



Energy and Environment Cabinet Office of General Counsel

Records Retention Schedule

Prepared by the State Records Branch
Archives and Records Management Division
Approved by the State Archives and Records Commission



This records retention schedule governs retention and disposal of records created, used and maintained by the Energy and Environment Cabinet, Office of General Counsel. **Government records in Kentucky can only be disposed of with the approval of the State Archives and Records Commission (the Commission). If records do not appear on a Commission-approved records retention schedule, agencies should not destroy those records.** This agency-specific schedule was drafted by Energy and Environment Cabinet, Office of General Counsel personnel and Archives and Records Management Division staff, and reviewed and approved by the Commission. This schedule provides the legal authority for the Energy and Environment Cabinet, Office of General Counsel to destroy the records listed, after the appropriate retention periods have passed.

Energy and Environment Cabinet, Office of General Counsel personnel should use this agency-specific schedule in combination with the *General Schedule for State Agencies (General Schedule)*, also approved by the Commission. The *General Schedule* applies to records that are created, used and maintained by staff at all or most state agencies. Agency-specific retention schedules are used only by specific agencies and apply to records that are created only by a particular state agency, or to records that a state agency is required to retain longer than the approved time period on the *General Schedule*. The *General Schedule* and agency-specific retention schedule should cover all records for the Energy and Environment Cabinet, Office of General Counsel.

This retention schedule applies to state agency records and information regardless of how it is created or stored. For example, information created and sent using e-mail is as much a public record as materials created or maintained in paper. Kentucky law defines public records, in part, as "documentary materials, *regardless of physical form or characteristics*, which are prepared, owned, used, in the possession of or retained by a public agency" (KRS 171.410[1]). This means that records management standards and principles apply to all forms of recorded information, from creation to final disposition, regardless of the medium. Records retention scheduling is important in developing, using, and managing computer systems and other electronic devices. Records management practices encourage cost-effective use of electronic media through accurate retention scheduling and legal destruction of records.

All state government employees are responsible for maintaining records according to the retention schedule, whether those records are stored electronically or in paper. Information must be accessible to the appropriate parties until all legal, fiscal, and administrative retention periods are met, regardless of the records storage medium.

This retention schedule covers the content of records created by the Energy and Environment Cabinet, Office of General Counsel, including records created or stored using computers and computer systems. The *General Schedule for Electronic and Related Records* applies to records related to computers or a computer system. Examples of these include system documentation and use records, backup files, or website format and control records.

Audits and Legal Action

Agency records may be subject to fiscal, compliance or procedural audit. If an agency should maintain records longer than the approved retention period, as may be the case with some federal audits, then all affected records should be retained until the audit has been completed and the retention period met. In no case should records that are subject to audit be destroyed until the audit has been completed and retention periods met, or the records have been officially exempt from any audit requirements.

Records may also be involved in legal or investigative actions, such as lawsuits, administrative hearings or open records matters. These records must be retained at least until all legal or investigative matters have concluded, regardless of retention period. This includes all appeals of lawsuits.

Vital Records

Vital records are essential to the continued functioning of an agency during and after an emergency. Vital records are also essential to the protection of the rights and interests of an agency and of the individuals for whose rights and interests it has a responsibility. Vital records are identified in the retention schedule with a (V).

Confidential Records

While all records created, used and maintained by government agency personnel are public records, not all of those records are open to public inspection. Whether a record is open to public inspection is determined by the state's Open Records laws and other relevant state or federal statutes and regulations. Restriction of public inspection of confidential records may apply to the whole record or only to certain information contained in the record.

Kentucky's public records are considered open for public inspection unless there is some specific law or regulation that exempts them. Agency personnel who believe certain records are confidential should submit a citation from Kentucky Revised Statutes, Administrative Regulations, Code of Federal Regulations, or similar authority. **State agency heads have the responsibility to know all the appropriate confidentiality laws, statutes and regulations that apply to the records maintained by their agency and to see that those laws are enforced.** Even though a record series may or may not be marked confidential on a retention schedule, contradictory laws or regulations that are passed after the schedule has been approved must be honored.

Copies of Records

Agency personnel often make copies of records for internal use or reference purposes. Agencies should designate one copy as the official copy and make sure it is retained according to the records retention schedule. Agencies can destroy all other copies when no longer useful.

