

State of Wisconsin
Department of Natural Resources
Manual Code 9522.1 – Email and Electronic Records
and the Records Law



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Date

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I. SCOPE

This manual code applies to all email and electronic records held by any Department of Natural Resources employee, volunteer, contractor or intern.

II. POLICY

It is the department's policy to ensure compliance with applicable statutes and codes, and to promote consistency regarding the ownership and use of email and other electronic records. These policies are based on the programmatic and technical environment of the agency as well as the issues surrounding emerging technology.

III. DEFINITIONS

“**Record**” means “any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks.

"Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library that are available for sale, or that are available for inspection at a public library.” [§ [19.32\(2\)](#), Wis. Stats.]

“**RDA**” means Records Retention/Disposition Authorization also known as Records Disposal Authorization. RDAs are scheduling statements for specific records that provide information as to the record content, format, length of retention and disposition at the end of the record's life cycle.

“**Substantive Record**” means a record which has documentary or evidentiary value and must be maintained in accordance with a valid RDA.

IV. PROCEDURE

A. Email

1. Retention

Most emails fit the definition of a “record” under the Wisconsin Open Records Law. Many of those emails will be considered substantive, and must be maintained in accordance with a valid RDA and be available for public inspection and copying. However, some emails will be considered transitory, and may be deleted when no longer needed.

2. Email Records Custodian

In order to minimize the number of duplicate emails maintained, it is department policy that the following are record custodians:

- Sender for internal emails
- Primary or only department recipient for external emails

3. Duplicates

Email as a medium promotes communication to multiple users with great ease. Consequently, email systems contain many duplicate records.

- In general a duplicate is considered a non-record that can be deleted

4. Emails Containing Drafts

Internal drafts (within the drafting group) are considered non-records under the Wisconsin Open Records Law, and do not need to be retained unless they have some value to the author. It is good records management practice to go through and clean up drafts in your email.

5. Deferral of Records Destruction

Regardless of any RDA that allows for destruction of a record, department personnel should not destroy records if:

- The records are the subject of an open records request;
- The records are related to a partial denial for an open records request (hold for 60 days);
- The records concern a matter that is in litigation or likely to be in litigation in the future;
- If unsure, check with your supervisor or program attorney

B. Database Requests

The Attorney General has advised that where information is stored in a database a person can “within reasonable limits” request a data run to obtain the requested information, 68 Op. Att’y Gen. 231, 232 (1979). However, Wis. Stat. § 19.35(1)(L) provides that a records custodian is not required to create a new record by extracting information from an existing record and compiling the information in a new format.

Department Policy For Extraction of Records From a Database:

If the requested information can be easily extracted from the database (i.e. with just a few keystrokes or will take less than a half hour to retrieve), such records should be provided. More complex data runs may need further analysis. Discuss the request with your supervisor if you have questions on whether or not the request would fit inside the workload/time restriction.

V. BACKGROUND

A. Information regarding open records review the following:

1. MC9521.1 Open Records Requests Policy and Procedures
2. MC9523.1 Records Management

B. Additional information on standards and best management practices for service delivery and responsiveness see [MC9551.1](#).