

#### PRIVACY IMPACT ASSESSMENT

(Rev. 2/2020) (All Previous Editions Obsolete)

Please submit your responses to your Liaison Privacy Official.

All entries must be Times New Roman, 12pt, and start on the next line.

If you need further assistance, contact your LPO. A listing of the LPOs can be found here:

https://usepa.sharepoint.com/:w:/r/sites/oei\_Community/OISP/Privacy/LPODoc/LPO%20Roster.docx

System Name: eDiscovery Enterprise Tool Suite, EPA-63	
Preparer: Brian Thompson	Office: eDiscovery Division, Office of Enterprise Information Programs, Office of Environmental Information
Date: December 7, 2020	<b>Phone:</b> (202) 564-4256
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Reason for Submittal: New PIA Revised PIA Annual Review_X Rescindment	
This system is in the following life cycle stage(s):	
Definition $\square$ Development/Acquisition $\square$ Implementation $\square$	
Operation & Maintenance ⊠ Rescindment/Decommissioned □	
Note: New and Existing Systems require a PIA annually, when there is a significant modification to the system or where privacy risk has increased to the system. For examples of significant modifications, see <a href="OMB Circular A-130">OMB Circular A-130</a> , Appendix 1, Section (c) (1) (a-f).	
The PIA must describe the risk associated with that action. For assistance in applying privacy risk see <a href="OMB Circular No. A-123">OMB Circular No. A-123</a> , Section VII (A) (pgs. 44-45).	

#### Provide a general description/overview and purpose of the system:

The eDiscovery Enterprise Tool Suite is a combination of several electronic tools that together assist with the preservation, search, processing, review and production of electronically stored information (ESI) in support of legal discovery or to respond to other formal information requests, such as FOIA requests and congressional inquiries. The information collected and maintained in the eDiscovery Enterprise Tool Suite is data, such as copies of existing data that reside on EPA systems or from an authorized EPA project requestor. The eDiscovery Enterprise Tool Suite does not specifically collect or receive PII data elements; however, if PII is collected or received as part of a discovery matter, then the PII will be maintained in the

#### **Section 1.0 Authorities and Other Requirements**

1.1 What specific legal authorities and/or Executive Order(s) permit and define the collection of information by the system in question?

The statutory authority for the eDiscovery Enterprise Tool Suite can be found in 44 U.S.C. § 3506, which establishes federal agencies' responsibilities for managing information resources and 40 U.S.C. § 11315, which establishes the responsibilities of the agency's Chief Information Officer to manage agency information resources.

1.2 Has a system security plan been completed for the information system(s) supporting the system? Does the system have or will the system be issued an Authorization-to-Operate? When does the ATO expire?

Yes, a security plan for the system was completed. Yes, the system has been issued an Authorization-to-Operate. The ATO expires June 6, 2022.

1.3 If the information is covered by the Paperwork Reduction Act (PRA), provide the OMB Control number and the agency number for the collection. If there are multiple forms, include a list in an appendix.

No ICR required

1.4 Will the data be maintained or stored in a Cloud? If so, is the Cloud Service Provider (CSP) FedRamp approved? What type of service (PaaS, IaaS, SaaS, etc.) will the CSP provide?

No.

#### Section 2.0 Characterization of the Information

The following questions are intended to define the scope of the information requested and/or collected, as well as reasons for its collection.

- 2.1 Identify the information the system collects, uses, disseminates, or maintains (e.g., data elements, including name, address, DOB, SSN).
  - eDiscovery Litigation Hold Files. The litigation hold files contain the names and email addresses of EPA employees and EPA contractors, interns, or grantees who have been provided EPA email addresses and who have been identified as custodians of information that needs to be preserved in the anticipation of litigation.

- eDiscovery Case Tracking Files. The case tracking files contain information about the cases created in response to a litigation, investigation, Freedom of Information Act (FOIA) matter or other formal information request.
- eDiscovery Collection Files. The collection files contain all information responsive to
  designated search criteria that relate to a litigation, investigation, FOIA matter or other
  formal information request. Information collected and contained in the system can be
  wide-ranging and potentially include emails, documents and other sources of ESI
  collected from custodians and may contain personally identifiable information. The
  information in the system will also contain the names and EPA email addresses of EPA
  employees, contractors, and grantees who have been identified as potential information
  custodians. Privacy information may be included in the ESI collected and maintained in
  the system.

