

REQUEST FOR RECORDS DISPOSITION AUTHORITY		JOB NUMBER N1-399-08-02	
To: NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 8601 ADELPHI ROAD, COLLEGE PARK, MD 20740-6001		Date received 12/10/2007	
1. FROM (Agency or establishment) U.S. Department of Transportation		NOTIFICATION TO AGENCY In accordance with the provisions of 44 U.S.C. 3303a, the disposition request, including amendments, is approved except for items that may be marked "disposition not approved" or "withdrawn" in column 10.	
2. MAJOR SUBDIVISION Federal Railroad Administration			
3. MINOR SUBDIVISION Office of the Chief Counsel, Safety Law Division			
4. NAME OF PERSON WITH WHOM TO CONFER Kim Toone	1. TELEPHONE NUMBER (202) 493-6132	DATE <i>12/10/07</i>	ARCHIVIST OF THE UNITED STATES <i>[Signature]</i>
2. AGENCY CERTIFICATION I hereby certify that I am authorized to act for this agency in matters pertaining to the disposition of its records and that the records proposed for disposal on the attached <u>4</u> page(s) are not needed now for the business for this agency or will not be needed after the retention periods specified; and that written concurrence from the General Accounting Office, under the provisions of Title 8 of the GAO Manual for Guidance of Federal Agencies,			
<i>Reverse</i> <input checked="" type="checkbox"/> is not required <input type="checkbox"/> is attached; or <input type="checkbox"/> has been requested.			
DATE 6/10/11	SIGNATURE OF AGENCY REPRESENTATIVE <i>Kim Toone</i>		TITLE Records Officer
7. ITEM NO.	8. DESCRIPTION OF ITEM AND PROPOSED DISPOSITION.	9. GRS OR SUPERSEDED JOB CITATION	10. ACTION TAKEN (NARA USE ONLY)
	Chief Counsel's Office – Safety Law Division Congress created the Federal Railroad Administration (FRA) with the passage of the Department of Transportation Act, PL 89-670, October 15, 1966 (now codified at 49 U.S.C. 103, section 3(e)(1)). FRA's purpose is to combine Federal Government support of rail transportation activities, and to provide a unified national policy; to administer and to enforce rail safety laws and regulations; to administer financial assistance for certain railroads; and to conduct research and development. The Chief Counsel's office guides the legal affairs of FRA. The Safety Law Division of the Chief Counsel's office negotiates settlements with carriers for safety law violations; transmits claims for penalties for those violations to the U.S. Department of Justice (DOJ) for collection of the penalties when administrative settlement is impossible; and generally assists DOJ in representing FRA in all litigation. NOTE: The General Law Division is covered under schedule N1-399-07-21. The Railroad Enforcement System (RES) is covered under schedule N1-399-08-08. NOTE: These disposition instructions apply to all the described records regardless of physical media.		

1. **Attorney Working Files:** Records, drafts, notes, and memoranda, including background material and reference copies of documents collected by attorney.

Disposition: **Temporary.** Close files when legal work product is completed. Move any record-keeping material to appropriate subject matter file. Destroy or delete 30 years after closure.

Closed Civil Penalty Assessment Cases – Hazardous materials: Violations of the hazardous materials transportation law (49 U.S.C. Chapter. 51) that result in the assessment of civil penalties by the FRA against the shipper/carrier/other respondent. (Superseded Job: NC1-399-79-1/4).

2. **Closed Civil Penalty Assessment Cases – Hazardous materials – Case Files:** Violation reports that have been transmitted to respondents and been closed, with all associated documentation including inspection reports and evidence and basis sheets – official settlement notes and settlement amounts.

Disposition: **Temporary.** Close files at end of the fiscal year in which the case is closed.

If paper: Transfer to Federal Record Center (FRC) 1 year after closure. Destroy 3 years after closure or when fine or settlement amount has been paid, whichever is later.

If electronic: Delete 3 years after closure or when fine or settlement amount has been paid, whichever is later.

3. **Closed Civil Penalty Assessment Cases – Hazardous materials – Other Files:** Hazardous materials orders or settlement agreements with major railroads not incorporated into the case file.

Disposition: **Temporary.** Close files at end of the fiscal year in which the case is closed.

Destroy or delete 3 years after closure or when fine or settlement amount has been paid, whichever is later.

Closed Civil Penalty Violation Cases – Railroad Safety: Violations of federal railroad safety laws (49 U.S.C. Chapter. 201 - 213) that result in the assessment of civil penalties by the FRA against a railroad company or other respondent. (Superseded Job: NC1-399-79-1/3).

4. **Closed Civil Penalty Violation Cases – Railroad Safety – Case Files:** Violation reports that have been transmitted to respondents and been closed, with all associated documentation including inspection reports and evidence and basis sheets – official settlement notes and settlement amounts.

Disposition: **Temporary.** Close files at end of the fiscal year in which the case is closed.

If paper: Transfer to FRC 1 year after closure. Destroy 3 years after closure or when fine or settlement amount has been paid, whichever is later.

If electronic: Delete 3 years after closure or when fine or settlement amount has been paid, whichever is later.

5. **Closed Civil Penalty Violation Cases – Railroad Safety – Other Files:** Settlement agreements with major railroads not incorporated into the case files.

Disposition: Temporary. Close files at end of the fiscal year in which the case is closed. Destroy or delete 3 years after closure or when fine or settlement amount has been paid, whichever is later.