Updating the Retention Schedule

Per 725 KAR 1:010, the head of each state government agency is required to designate a member of his or her staff to serve as a records officer. The agency records officer represent that agency in its records-related work with the Archives and Records Management Division. The agency records officer is responsible for assisting the Archives and Records Management Division in drafting a records retention schedule, and in finding any schedule updates to bring before the Commission. The retention schedule should be reviewed on a regular basis to suggest appropriate changes to the Commission.

**Energy and Environment Cabinet
Office of General Counsel**

The Office of General Counsel serves as the legal counsel to the Energy and Environment Cabinet and is part of the Office of Secretary. The Office was created pursuant to KRS 224.10-022.

In 2010, the energy and environment areas were combined to create the Energy and Environment Cabinet. There are three departments within the Cabinet: Department of Environmental Protection, Department for Natural Resources and Department for Energy Development and Independence.

RECORDS RETENTION SCHEDULE

Signature Page

Energy and Environment Cabinet
Agency

September 13, 2012
Schedule Date

Office of General Counsel
Unit

Change Date

September 13, 2012
Date Approved By Commission

APPROVALS

The undersigned approve of the following Records Retention Schedule or Change:

[Signature]
Agency Head

9.18.12
Date of Approval

[Signature]
Agency Records Officer

9.18.12
Date of Approval

[Signature]
State Archivist and Records Administrator
Director, Public Records Division

9/13/2012
Date of Approval

[Signature]
Chairman, State Archives and Records Commission

9/3/2012
Date of Approval

The undersigned Public Records Division staff have examined the record items and recommend the disposition as shown:

[Signature]
Records Analyst/Regional Administrator

9/13/2012
Date of Approval

[Signature]
Appraisal Archivist

9/13/2012
Date of Approval

[Signature]
State/Local Records Branch Manager

9/13/12
Date of Approval

The determination as set forth meets with my approval.

[Signature]
Auditor of Public Accounts

9/13/12
Date of Approval

STATE ARCHIVES AND RECORDS COMMISSION
Archives and Records Management Division
Kentucky Department for Libraries and Archives

STATE AGENCY RECORDS
RETENTION SCHEDULE

Energy and Environment Cabinet
 Secretary, Office of
 General Counsel, Office of

Record Group
Number
1902

| Series | Records Title and Description | Function and Use |
|---------------|--------------------------------------|---|
| 04142 | Legal Case File (V) | This series documents legal activities in regard to the administrative and litigation processes of specific cases by the Energy and Environment Cabinet's attorneys, either filed against the Cabinet or on behalf of the Cabinet. Programmatic divisions within the Cabinet create and maintain the originating documents upon which the case file is built. A case is considered closed with the issuance of an Order from the Secretary of the Cabinet or Judgment from a reviewing court. |
| | Access Restrictions | KRS 61.878 (1) (h) (i) (j) |
| | Contents | Series contains: Closure memoranda; Correspondence; copies of initiating document; Final Orders of the Secretary and Judgments |
| | Retention and Disposition | Retain in Agency thirty (30) days after case closure. Transfer to State Records Center to be retained fifteen (15) years, then destroy. Total retention is fifteen (15) years, thirty (30) days after case closure. |

Electronic System With Included Records Series

Energy and Environment Cabinet

Office of General Counsel

System Description: Prolaw is a case management system used for all legal matters involving the Department for Natural Resources and the Department for Environmental Protection. It is used by staff to track and manage cases. Since 2016, all legal documents are scanned into and maintained in this system. Information is entered by agency staff. There is no federal or state mandate governing this system.

System Contents: Prolaw may contain: pleadings, correspondence, penalty payments, case-initiating documents, case referrals, closure memoranda, Final Orders, and Judgements. This data may include the judge/hearing officer, the jurisdiction, the case type, and the attorney assigned.

General Schedule Items:

System Title: Prolaw

Alternate Title:

Series #: ***Series Title:***

Disposition Instructions:

04142 Legal Case File

Retain in Agency thirty (30) days after case closure. Transfer to State Records Center to be retained fifteen (15) years, then destroy. Total retention is fifteen (15) years, thirty (30) days after case closure.