## 2.2 What are the sources of the information and how is the information collected for the system?

The sources of information are custodians' local workstations, network file servers, collaboration tools, electronic records repositories, email and loose electronic documents (e.g., MS Word, MS PowerPoint, PDF, etc.). Information is extracted from its native source using the eDiscovery Enterprise Tool Suite, which is operated by EPA's eDiscovery technical team. Collections are based on custodian, date range and search or filtering criteria (e.g. keywords) that relate to the matter. The eDiscovery technical team also accepts information from authorized EPA project requesters in order to facilitate electronic search, retrieval and utilization. No information is independently collected from the public. Rather, the information in the system is collected from authorized project requesters for the purpose of facilitating electronic search, retrieval, and utilization.

## 2.3 Does the system use information from commercial sources or publicly available data? If so, explain why and how this information is used.

The system does not use information from commercial sources, such as information obtained from data aggregators. The system does not collect publicly available data, meaning information received from the internet, news feeds or from state or local public records, such as court records. Any data that reside in the eDiscovery Enterprise Tool Suite have been collected from other EPA systems or from an authorized EPA project requestor to determine the data's relevance to a particular matter, and the collected data may or may not include data that EPA has made or will make available to the public.

#### 2.4 Discuss how accuracy of the data is ensured.

The data retained in the system are copies of information already residing on other EPA systems. Therefore, the accuracy of the data in the eDiscovery Enterprise Tool Suite depends on the accuracy of the data in the source systems. Data in the eDiscovery Enterprise Tool Suite are not collected from non-EPA systems. In addition, accuracy of the data

residing in the eDiscovery Enterprise Tool Suite is maintained by controlling access to the records in the Tool Suite. Access is restricted to a limited number of authorized users with the appropriate security clearances and password permissions; access is further limited by user type.

#### 2.5 Privacy Impact Analysis: Related to Characterization of the Information

Discuss the privacy risks identified for the specific data elements and for each risk explain how it was mitigated. Specific risks may be inherent in the sources or methods of collection, or the quality or quantity of information included.

#### **Privacy Risk:**

There is a risk that in the process to collect and determine whether information is relevant to a matter, more information is collected and maintained in the eDiscovery Enterprise Tool Suite than is relevant to the matter.

#### **Mitigation:**

To mitigate this risk, the information that resides in the system that is determined not to be relevant to the matter will not be further disseminated beyond those individuals responsible for determining its relevance to the matter. Further, CIO Procedure 2155-P-03, *Collection and Retention Procedures for Electronically Stored Information (ESI) Collected Using E-Discovery Tools*, describes the data retention process for ESI collected using the eDiscovery Enterprise Tool Suite. The information residing in the eDiscovery Enterprise Tool Suite is necessary for legal discovery and to respond to FOIA requests, congressional inquiries and other formal requests for information. Part of the process includes determining relevance of the information and not all information will be determined relevant for the matter for which it was collected.

#### Section 3.0 Access and Data Retention by the System

The following questions are intended to outline the access controls for the system and how long the system retains the information after the initial collection.

# 3.1 Do the systems have access control levels within the system to prevent authorized users from accessing information they don't have a need to know? If so, what control levels have been put in place? If no controls are in place why have they been omitted?

Access to the eDiscovery Enterprise Tool Suite is restricted to a limited number of authorized users with the appropriate security clearances and password permissions. Access to the system is further limited by user type. System administrators have full access to the tool suite, including the ability to perform administrative functions. Other users have limited access particularized to the specific functions they need to perform in the Tool Suite rather than the whole lot of data. Authorized users include federal and contract staff located throughout the country. The system is maintained in secure areas and buildings with physical access controls.

### 3.2 In what policy/procedure are the access controls identified in 3.1, documented?

Access control Policy and Procedures: CIO 2150-P-01.2

## 3.3 Are there other components with assigned roles and responsibilities within the system?

Authorized users of the eDiscovery Enterprise Tool Suite include federal and contract staff located throughout the country in EPA's Program Offices and Regions. This includes eDiscovery technicians, case managers and other federal and contract staff supporting the Discovery Services Program in OEI and other EPA Program Offices and Regions.

Employees reviewing collected data to determine the data's relevance to a particular matter will have access to the information maintained in the eDiscovery Enterprise Tool Suite, as appropriate. These employees may be assigned to the various EPA's Program Offices and Regions.

## 3.4 Who (internal and external parties) will have access to the data/information in the system? If contractors, are the appropriate Federal Acquisition Regulation (FAR) clauses included in the contract?

Authorized users of the eDiscovery Enterprise Tool Suite include federal and contract staff located throughout the country. This includes eDiscovery technicians, case managers and other federal and contract staff supporting the Discovery Services Program. Employees reviewing collected data to determine its relevance to a particular matter will have access to the information maintained in the eDiscovery Enterprise Tool Suite, as appropriate.

FAR clauses 52.224-1 and 52.224-2 have been included in the contract for support of the Discovery Services Program and will be included in future contracts.

## 3.5 Explain how long and for what reasons the information is retained. Does the system have an EPA Records Control Schedule? If so, provide the schedule number.

