

FOSSIL PIPELINE, INC.

Topic: Comprehensive Records Management

Subtopics: Accountability, Communication, Compliance, Creating Policy, Litigation, Staffing

CURRENT BUSINESS SCENARIO:

You have been hired as a RIM consultant for Fossil Pipeline, Inc. Fossil is a large utility company that owns and operates multiple regional and cross-country natural gas pipelines. Several hundred employees work for the company at the headquarters, regional offices, and in the field performing operations and maintenance.

Three years ago, a section of Fossil's pipeline ruptured in the City of Louisville. The explosion demolished a regional distribution warehouse for a department store chain that was filled with holiday merchandise destined for store shelves. In addition, an adjacent municipal water pipeline was severed, a major electrical substation was put out of commission for three months, and several other buildings were leveled or damaged. Ten lives were lost.

Fossil faced many lawsuits seeking compensation for damages, lost revenue, and lost lives from the other utility companies, including the businesses and families affected by the blast. The costliest legal actions against Fossil resulted from the investigations and the subsequent civil lawsuit filed by the Utilities Commission. The civil lawsuit resulted in a record-breaking fine against Fossil after the court found evidence of poor recordkeeping and other operational deficiencies. During the investigation and subsequent litigation, the company failed to produce critical internal emails and other documentation related to pipeline inspections and maintenance.

The company wants to minimize such costly litigation in the future, so the Vice President of Administration asks you to examine the current RIM practices. A final report containing recommendations for improvements is due in 90 days.

FINDINGS:

During your investigation, you learn that there is a government safety regulation requiring operators of natural gas pipelines to maintain accurate records, identify risks to pipelines, routinely inspect pipelines, and test pipelines that have exceeded the legal maximum pressure. Inadequate recordkeeping practices, concerning the requirements of this specific regulation, were cited as the main reason for the large fine assessed in the Utilities Commission lawsuit. During the trial, Fossil only produced a small percentage of paper and electronic documentation requested by the court.

Of particular interest to the court were alleged internal emails between company executives discussing the diversion of profits to shareholders instead of investing in pipeline maintenance. During the proceeding, employees provided testimony indicating the existence of such emails, yet none were produced by the company. Fossil does not use email management software and relies on employees to determine whether to retain or delete emails during the normal course of business. The company also relies on employees to find and produce company emails to respond to subpoenas. A senior field engineer admitted to deleting email during the timeframe legal discovery was taking place. Upon questioning by the General Counsel, he stated he did not know there was a legal hold on his records and did not understand he was supposed to maintain his email for the duration of the legal hold.

You speak with company's General Counsel, who stated it was difficult to issue legal holds in a court deposition because there was no official company legal hold communication process to follow. Some of the business units contacted by the Legal Department, especially those in the field, said they did not have time to search for responsive documents. The Legal Department hired temporary agency paralegals to complete records search and retrieval in the field. The General Counsel has serious concerns regarding the lack of litigation-readiness within the company. He suggests you speak with the company Records Manager.

The Records Manager reports the company has retention schedules, but Fossil has not updated them since major changes were made to the national pipeline safety regulations several years ago. She states that the lack of resources prevents her from conducting a records inventory and revise the retention schedules. In addition, the Records Manager lacks company-wide authority to create,

enforce, or audit RIM policy or practices and does not have staff to assist in training employees on RIM best practices.

You next visit several field offices. The field offices are responsible for pipeline inspections and maintenance and create voluminous documentation in paper format that the headquarters office cannot access. Field employees you interview are aware of the recent litigation but do not believe responding to litigation requests is a priority for them. The few clerical employees in the field offices do not have much RIM knowledge or experience, and Fossil's headquarters does not provide training or guidance. Each field office creates their own organizational structure for records and destroys records when they run out of space. Field offices store electronic records on hard drives and removable storage devices. Field employees are not familiar with the corporate retention schedules.

ACTION:

This business case is designed to assess your proficiency in outlining problems and potential solutions. Write a clear, well-organized narrative business case to be presented to the Vice President for Administration. Your business case should address evident problems and propose outcomes.

Your business case will consist of two parts: an Executive Summary and an Analysis. The Analysis consists of several sections that will require a discussion of the problems and your proposed outcomes.

I. Executive Summary

10 points maximum

Explain (no more than 2-3 paragraphs) the basic overall problem(s) that you have identified, the key issues or factors that must be resolved, and a high-level description of your proposed outcomes.

II. Analysis:

40 points maximum

This section should deal with the specific problems and issues discovered during the study of the business case scenario and findings. Your business case may contain lists, so long as the section includes a paragraph explaining why the actions are appropriate.

Your business case may not consist only of lists and should address the following sections.

A. Identification of the Problems

15 points total

Identify the critical issues related to RIM and litigation responsiveness at Fossil Pipeline. Explain why each issue would be considered a problem by a RIM Manager.

B. Recommendations for Solutions

25 points total

Provide RIM recommendations for Fossil Pipeline. Please include in your discussion explanations on how these recommendations provide solutions to the problems identified in Section A.