

County of Santa Clara Consumer and Environmental Protection Agency Surveillance Use Policy

Audio Recorders

1. Purpose

The Consumer and Environmental Protection Agency (CEPA) exists to promote and protect the agricultural industry of the County and its environment; to ensure the health and safety of the County's citizens and foster confidence and equity in the marketplace; to prevent, preserve, and improve the environmental factors affecting the community's health and safety; and to protect public health and safety by detecting and minimizing vector-borne disease, abating mosquitoes, and assisting the public in resolving problems with rodent, wildlife, and insects of medical significance.

Consistent with CEPA's purpose and this Policy, CEPA staff members shall be authorized to use audio recorders, currently Audio Sony IC and SONY ICD PX333 recorders, to lawfully record hearings, interviews, and other events relating to CEPA work. This Policy provides specific guidelines for the operation of the audio recorders, the storage of recordings, and the dissemination of stored data. This Policy does not include the use of audio recorders on County mobile/cellular phones and County computers, because a Countywide Surveillance Use Policy covers those devices.

CEPA shall ensure that the audio recorders and the data collected from those recorders are used in a lawful manner for CEPA business purposes, in compliance with this Surveillance Use Policy.

2. Authorized and Prohibited Uses

Audio recorders shall only be used by authorized CEPA employees, whose use shall be only for CEPA business purposes and not for individual employees' personal use or other non-County uses. Unless the CEPA Director expressly approves, personal audio-recording devices shall not be used in conducting County CEPA business.

Authorized uses of CEPA audio recorders shall be limited to:

- recording public civil, criminal, and administrative hearings.
- with written or verbal consent of the interviewee, recording interviews that may be presented as evidence at such hearings. Examples of witness interviews that may be recorded with CEPA audio recorders are those relating to:
 - Animal abuse and care
 - Agriculture
 - Storm water compliance and non-compliance

- Illegal Dumping
- Potential and Active Pollutant Discharge
- with attendees' knowledge or consent if it is legally required, recording CEPA meetings or trainings, to produce minutes or capture information for CEPA business purposes.

Audio recorders shall not be used in areas where there is a reasonable expectation of privacy, and shall not be used to harass, intimidate, or discriminate against any individual or group.

3. Data Collection

Audio recorders shall record only audio data.

4. Data Access

Access to nonpublic audio recordings, including audio recordings that are transferred to CEPA's secure server or another approved data storage location, shall be limited to persons in job classifications regarding which the CEPA Director or designee has deemed access to be reasonably necessary for official CEPA business or for a specific administrative, criminal, or civil investigation or proceeding.

5. Data Protection

Employees authorized to use CEPA audio recording devices shall ensure that those devices are kept either with the employee or within a secure location, such as the employee's badge-access-restricted workspace or a locked, secure location outside of public view.

Audio recordings saved on CEPA servers shall be protected as part of the County's data and network security measures. Access to those recordings shall be controlled through network security procedures and policies, which shall include user and network requirements regarding employee authentication and password credentials.

6. Data Retention

Unless audio recordings reasonably need to be retained on the recording device for CEPA business purposes, audio data shall only be stored on that recording device until that data is transferred to the appropriate secure CEPA server or alternate approved, secure data storage location. After data transfer and the recordings are no longer reasonably needed to be retained on the device for CEPA business purposes, the recordings shall be promptly deleted or recorded over on the recording device.

Retention timelines for stored audio data shall vary based on the type of data at issue, in accordance with CEPA's Record Retention and Destruction Schedule pursuant to County Board Policy 3.57: "Santa Clara County Record Retention and Destruction Policy."

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7. Public Access

The public shall not have direct access to any data captured by CEPA audio recorders. Data shall be made public or deemed exempt from public disclosure pursuant to state or federal law. Public requests for this data shall be submitted to CEPA for response in accordance with the California Public Records Act and other applicable state or federal laws.

8. Third-Party Data-Sharing

Third-party data-sharing shall be limited to the following:

- Law enforcement representatives if the CEPA Director or designee believes the data shows activity that appears to be unauthorized, improper, illegal, or in furtherance of illegal activity.
- Other agencies and third parties, including law enforcement agencies and government entities, for specific administrative, civil, and criminal investigation, hearing, and enforcement purposes related to specific individuals or a specific incident. If a law enforcement agency or other third party requests the data from CEPA, CEPA may, in consultation with the Office of the County Counsel, require a search warrant, subpoena, or court order to produce the data.
- Data may also be shared with parties in civil litigation involving the County, in response to a subpoena or civil discovery; to the County Personnel Board, arbitrator, Court, or administrative entity regarding a specific administrative investigation, action, or litigation; or as otherwise required by law. After receiving such a request for this data, the CEPA Director or other authorized individual with access to the data shall consult with the Office of the County Counsel to determine whether the law requires disclosure of the data.

If such data is requested by an employee representative regarding a specific claim, allegation, or action against a County employee or contractor, the request shall be reviewed by the CEPA Director or designee, with the assistance of the Office of the County Counsel and Labor Relations Department.

9. Training

This Surveillance Use Policy shall be available to and/or distributed to CEPA employees.

10. Oversight

CEPA management shall oversee use of CEPA audio recorders. The CEPA Director or authorized designee shall be responsible for ensuring compliance with this Surveillance Use Policy. CEPA's Information Services Manager, authorized designees, or Technology Services and Solutions shall be responsible for network security relating to storage of the recordings on County network servers.

Periodic audits shall be conducted to ensure that CEPA employees comply with this Policy. Alleged violations of this Policy shall be reviewed by the CEPA Director or designee, with the

assistance of the Office of the County Counsel and Labor Relations Department. Any employee found to have violated this Policy shall be subject to discipline, up to and including termination.

Approved as to Form and Legality

Rob Coelho 9/4/18

Rob Coelho
Office of the County Counsel