RCS 1012: RCS 0089

#### 3.6 Privacy Impact Analysis: Related to Retention

Discuss the risks associated with the length of time data is retained. How were those risks mitigated? The schedule should align the stated purpose and mission of the system.

#### **Privacy Risk:**

There is a risk that the eDiscovery Enterprise Tool Suite may retain data longer than the sources systems' retention periods.

#### Mitigation:

This risk is mitigated through the implementation of the CIO Procedure 2155-P-03, Collection and Retention Procedures for Electronically Stored Information (ESI) Collected Using E-Discovery Tools. Further, if a litigation hold is in place, the normal disposition of records is suspended, and the Agency must preserve this information until the hold is lifted.

#### **Section 4.0 Information Sharing**

The following questions are intended to describe the scope of the system information sharing external to the Agency. External sharing encompasses sharing with other federal, state and local government, and third-party private sector entities.

4.1 Is information shared outside of EPA as part of the normal agency operations? If so, identify the organization(s), how the information is accessed and how it is to be used, and any agreements that apply.

Information produced from the eDiscovery Enterprise Tool Suite may be shared with external parties, as appropriate. In discovery matters, information may be shared with the Department of Justice or opposing counsel, as appropriate. For FOIA matters, information will be provided to the FOIA requester and subject to the nine FOIA exemptions for disclosure under the FOIA. Information from the system will be shared with a member of Congress or congressional staff in response to a congressional inquiry. Such disclosures are covered under EPA's General Routine Uses for records maintained in an EPA system of records and, therefore, memoranda of understanding or interagency agreements have not been issued for these purposes. EPA's General Routine Uses are published here: <a href="https://www.federalregister.gov/documents/2008/01/14/E8-445/amendment-to-general-routine-uses#h-14">https://www.federalregister.gov/documents/2008/01/14/E8-445/amendment-to-general-routine-uses#h-14</a>.

4.2 Describe how the external sharing is compatible with the original purposes of the collection.

The Agency will publish a SORN for the eDiscovery Enterprise Tool Suite indicating that EPA's General Routine Uses A, C, D, E, F, G, H, I, K, and L apply to this system. Refer to <a href="https://www.federalregister.gov/documents/2008/01/14/E8-445/amendment-to-general-routine-uses">https://www.federalregister.gov/documents/2008/01/14/E8-445/amendment-to-general-routine-uses</a> for a full explanation of these routine uses.

4.3 How does the system review and approve information sharing agreements, MOUs, new uses of the information, new access to the system by organizations within EPA and outside?

Disclosures of information residing in the eDiscovery Enterprise Tool Suite are covered under EPA's General Routine Uses for records maintained in an EPA system of records and, therefore, memoranda of understanding or interagency agreements have not been issued for these purposes.

#### 4.4 Does the agreement place limitations on re-dissemination?

Disclosures of information residing in the eDiscovery Enterprise Tool Suite are covered under EPA's General Routine Uses for records maintained in an EPA system of records and, therefore, memoranda of understanding or interagency agreements have not been issued for these purposes.

#### 4.5 Privacy Impact Analysis: Related to Information Sharing

Discuss the privacy risks associated with the sharing of information outside of the agency. How were those risks mitigated?

#### **Privacy Risk:**

There is a risk that a disclosure of information occurs in a manner not consistent with EPA's General Routine Uses.

#### **Mitigation:**

This risk is mitigated by restricting access to the system to authorized users, and further restricting access to user groups based on their particular functions. Information will be shared for the stated purposes.

#### **Section 5.0 Auditing and Accountability**

The following questions are intended to describe technical and policy-based safeguards and security measures.

### 5.1 How does the system ensure that the information is used as stated in Section 6.1?

The eDiscovery Enterprise Tool Suite is used to preserve, collect and review information from source systems and maintain this information for the purpose of legal discovery or responding to FOIA requests, congressional inquiries or other official requests for information. The ability to request the use of the eDiscovery Enterprise Tool Suite is limited to authorized requestors who are required to identify the purpose for their request to use of the system. Additionally, access to the records in the system is restricted to a limited number of authorized users with the appropriate security clearances and password permissions.

## 5.2 Describe what privacy training is provided to users either generally or specifically relevant to the system/collection.

The Agency's mandatory IT security training contains information on the proper handling of PII data.

#### 5.3 Privacy Impact Analysis: Related to Auditing and Accountability

#### **Privacy Risk:**

There is a risk that the required information privacy controls may not be implemented fully or correctly.

#### **Mitigation:**

This risk is mitigated through annual security assessments that are conducted to ensure compliance with privacy requirements.

#### Section 6.0 Uses of the Information

The following questions require a clear description of the system's use of information.

