

## **DEPARTMENT OF NATURAL RESOURCES**

**ADMINISTRATIVE POLICY NO.: 8A**

**EFFECTIVE DATE: SEPTEMBER 28, 2020**

**SUBJECT: RETENTION OF E-MAILS**

**AUTHORIZATION: THOMAS F. HARRIS, SECRETARY**

### **I. POLICY**

The employees of the Department of Natural Resources (DNR) regularly communicate and conduct business activities via electronic media, including electronic mail (e-mail). Doing so generates a large volume of e-mails, only some of which must be retained for future business use. Over time, the volume of e-mails retained overloads and impacts the efficiency of our network. Additionally, storing such messages has become cost prohibitive.

DNR fully intends to comply with all record retention requirements; however, practical considerations require that e-mail messages not be retained and stored beyond utility or the time periods required by the Department of State unless there is a business reason or other requirement to do so.

### **II. PURPOSE**

This policy serves to ensure that e-mails are retained in accordance with accepted record-keeping practices, required public record retention schedules, in compliance with La. R.S. 44:1 et seq. (Louisiana's Public Records Law) and as needed for business purposes. This policy was prepared after consultation and in compliance with the guidelines and requirements imposed upon state agencies by the Department of State.

### **III. APPLICABILITY**

This policy applies to all DNR employees, regardless of status, and all e-mails, sent and received, whether public records or transitory in nature.

### **IV. DEFINITIONS**

**"Public Record" E-mails** – E-mails, sent and received, having been used, being in use or prepared, possessed or retained for use in the conduct, transaction or performance of any work, duties or functions related to or in furtherance of the business affairs, operations and activities of DNR. By illustration, such e-mails include internal and external correspondence, memoranda, management action, policy directives and decisions, recommendations,

reports and other writings that initiate, address, document, authorize or complete business transactions or functions essential to fulfillment of DNR's constitutional, statutory and regulatory obligations.

**"Transitory" E-mails** – E-mails, sent and received, having limited or no administrative value to DNR's business affairs, operations and activities, that are not required for the transaction of current business, and lack sufficient administrative, legal or fiscal value to warrant further retention. By illustration, these include personal e-mails, voice-mail messages, junk e-mails, non-business e-mails, news articles, professional organization notices and newsletters, social events/activities, schedulings, meeting transmittals, announcements, advertisements, solicitations and the like.

**"Litigation Hold"** – A directive by Order of a Court or the DNR Legal Division to retain e-mails and other records related to and necessary for anticipated or ongoing litigation or administrative/regulatory proceedings. Such directives require a heightened effort by employees to identify and retain such e-mails until specifically instructed otherwise, which may be beyond other timeframes required by this policy or applicable record retention schedule. Such a hold applies to e-mails and other records even if no longer needed for business use. The matters subject to litigation hold are obtainable from the DNR Legal Division.

## **V. RETENTION/DELETION**

Employees are required to exercise diligence and care in preserving public records for the periods of time specified for such records in the applicable record retention schedules. The Department of State, Archives Division has not identified e-mails as a specific record series for retention purposes; rather, the need to retain and the duration of retention of e-mails are based upon subject matter and content. That is, since e-mails, by their very nature cannot all be classified or categorized the same, the substance of an e-mail must be assessed to determine whether it qualifies under a defined record retention schedule. If so, the e-mail must be retained for the duration of time designated by the retention schedule for public records of similar content.

Accordingly, DNR's employees are required to evaluate the nature of their e-mails. Determining that an e-mail is transitory and thus, subject to deletion, must be exercised with caution. When in doubt, employees are required to err on the side of caution and deem the e-mail in question to be a public record that must be retained.

Specific retention requirements include:

- A. Public Record E-mails:** These must be retained for no less than three (3) years; however, if the subject matter of the e-mail qualifies under a defined record retention schedule, the e-mail must be maintained in accordance with that schedule.

- B. Transitory E-mails:** These have no continuing value to DNR's business operations and therefore, no retention requirement. For this reason, such messages, sent and received, may be deleted at any time.
- C. E-mails Subject to Litigation Hold:** These must be maintained even if the content is no longer necessary or useful for business purposes. Such a "hold" on e-mails and other public records must be maintained until otherwise directed by the DNR Legal Division.
- D. E-mails Related to Federal Programs and/or Grants:** These must be retained for a minimum of three (3) years; however, program/grant requirements may specify that e-mails and other records be maintained for longer periods of time. In this event, such records shall be retained for the timeframe designated by the federal program/grant.
- E. Copies of E-mails:** These need not be retained, especially when sent to multiple recipients. The creator and primary recipient are responsible for retaining e-mails for the required period of time. The appointing authority for each Office within DNR is required to designate the primary recipient for multi-party e-mail addresses at the time they are established. If multiple Offices within DNR are receiving e-mails from the multi-party e-mail address, the Secretary will designate the primary recipient.
- F. Draft E-mails:** These need not be retained once the deliberative process is concluded and the finalized document transmitted.

## **VI. SEPARATED EMPLOYEES**

Upon implementation of this policy, after review and upon authorization by supervisory personnel, e-mails of former employees who have been separated in excess of three (3) years shall be deleted unless needed for business purposes, subject to a litigation hold or required to be retained in compliance with a defined record retention schedule.

Prior to the final day of employment, separating employees are required to review their e-mails to determine those which can and should be deleted and those which must be stored as required by this policy. Upon passage of three (3) years from the date of separation, after review and upon authorization by supervisory personnel, a former employee's retained e-mails shall be deleted unless needed for business purposes, subject to a litigation hold or required to be retained in compliance with a defined record retention schedule.

## **VII. CAUTIONARY NOTE**

The intent of this policy is to avoid an overload of stored data which adversely impacts our e-mail system and reduce the expense of storage of outdated and

non-usable e-mails. Under no circumstance should this policy be construed to authorize employees to delete substantive public records needed for the continuation or memorialization of business activities, functions, services or obligations, and certainly not as authorization to circumvent public record retention requirements.

Additionally, in no way should this policy be construed to encourage or authorize the personal use by employees of DNR's e-mail service. The e-mail system is provided primarily for business communications, although occasional, limited personal e-mail messaging is permissible. Employees should review HR Policy No. 36, Computer Usage, to fully understand the prohibitions and limitations upon personal use of our computer systems.

## **VIII. VIOLATIONS**

Appropriate disciplinary action, as authorized by the Civil Service Rules, will be imposed against any employee who:

- A. Knowingly and intentionally deletes e-mails in circumvention of record retention and/or public record requirements: or,
- B. Fails to retain "public record" e-mails:
  - 1. For three years; or
  - 2. As required by a designated record retention schedule; or
  - 3. As required by a litigation hold; or
  - 4. As required by a federal program or grant.

## **IX. EXCEPTIONS**

There will be no exceptions to this policy without the express approval of the Secretary, and then only in accordance with acceptable record retention and public record requirements.

## **X. QUESTIONS**

Questions regarding this policy should be addressed to the DNR Legal Division.

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**THOMAS F. HARRIS, SECRETARY**

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