



ELECTRONIC MAIL AND ELECTRONIC MESSAGING RECORDS RETENTION POLICY

- PURPOSE:** To update the Department of Commerce (Department) retention policy for electronic mail (email) and other types of electronic messaging used to communicate business information related to the Department and its components' mission or functions.
- SCOPE:** All Department offices and operating units; employees (regardless of the type or duration of their employment); contractors with Department-provided accounts; and boards and commissions; excluding the United States Patent and Trademark Office.
- ORIGINATOR:** Office of the Chief Information Officer, Office of Policy and Governance, Departmental Records Management Officer
- AUTHORITY:**
- a. 44 U.S.C. Chapters 21, 29, 31, and 33
 - b. 36 CFR Chapter XII, Subchapter B – Records Management
 - c. OMB/NARA Memorandum M-19-21, Transition to Electronic Records, dated June 28, 2019, updated by OMB/NARA Memorandum M-23-07, Update to Transition to Electronic Records, dated December 23, 2022
 - d. Presidential Memorandum, *Managing Government Records*, dated November 28, 2011
 - e. General Records Schedules, including GRS 6.1: *Email and Other Electronic Messages Managed under a Capstone Approach*, if applicable
 - f. NARA Bulletins 2009-02, 2013-02, 2013-03, 2015-02, 2020-01, 2022-02, 2023-02, and 2023-04
 - g. Department Organizational Order 15-23, *Chief Information Officer*, dated July 13, 2017
 - h. Department Administrative Orders 205-1, *Records Management*, dated June 26, 1992; 205-3, *Removal of Records and Other Documents*, dated August 25, 1978; and 205-16, *Managing Electronic Records*, dated May 12, 1987

- i. Department of Commerce Enterprise Cybersecurity Policy § 4.1.1 (dated September 2022) and Rules of Behavior for Non-Privileged Users (dated March 2023)

CANCELLATION: This policy supersedes the Department’s *Records Management Capstone Email Policy*, dated December 9, 2016.

DISTRIBUTION: Electronically distributed to those referenced in the “SCOPE” section and posted on the Department’s Office of Policy and Governance at [Policies | U.S. Department of Commerce](#).

DEFINITIONS

Term	Definition
Component	Any Departmental office or operating unit.
Department-Provided or Approved Communications System	An email or electronic messaging system that is either provided by the Department or one of its components, or that the Department or one of its components has approved for official business.
Electronic Messaging	For the purpose of this Policy, electronic systems or applications (other than official email) that are used for communicating between individuals, including text messages (defined below) or messages and chats delivered through Microsoft Teams, Google Workspace, or other similar systems. ¹
Email	One form of asynchronous communication that permits electronic messages to be distributed by electronic means from one computer user account to one or more recipients via a network. Email includes email messages, email attachments, and calendar-related communications (invitations and responses). Email does not include other electronic messaging functions, such as text messages, chat, or third-party messaging applications.
Exigent Circumstances	An unplanned event that (1) requires immediate or urgent response or communication by an employee who is not in current possession of a Department-issued mobile communications device or whose Department-issued device is not able to effectively communicate with an intended recipient via an official email account, or (2) a communication is received from outside the Department via text or other messaging system and the totality of the circumstances do not permit the user to respond via an official email account.
Federal Records	A Federal record is “all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its

¹ 44 U.S.C. § 2911.

Term	Definition
	<p>legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them.”²</p> <p>Federal records do not include reference materials or duplicate copies retained solely for convenience. Additionally, purely personal materials are not Federal records.</p> <p>There are several factors to consider when determining if recorded information, such as emails or other electronic messages, are considered a Federal record. However, if the answer to any of the following questions is “yes,” the item is a Federal record:</p> <ul style="list-style-type: none"> • Did the agency require the creation or submission of the information? • Do regulations or laws require the creation and maintenance of the information? • Was the information used to conduct agency business or accomplish its mission? • Does the item contain unique information explaining agency policies and decisions? • Was the information distributed to other persons, offices, or agencies for approval or clearance? • Is the information covered by an item in an agency records schedule or general records schedule? <p>The content of the information is determinative in deciding if it is a Federal record, not the format of the information. Federal records can take various forms, including electronic or hard copy.</p>
Non-Record materials	<p>These are federally owned informational materials that do not meet the statutory definition of records or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit.</p>
Official Email	<p>Includes only email sent or received by a user on an email system maintained and controlled by the Department or one of its offices or operating units.</p>
Personal Files / Personal Papers	<p>These are documentary materials belonging to an individual that are not used to conduct agency business. Personal files are excluded from the definition of Federal records and are not owned by the Government.</p>

² 44 U.S.C. § 3301.