#### 6.1 Describe how and why the system uses the information.

The eDiscovery Enterprise Tool Suite will be used to respond to formal information requests in a variety of contexts including litigation, criminal investigations, FOIA requests, congressional inquiries and other formal requests for information from EPA by a variety of requesters. The information collected via the eDiscovery Enterprise Tool Suite is used in a manner that is compatible and consistent with the purposes for which the information has been collected.

## 6.2 How is the system designed to retrieve information by the user? Will it be retrieved by personal identifier? Yes\_X\_ No\_\_\_. If yes, what identifier(s) will be used.

Data in the system will be retrieved by custodian name and/or email address.

## 6.3 What type of evaluation has been conducted on the probable or potential effect of the privacy of individuals whose information is maintained in the system of records?

EPA has not conducted a formal evaluation of the effect of the privacy of the individuals whose information may be maintained in the system of records. However, the vast majority of the information contained in the system of records is from the EPA employee's email and other work-related documents. Therefore, the impact or effect of the privacy of individuals is minimal at best since the majority of the information originated from the individual's EPA issued accounts.

#### 6.4 Privacy Impact Analysis: Related to the Uses of Information

#### **Privacy Risk:**

There is a risk that the information maintained in the eDiscovery Enterprise Tool Suite is used for purposes other than the purpose for which it was collected, or the information is

accessed by unauthorized users.

#### **Mitigation:**

This risk is mitigated by restricting access to the system and providing training. The uses of the information for the eDiscovery Enterprise Tool Suite are relevant and necessary for legal discovery and to respond to FOIA requests, congressional inquiries and other formal requests for information. To ensure information is handled in accordance with the uses described above, a limited number of individuals can request the use of the system for a particular matter and they are asked to identify the purpose for the request (e.g., litigation, FOIA, congressional inquiry etc.). Additionally, there are role-based access control for users of the system. Users are provided access to information in the system based on their need to know. Individuals working on a particular matter will be given access only to the information related to that matter. The technical team and system administrators are given full access to information in the system to perform technical and administrative functions. The system is maintained in secure, access-controlled areas and buildings. Users of EPA systems are required to complete security and privacy training on an annual basis to ensure continued access to the system.

#### \*If no SORN is required, STOP HERE.

The NPP will determine if a SORN is required. If so, additional sections will be required.

#### **Section 7.0 Notice**

The following questions seek information about the system's notice to the individual about the information collected, the right to consent to uses of information, and the right to decline to provide information.

## 7.1 How does the system provide individuals notice prior to the collection of information? If notice is not provided, explain why not.

Any individual who wants to know whether this system of records contains a record about him or her, should make a written request to the Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave., NW., Washington, D.C. 20460, privacy@epa.gov.

## 7.2 What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the collection or sharing of their information?

There are no opportunities for individuals to consent to uses, decline to provide information or opt out of the collection or sharing of the information.

#### 7.3 **Privacy Impact Analysis:** Related to Notice

Discuss how the notice provided corresponds to the purpose of the project and the stated uses. Discuss how the notice given for the initial collection is consistent with the stated use(s) of the information. Describe how the project has mitigated the risks associated with potentially insufficient notice and opportunity to decline or consent.

#### **Privacy Risk:**

There is a risk that the individual may not be aware that information is being maintained in the eDiscovery Enterprise Tool Suite.

#### **Mitigation:**

This risk is mitigated through the SORN and PIA for the eDiscovery Enterprise Tool Suite and the SORNs and PIAs for the source systems of the information.

#### Section 8.0 Redress

The following questions seek information about processes in place for individuals to seek redress which may include access to records about themselves, ensuring the accuracy of the information collected about them, and/or filing complaints.

### 8.1 What are the procedures that allow individuals to access their information?

Individuals seeking access to information in this system of records about themselves are required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

### 8.2 What procedures are in place to allow the subject individual to correct inaccurate or erroneous information?

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

#### 8.3 Privacy Impact Analysis: Related to Redress

Discuss what, if any, redress program the project provides beyond the access and correction afforded under the Privacy Act and FOIA.

#### **Privacy Risk:**

There is a risk that information believed to be inaccurate or erroneous cannot be corrected in the system, rather in the information should be corrected in the source system.

#### **Mitigation:**

This risk is mitigated through the notice provided in the SORN for the source systems of information and the procedures for seeking corrective action described in EPA's Privacy Act regulations at 40 CFR part 16 (https://www.ecfr.gov/cgi-bin/text-

 $\underline{idx?SID} = \underline{e744}\underline{de790}\underline{bcdc49}\underline{ed29}\underline{ef09}\underline{e5d4}\underline{e4fee\&mc} = \underline{true\&node} = \underline{pt40.1.16\&rgn} = \underline{div5}).$