



**This schedule is in draft. It may be used to retire records, but may not be used to destroy records. If you have any questions, please contact the Records Help Desk.**

## **EPA Records Schedule 751**

**Status:** Draft, 01/31/2011

**Title:** Environmental Alternative Dispute Resolution (ADR) Program Case Files

**Program:** General Counsel

**Applicability:** Agency-wide

**Function:** 317-260 - Mission Program Support

### **NARA Disposal Authority:**

This schedule authorizes the disposition of the record copy in any media (media neutral), excluding any records already in electronic form. Records designated for permanent retention must be transferred to the National Archives in accordance with NARA standards at the time of transfer.

- N1-412-10-2

### **Description:**

Consists of records held by ADR program staff or other EPA employees serving as a neutral third party related to the use of ADR in matters affecting public health and the environment that involve parties outside of the Agency. ADR is any procedure, conducted by a neutral third party that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact finding, mini-trials, arbitration and use of ombudsmen. An environmental ADR program is one established by EPA to assist Agency employees and stakeholders in the use of ADR matters affecting public health and the environment. A neutral third party (ADR neutral) is anyone who functions specifically to assist parties in resolving an issue in controversy.

Records cover regulatory matters, enforcement actions, permits, remediation of Superfund sites, closure of Treatment Storage and Delivery facilities, National Environmental Policy Act (NEPA) decisions, controversies stemming from Environmental Justice concerns, and other matters of importance to EPA and other parties. ADR records may be maintained by staff from EPA's Alternative Dispute Resolution Law Office's Conflict Prevention and Resolution Center and (subject to the exclusions below) EPA program offices.

There are two categories of records covered by this schedule. One category is confidential information protected from disclosure under the Alternative Dispute Resolution Act of 1996, 5 U.S.C. §574 ("confidential case files"). The other category is information that is not protected from disclosure under the Act ("general case files").

General records may include an agreement to use of ADR, confidentiality agreements, documentation of the settlement or discontinuance of the ADR case, parties' written evaluations of the process and/or the neutral third party mediator, and related correspondence. Confidential records contain information

provided to an ADR neutral by a party or prepared by an ADR neutral that are protected from disclosure by the ADR Act. Consequently, access to confidential records is restricted to EPA employees serving as ADR neutrals, managing third party ADR neutrals or communicating with ADR neutrals on a confidential basis on behalf of an EPA program office engaging in ADR, as appropriate under the ADR Act

Excludes 1) Records related to an EPA action that uses ADR held by EPA staff other than Agency employees serving as an ADR neutral, and 2) ADR records for matters involving citizen complaints and employee relations which are scheduled separately

### **Disposition Instructions:**

#### **Item a:** General case records

- **Disposable**
- Close inactive records at end of calendar year
- Destroy 5 years after file closure

#### **Item b:** Confidential case records

- **Disposable**
- Close inactive records after ADR is discontinued
- Destroy 1 year after file closure.

### **Guidance:**

Records related to an EPA action that uses ADR held by EPA staff other than Agency employees serving as an ADR neutral are retained according to the disposition instructions for the records of the actions they support, e.g., permits, enforcement cases, grants, etc. See EPA 259 for ombudsman and citizen complaint files and EPA 051 for ADR files related to employee relations. General program management files are covered by EPA 006

Records containing confidential information must be shredded to protect confidentiality

Specific policy citations include, but are not limited to

- U.S. Environmental Protection Agency, Policy on Alternative Dispute Resolution (FRL-6923-1), Federal Register, Vol. 65, No. 249, December 27, 2000
- EPA's Alternative Dispute Resolution Law Office policies and procedures for maintaining files containing confidential information

### **Reasons for Disposition:**

The 5 year retention for general case files meets OGC's business needs and is identical to that for records covered by EPA 006 for OGC's program management files. The 1 year retention for confidential case files meets OGC's business needs and is identical to ombudsman files covered by EPA 259

**Custodians:**

Multiple units

**Related Schedules:**

EPA 006, EPA 051, EPA 259

**Previous NARA Disposal Authority:**

None

**Entry:** 04/13/2009

**EPA Approval:** 12/07/2009

**NARA Approval:** Pending