6. **Closed Violation Cases – Referred Cases:** Violations of Federal Railroad Safety laws and regulations which provide for criminal penalties, or which involve civil penalties which were not settled administratively. These cases are referred to the United States Attorneys' Office for prosecution/collection or Department of Treasury for collection. (Superseded Job: NC1-399-79-1/1)

Disposition: Temporary. Close files when case is transferred to higher authority. Destroy or delete 20 years after closure.

7. **Document Production Records:** Copies of records that were responsive to major or significant production requests, search memoranda, transmittals and other related correspondence, and documents produced for discovery.

Disposition: Temporary. Close files after the underlying investigation or litigation is concluded.

If paper: Transfer to FRC 2 years after closure. Destroy 7 years after closure.

If electronic: Delete 7 years after closure.

8. **Enforcement – Declined Violation Reports:** Violation reports declined for enforcement and associated declined enforcement memoranda.

Disposition: Temporary. Close files for declined violation reports at end of the fiscal year in which the violation report is declined. Destroy or delete 3 years after closure.

9. **Enforcement – Individual Liability Files:** Regional Warning Letters; Chief Counsel warning letters; individual civil penalty cases; disqualification cases.

Disposition: Temporary. Close files at end of the fiscal year in which the case is closed.

If paper: Transfer to FRC 5 years after closure. Destroy 30 years after closure.

If electronic: Delete 30 years after closure.

Legislative Files: Legislation, testimony, and reports mandated by Congress on programs within the purview of FRA or drafted by FRA; legislation, testimony, and congressionally-mandated reports referred to FRA for comment; opinions, interpretations, and advice on matters related to legislation as presented or intended for presentation to the Congress (e.g., copies of draft bills, reports, analyses, and correspondence with sponsors and other interested agencies or parties and related indexes); and specifications for legislative proposals. This term also includes testimony given by the Chief Counsel and material initiated or generated by FRA providing evidence of decisions, functions, policies, procedures, operations or other activities of the Government.

10. **Legislation – Landmark:** Legal work product files containing significant precedential legal opinions, analyses, and conclusions. Criteria to include records relating to legislation, testimony, and reports mandated by Congress on programs within the purview of FRA or drafted by FRA.

Disposition: **Permanent.** Close files at the end of the legislative session.

If paper: Transfer to FRC 5 years after closure. Transfer to NARA 30 years after closure.

If electronic: ~~Pre-accession to NARA 5 years after closure.~~ Transfer to NARA 30 years after closure. *

11. **Legislation – Routine:** Legislation matters and legal work product files that are routine in nature and do not have significant precedential or historic value.

Disposition: **Temporary.** Cutoff files at the end of the legislative session. Destroy or delete 20 years after closure, or when no longer needed, whichever is later.

Litigation Files: Pleadings, judgments, and correspondence on any judicial or administrative litigation or claim being handled by the Safety Law Division involving FRA or an official of FRA.

12. **Litigation Files – Landmark:** Legal work product files containing significant precedential legal opinions, analyses, and conclusions. Criteria to include records relating to cases that result in court decisions that significantly interpret statutes and regulations; cases that are heard by the appellate courts or the Supreme Court; cases that are deemed to be significant for investigative or litigation procedures or other important precedent; cases that attract national news media attention; and cases resulting in a congressional investigation.

Disposition: **Permanent.** Close files when underlying litigation is complete and all periods for other litigation and related appeals have expired.

If paper: Transfer to FRC 5 years after closure. Transfer to NARA 30 years after closure.

If electronic: ~~Pre-accession to NARA 5 years after closure.~~ Transfer to NARA 30 years after closure. *

13. **Litigation Files – Routine:** Routine: Legal matters and legal work product files that are routine in nature and do not have significant precedential or historic value.

Disposition: **Temporary.** Close files when underlying litigation is complete and all periods for other litigation and related appeals have expired. Destroy or delete 6 years after closure.

Subject Matter Files: Subject matter files are all completed legal work product created within the office, including memoranda or correspondence providing legal opinions, interpretations, advice, and related information on matters falling within the activities and operations of FRA; documents prepared outside the office relating to the legal work product created within the office without which the legal work product would be incomplete, e.g., requests for legal opinions, interpretations, or advice; or commentaries on, or responses to, opinions, interpretations or advice.

14. **Subject Matter Files – Landmark:** Landmark: Legal work product files containing significant precedential legal opinions, analyses, conclusions, advice or interpretations; policy-making decisions; documentation of major activities of the Safety Law Division, Office of the Chief Counsel.

Disposition: **Permanent.** Close files when legal work product is completed.

If paper: Transfer to FRC 10 years after closure. Transfer to NARA 30 years after closure.

If electronic: ~~Pre-accession to NARA 5 years after closure.~~ Transfer to NARA 30 years after closure. *

* on 7/19/2022 NARA revoked pre-accession policy.

15. **Subject Matter – Routine:** Legal matters and legal work product files that are routine in nature and do not have significant precedential or historic value.

Disposition: **Temporary.** Close files when legal work product is completed. Destroy or delete 3 years after closure.

16. **Subpoenas Issued by FRA:** Subpoenas issued by FRA for documents/testimony that are not part of a litigation case.

Disposition: **Temporary.** Close files when subpoena has been satisfied. Destroy or delete 3 years after closure.

17. **Tracking Systems:** Electronic tracking system that manages workflow for various Chief Counsel business processes. The records generated by the business process are authorized for destruction by the GRS or a NARA-approved SF 115.

Current tracking system: Railroad Litigation System (RLS): generates confirmation letter that the petition was received, milestones based on type of cases, and e-mail alerts for upcoming due dates.

Disposition: **Temporary.** Destroy or delete when 30 years old, or 30 years after the date of the latest entry, whichever is applicable.