Term	Definition
Text Message	Message between phones or a fixed portable device over a network.
User	An employee (includes career civil service personnel and political appointees), contractor, volunteer, intern, fellow, or individuals serving in an official capacity on a Departmental board, commission, or other group, or any other person who is authorized to use a Commerce email or electronic messaging system.

POLICY

I. Policy Statement

A. Reasons for Policy

Department of Commerce employees, contractors, and other users (“users”) routinely create, send, and receive official electronic mail or electronic messages to communicate information related to the mission or administrative matters of the Department.³ Emails that contain federal record content must be retained in approved electronic systems that provide the capability to identify, retrieve, and retain the records for as long as they are needed for statutory, regulatory, and business purposes, in accordance with recordkeeping requirements for retention and disposition.

As forms of electronic messaging and communication capabilities other than email are becoming part of the modern Commerce office, Commerce employees are using electronic messaging, such as desktop and mobile messaging applications, tools, and services. These electronic messaging applications, when “used for purposes of communicating between individuals,”⁴ in the context of Commerce missions or business functions, may include federal record content that must be managed in accordance with the Federal Records Act and regulatory requirements for recordkeeping.

It is the policy of the Department to manage the use, maintenance, retention, preservation, and disposition of records created, captured, or shared using email or other electronic messaging while conducting departmental business, in accordance with Federal recordkeeping, statutory, and regulatory requirements. Users may use email and electronic messaging applications for Departmental business communications only in the manner permitted by this Policy Statement and any applicable component-level policy or guidance.

³ The Department of Commerce also permits users, on a limited basis, to use email for personal communication as long as it complies with the Department’s requirements of acceptable uses, does not interfere with DOC work and individual duties, and does not increase costs and risks to the government or to the Department. Department of Commerce Enterprise Cybersecurity Policy § 4.1.1 (dated September 2022), Rules of Behavior for Non-Privileged Users (dated March 2023, section 3.1.2).

⁴ 44 U.S.C. § 2911.

B. Policy

Users must use Department-provided or approved communications systems for all work-related communications absent exigent circumstances. The Department provides email systems (e.g., Outlook or Gmail) and electronic messaging systems (e.g., Teams) for users to perform their duties. Users must use these systems for work-related communications.

Users must ensure that federal record content in text messages is archived. Department-provided phones generally allow text messaging. In some cases, Department systems automatically archive text messages sent and received on Department phones. If a user's text messages are not automatically archived, the user should only use text messaging in exigent circumstances or for transitory, non-substantive communications (e.g., "running late"). If such a user does send or receive Federal record content in a text message, they should ensure that the text message is archived (e.g., by emailing a screenshot to their official account).

Users must ensure record material from loaner equipment is archived. If a user is utilizing a loaner phone, tablet, laptop, or other government-furnished electronic equipment, whether due to foreign travel or other technical issues, the user is responsible for coordinating with the Bureau/office and OCIO to ensure that any records are retrieved and stored in the user's email or other electronic messaging account.

Users must only use third-party electronic messaging systems for work-related communications when specifically approved by the Department. In some circumstances, the Department will specifically approve the use of an electronic messaging system not routinely provided by the Department for work-related communications, such as Signal or WhatsApp. This permission will be granted for a limited time based on Departmental needs. Additionally, users are responsible for archiving these messages following Department guidance included with the approval.

For example, the Department might approve the use of an end-to-end encrypted electronic messaging system during foreign travel because of security concerns.

In exigent circumstances, users may use other communications systems, but must ensure that any Federal records are archived. If a user conducts any official business using a personal email account, text messaging on a personal device, or other communications system that has not been provided or approved by the Department, the user must ensure that any Federal records are archived. Where feasible, the user must archive the record by copying their official email account when the message is sent, or by forwarding a complete copy of the email with all attachments to their official email account not later than 20 days after the original creation or transmission of the record. Once the user has archived the record, the original should be removed from the personal account (unless subject to a litigation

hold). This policy also applies to calendar appointments.

