourages the use of personal mobile devices to send or receive federal records, but to the extent such use occurs, the individual sending or receiving federal records on a personal mobile device must follow the Federal Records Act requirements, as detailed below.

Additionally, EPA discourages the use of text messaging, on any mobile device, to send or receive 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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Wait, what is a "non-transitory" or "substantive" record?

Transitory records are defined as records of short-term (180 days or less) interest, 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. Transitory records can be deleted immediately, or when no longer needed for reference, or according to a predetermined

time period or business rule. According to NARA, a "non-transitory" record is any record that does not meet the definition of a "transitory" record. See [NARA GRS 23/EPA 1006](#).

An example of a text message that qualifies as a transitory record (which can be deleted when it is no longer needed) might be:

"I'm 5 minutes behind";

while an example of a text message that qualifies as a non-transitory record (and which would be required to be forwarded into your EPA email account for longer term preservation under a records schedule) might be:

"I'm 5 minutes behind, go ahead and make the decision without me."

In the first example, the record value of the message is only to those participants in the meeting who may be wondering where a colleague is, and thus there is no long term value of the message that requires its preservation beyond the start of the meeting. In the second example, the informational value of the message extends beyond the meeting's time-frame, to document information about who participated in an agency decision or action.

As this example demonstrates, you need to pay careful attention to use of text messaging as it relates to Agency business to ensure proper management of non-transitory federal records.

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What kind of records might I have on my Mobile Device?

In addition to having records with different retention periods on your mobile device as discussed above, you may have records in different forms or formats on your mobile device. Examples of Agency records that might be maintained on mobile devices can include e-mail, calendars, voice mail, text messages, photographs, and any other information related to your work at EPA. Records on mobile devices might be stored only on the device, or stored on the device and on Agency systems, depending on the type of record and whether it is backed up to Agency systems.

Currently, your e-mail, Calendar, and contacts are backed up on Agency systems, and are not stored only on your mobile device. This means, for example, if you send a non-transitory email record from your epa.gov email account using your mobile device, you do not need to take any extra steps to forward that message into an Agency system. You can save the record from the EPA email system into EZ Email Records.

On the other hand, if you were to take a photograph with your Agency-issued mobile device that qualified as a non-transitory record, you would need to transfer that photograph to an Agency system for retention in an approved recordkeeping system. The same is true for a non-transitory text message that is sent or received on your mobile device.

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What should I do with Agency records stored only on my Mobile Device?

Substantive (or non-transitory) records located only on your mobile device should be transferred to your office's recordkeeping system on a regular basis (it is recommended that you do so within 20 days). A recordkeeping system may be either electronic or hard-copy, as long as records are organized and accessible. If a text message is a substantive (or non-transitory) record, then it and related contextual information (e.g., to, from, date, time, and subject) must be forwarded to an approved EPA email system and then saved as a record using EZ Email Records (or another approved record keeping system) on a regular basis. For text messages created using an iPhone or Windows phone, see EPA's [Instructions for Saving Text Messages](#) (available on the EPA intranet only).

The following chart summarizes your obligations:

What is the retention and where is it stored?	Forward to EPA Email?
Transitory – stored only on the device	No
Transitory – stored on the device AND agency systems	No
<u>Non-Transitory– stored only on the device</u>	Yes (then save with EZ Email Records from EPA email)
Non-Transitory– stored on the device AND agency systems	No (but save with EZ Email Records from EPA email)

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After I have captured all appropriate Agency records into an official recordkeeping system, do I need to delete them from my mobile device?

No, you may maintain convenience or reference copies on the device, or you can delete them if appropriate. Both official records and convenience copies should be disposed of in accordance with applicable Agency record schedules. However, it is important to remember that you must first confirm that there is no other obligation, such as a litigation hold, to preserve the record on the device before you delete the record. If there is, consult with the Office of General Counsel or Regional Counsel's office as appropriate before taking any action.

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Can Instant Messages (IMs) be Agency records?

IMs are distinct from text messages and are exchanged using agency messaging systems such as Lync on Agency systems. Users of IM or other transient technologies are responsible for ensuring that IMs that result in the creation of a substantive or non-transitory federal record are saved for Federal Records Act purposes. This can be done by reviewing the IMs in your conversations folder in Microsoft Outlook, and marking IM conversations as records using EZ Email Records, as appropriate.

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Do I need to set up any special security on the mobile device?

Information stored on your device requires the same degree of protection as similar EPA information stored elsewhere, whether on a LAN, PC, removable electronic media, or paper. Consult your organization's policy on handheld computing to see if there are special security requirements. Enable the password lock feature when the device is not being used, to provide an initial form of protection against unauthorized users.

The following quick tips will help you protect your portable devices and the information they contain.

Portable Devices Security Quick Tips

- Keep your portable device with you or properly secured at all times.
- Make sure your portable devices are password protected and don't share your passwords.
- Don't connect your portable device to unknown networks or computers.
- If your portable device is lost or stolen, it is considered an EPA Security incident and should be reported according to instructions located at the Computer Security Incident Response Capability (CSIRC) "[How do I Report a Security Incident?](#)"

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Is the information on my Mobile Device subject to FOIA, subpoena, and discovery?

Yes, information on your Agency-issued mobile device may be requested under FOIA, in response to litigation or in response to a Congressional request. The same rules and exemptions that apply to the release of all other EPA documents under these laws also apply to documents contained on mobile devices. It is important to note that if information on your mobile device is responsive to a litigation hold, FOIA or other request, you must preserve the information even if it is a transitory record that could otherwise be deleted consistent with the Federal Records Act requirements.

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My Mobile Device was not provided by the Agency. Do these rules still apply to me?

Yes. As reflected in the [Agency's Records Policy](#), EPA strongly discourages the use of personal mobile devices for sending or receiving Agency records, but to the extent such use occurs, the individual creating or sending the record from a non-EPA device 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. This requirement to forward Agency records from a personal device is based on the 2014 amendments to the Federal Records Act. These amendments further provide that the intentional violation of the requirement to copy or forward a record from a personal device into Agency systems in the time-frame set forth in the amendments shall be a basis for disciplinary action.

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How can I get additional guidance?

If you have policy questions about managing records on your mobile or portable devices, contact the Records Help Desk. You can find additional guidance in the following publications:

- [Frequent Questions About Personal Papers](#)
- [Frequent Questions About Calendars](#)
- [Frequent Questions About Email](#)
- [Frequent Questions About Working Files](#)
- [Documenting Your Public Service](#), National Archives and Records Administration

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