



December 31, 2023

Staff of the Legislative Council  
State Capitol Building  
200 East Colfax  
Denver, Colorado 80203

Dear Staff of the Legislative Council:

In accordance with Section 24-72-204.5(3), C.R.S., I am pleased to present you with a report outlining the electronic mail (“email”) retention policy of the Department of Regulatory Agencies.

Statute requires reporting to the Staff of the Legislative Council. Specifically:

*On or before January 1, 2024, each member of the general assembly, the governor's office and each office of the governor; and each state agency and institution shall submit a report to the staff of the legislative council of the general assembly outlining its respective electronic mail retention policy. The members of the general assembly may submit individual reports or may submit a report that specifies the electronic mail retention policies of multiple members of the general assembly.*

The Department of Regulatory Agencies email retention policy is attached.

Sincerely,

A handwritten signature in black ink that reads "Patty Salazar". The signature is written in a cursive, flowing style.

Patty Salazar  
Executive Director  
Department of Regulatory Agencies

## **Purpose**

The purpose of this policy is to outline the email retention policy and processes for the Department of Regulatory Agencies (DORA). The Department email retention policy has been established in conjunction with division leadership in order to set consistent terms for the preservation of electronic communication, and to support the efficient management of electronic communication.

## **Policy and Procedure**

Department staff should take proactive steps to preserve electronic mail and routinely manage their state email account. Department employees are responsible for managing respective email accounts and determining which email messages require retention, including ensuring compliance with required division-specific archive schedules.

Emails that are business critical must be retained, including those needed for current open records requests, litigation holds, or that must be preserved under other state laws (e.g., the state archive statutes and requirements).

In determining which emails will be retained, considerations should include, but are not limited to the following:

- Regulatory minimum compliance requirements, such as HIPAA, FTI/IRS, CJIS, PCI DSS (payment cards), etc.
- Division/program-specific archive schedules or requirements.
- Respective business needs, business processes, and business requirements (e.g., long standing projects, contracts that are in progress, ongoing investigations, etc.). Emails that should be retained include: emails that are of importance to ongoing work; emails that are required for reporting purposes; emails subject to legal or other sensitive holds; and/or emails that are the subject of a CORA request.
- Governor's Office of Information Technology Information Security Policies & Standards.
- Open Meetings Law (C.R.S. 24-6-401 et seq.). Also known as the Sunshine Law, it is intended to afford the public access to a broad range of meetings at which public business is considered.
- State Archives and Public Records (C.R.S. 24-80-101 et seq.).
- Colorado Open Records Act (CORA) (C.R.S. 24-72-201 et seq.). All public records, including email, shall be open for inspection by any person, except as otherwise provided by law. Correspondence by electronic mail may be a public record and subject to public inspection under the Colorado Open Records Act (CORA), C.R.S. 24-72-201 et seq. Any email to or from an employee's office email account may also be subject to a litigation hold and may be subject to public inspection.

Any email that is the subject to a CORA request or a litigation hold request shall be preserved from the date of the request regardless of any maintenance or retention policy or practices utilized by the custodian for that email. The email may only be deleted when the CORA request has been fulfilled and/or the litigation hold has been lifted.

Applying the DONOTDELETE label on emails that are subject to legal holds, open records requests, or formal preservation: Employees should follow OIT procedures related to applying the DONOTDELETE label which is created for employees by the Governor's Office of Information Technology (OIT). Questions related to accessing or utilizing the DONOTDELETE labels should be directed to the OIT help desk. Note: Employees should periodically review emails with the DONOTDELETE label, and when the email no longer needs to be retained, remove the label and delete appropriately.

Emails that are transitory, routine in nature, or of time limited value because they serve a time defined administrative purpose should be deleted by the user as soon as their usefulness has ended or after one year. Examples of these types of emails include but are not limited to the following: meeting or schedule

notices; routine inquiries and advertisements; lunch or break arrangements; emails flagged as spam or suspicious in nature; or emails of fleeting or no value.

**Applicability**

This policy applies to all state email accounts within the department, including those of classified and non-classified employees within DORA, full or part-time permanent and temporary employees, independent contractors, volunteers, and interns, regardless of physical work location.

**Responsibility**

It is the responsibility of each person to whom policies or procedures are applicable to become familiar with, understand, and adhere to departmental policies and procedures. During the new employee orientation process, employees will be instructed on where to find the departmental policies and procedures.