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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

ADAM TOMLINSON, REPUBLICAN STAFF DIRECTOR  
DAN DUDIS, DEMOCRATIC STAFF DIRECTOR

February 13, 2025

The Honorable Lee M. Zeldin  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Dear Administrator Zeldin:

As President Trump continues to appoint new agency leadership at the Environmental Protection Agency (EPA), I write to remind you that (i) you and your employees, including all component agencies and offices, must comply with the record preservation obligations set forth in federal law; and (ii) you, your employees, and your agency have an ongoing obligation to preserve information relevant to congressional oversight.

Since President Trump took office on January 20, 2025, he has issued a number of Executive Orders and other executive actions, many of which implicate the EPA and obligate you to take certain actions. As you know, you must ensure that any information required by law to be preserved be saved and appropriately archived in a manner that is easily retrievable. It is also required that you remind all employees of their legal responsibility to take appropriate measures to collect, retain, and preserve all documents, communications, and other records in accordance with federal law, including the Federal Records Act and related regulations.<sup>1</sup> This includes electronic messages involving official business that are sent using both official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.<sup>2</sup> Any employee who conceals, destroys, or attempts to conceal or destroy a federal record may be subject to fine and imprisonment for up to three years.<sup>3</sup> I urge you to ensure that your employees and officials do not delete or destroy any official government records, including “information created, manipulated, communicated, or stored” electronically.<sup>4</sup>

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<sup>1</sup> See 44 U.S.C. §§ 3101-3107 (Chapter 31, Records Management by Federal Agencies); 44 U.S.C. §§ 3301-3314 (Chapter 33, Disposal of Records); and 36 C.F.R., Chapter XII, Subchapter B (Records Management).

<sup>2</sup> See 44 U.S.C. § 2911.

<sup>3</sup> See 18 U.S.C. § 2071.

<sup>4</sup> See 44 U.S.C. § 3301(a)(2) (defining “records” as inclusive of “all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form”).

Beyond those general preservation obligations under law, I send this specific preservation request to preserve two categories of information and documents.

The first category comprises all documents, communications, and other information, including electronic information and metadata potentially responsive to a congressional inquiry or subpoena regarding the following Executive Orders and actions:

- **EO 14148** Putting America First in International Environmental Agreements
- **EO 14151** Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce
- **EO 14154** Unleashing American Energy
- **EO 14159** Declaring a National Energy Emergency
- **EO 14162** Unleashing Alaska's Extraordinary Resource Potential
- **EO 14167** Ending Radical And Wasteful Government DEI Programs And Preferencing
- **EO 14168** Reforming The Federal Hiring Process And Restoring Merit To Government Service
- **Executive Memorandum** Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government's Leasing and Permitting Practices for Wind Projects
- **Executive Memorandum** Putting People Over Fish: Stopping Radical Environmentalism to Provide Water to Southern California

The second category comprises all documents, communications, and other information, including electronic information and metadata, that may be potentially responsive to a congressional inquiry or subpoena that relate to Elon Musk, Cole Killian, the so-called "Department of Government Efficiency" (DOGE), employees or so-called volunteers of DOGE, and any DOGE-related activities that occur at EPA.

For purposes of this request, "preserve" means securing and maintaining the integrity of all relevant documents, communications, and other information, including electronic information and metadata, by taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, mutation, or negligent or reckless handling that could render the information incomplete or inaccessible. This includes preserving all compilations of documents that have already been gathered in response to requests, even if copies of individual documents may still exist elsewhere in the agency.

I also request that that you:

1. Exercise reasonable efforts to identify and notify all relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, and consultants who may have access to potentially relevant information that they should preserve such information;
2. Exercise reasonable efforts to identify, recover, and preserve any potentially relevant electronic information that has been deleted or marked for deletion but is still recoverable;

3. Remind all relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, and consultants that any federal records sent or received using a nonofficial account must be forwarded to the agency for proper archiving;<sup>5</sup> and
4. If it is the routine practice of any relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, or consultants to destroy or otherwise alter potentially relevant information, either halt such practices as they relate to the potentially relevant information or arrange for the preservation of complete and accurate duplicates (including metadata) of such documents, communications, or other information.

Obviously, I expect EPA and EPA officials do not have an obligation to comply with record preservation laws outside of the context of the Executive Orders or DOGE-related matters in question.

I respectfully request that you acknowledge receipt of this letter at your earliest convenience by contacting my Oversight and Investigations Staff at (202) 224-8832 or via reply to the email transmitting this letter. Should you have any questions, they will also be happy to address them. Thank you for your cooperation in this matter.

Sincerely,



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Sheldon Whitehouse  
United States Senator  
Ranking Member  
Committee on Environment  
and Public Works

cc: Sen. Shelley Moore Capito  
Chairman, Senate Committee on Environment and Public Works

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<sup>5</sup> See 44 U.S.C. § 2911 (requiring disclosure of official business conducted on nonofficial electronic messaging accounts).