Failure to comply with this policy may result in disciplinary action against an agency officer or employee for an intentional violation of this prohibition.

II. Department-Provided Electronic Mail

A. Emails That Are Federal Records

Email containing content that is evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Department are Federal records and must be maintained in accordance with statutory, regulatory, and departmental policies. Any litigation hold notices, as well as records retention schedules, are approved by the National Archives and Records Administration (NARA).

All components of the Department that have implemented a Capstone Program pursuant to express authorization from NARA are to follow the email retention schedules issued by NARA for that Program. Any component that has not received NARA approval to implement a Capstone Program or follows a NARA-approved alternative records retention program will continue to follow its current records retention schedules for the relevant category of records, as appropriate.⁵

Components shall ensure that Department-provided email systems automatically archive messages and calendar items sent and received on those systems in a manner that allows the Department and its components to retain, retrieve, and dispose of that information in accordance with legal and regulatory requirements.

B. Non-record Emails

Non-record emails are emails that do not meet the criteria of a Federal record. Non-record emails should be deleted when no longer needed (unless subject to a litigation hold). Examples of emails that are typically non-record include, but are not limited to:

- Emails where no substantive action is called for or taken but are maintained solely for reference or convenience (e.g., downloaded legal opinions or resource articles).
- Routine announcements of Departmental events.
- Trade journals and other publications.
- Mass informational emails (e.g., “All Hands” broadcasts).
- Duplicates of email threads.

⁵ If you have any questions, please contact your office’s records officer or the Department’s Departmental Records Management Officer (DRMO) at DOC-DRMO_RecordsManagement@doc.gov.

- News clips.
- Read/delivery receipts (unless a user considers a read or delivery receipt a record in a case or project file).

C. Personal Emails

Email messages that are not related to Commerce business are considered personal and therefore are not subject to the Department's recordkeeping requirements. Users should delete personal emails as soon as possible after receipt or save to a folder marked "Personal" in their electronic mailbox.

III. Department-Provided or Approved Electronic Messaging

A. Electronic Messages That Are Federal Records

Electronic messages containing content that is evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Department are Federal records and must be maintained in accordance with statutory, regulatory, and Departmental policies, any litigation hold notices, as well as records retention schedules approved by NARA.

All components of the Department that have implemented a Capstone Program for electronic messaging in addition to email, pursuant to express authorization from NARA are to follow the electronic message retention schedules issued by NARA for that Program. Any component, Bureau, or office that has not received NARA approval to implement a Capstone Program or follows a NARA-approved alternative records retention program will continue to follow its current records retention schedules for the relevant category of records, as appropriate.

Components shall ensure that Department-provided electronic messaging systems automatically archive messages sent and received on those systems in a manner that allows the Department and its components to retain, retrieve, and dispose of that information in accordance with legal and regulatory requirements. However, if such measures are not yet implemented, components shall provide guidance to users on how to archive electronic messages consistent with legal and information technology requirements.

B. Non-record Electronic Messages

Non-record electronic messages are messages that do not meet the criteria of a Federal record. Non-record electronic messages may be deleted when no longer needed (unless subject to a litigation hold) and do not need to be copied to your official email account. Examples of electronic messages that are typically non-record include, but are not limited to:

- Messages where no substantive action is called for or taken, but are instead sent or received solely for logistical purposes or maintained solely for reference or convenience; or
- Messages containing codes for two-factor authentication.

C. Personal Electronic Messages

Electronic messages that are not related to Commerce business are considered personal. Users may delete personal messages after receipt.

IV. Preservation Management

Upon notice of a legal requirement to hold or preserve email or electronic messaging content, users and components should: (1) be capable of suspending disposition, and (2) retain any email or electronic messages that exist and relate to the request, regardless of record status, until the obligation to preserve ends.

Effective date: This policy is effective upon the date of signature.

For Additional Information Contact, the Department of Commerce's Departmental Records Officer at DOC-DRMO_RecordsManagement@doc.gov.

APPROVED BY:

Brian Epley
Chief Information Officer

Date