

<b>FEDERAL COMMUNICATIONS COMMISSION</b> Washington, D.C. 20554  <b>FCC DIRECTIVE</b>	<b>TITLE</b>	
	<b>Electronic Mail Records Retention</b>	
	<b>Directive Number:</b> <b>FCC INST 1115.2</b>	<b>Effective Date:</b> <b>April 2019</b>

**Purpose.** This Directive establishes the policy and assigns responsibilities for the Federal Communications Commission (FCC or the Commission) regarding the retention of electronic mail messages (email).

**Scope.** This Directive applies to all Email Users in the FCC headquarters and field units. This policy will be effective upon approval by the National Archives and Records Administration (NARA) of the FCC’s request to implement Capstone.

**Authority.** 44 U.S.C. §§ 3101, 3301, *et seq.*; Presidential and Federal Records Act Amendments of 2014, Pub. L. 113-187, 128 Stat. 2091; 36 C.F.R. § 1236.22; Presidential Memorandum, [Managing Government Records](#), dated November 28, 2011; [OMB Memorandum M-12-18, Managing Government Records](#), dated August 24, 2012; OMB Memorandum M-14-16, [Guidance on Managing Email](#), dated September 15, 2014; NARA Bulletin 2013-02, [Guidance on a New Approach to Managing Email Records](#), dated August 29, 2013; NARA Bulletin 2014-06, [Guidance on Managing Email, dated September 15, 2014](#).

**Effect on Other Directives.** This Directive supplements FCCINST 1110.2, FCC Records Management Program (Effective Date July 1, 2015) and FCCINST 1111.1, FCC Vital Records Program (Effective Date February 20, 2013) (together, referred to here as the “FCC Records Management Directives”). Unless specifically noted here, nothing in this Directive alters the existing FCC Records Management Directives.

**Definitions**

**Accession:** The transfer of physical and electronic legal custody of permanent records to NARA.

**Capstone:** An email management approach developed by NARA that categorizes and schedules email based on the work and/or position of the Email User. This approach allows for the capture of all FCC emails and attachments as a records series from the accounts of officials at or near the top of an agency (or an organizational subunit) to be preserved as permanent. Under this approach, the emails of all other Email Users are temporary records which are deleted after seven years.

**Capstone Official:** Unless otherwise noted by the Office of the General Counsel, FCC Capstone Officials are defined to include the Chairman, Commissioners, their advisors and personal office staff, and any staff detailed as an advisor or confidential assistant to the Office of a Chairman or Commissioner; the Chief of any Bureau or Office as defined in section 0.5 of the Commission’s

rules, including staff detailed as Acting Chiefs; any leaders appointed by the Chairman of any mission-centric task force, panel, or other temporary group;<sup>1</sup> and any other positions identified on applicable records retention schedules as Capstone Officials. Capstone Officials shall also be defined to include the Chief Information Officer, Chief Financial Officer, and Chief Human Capital Officer of the FCC, as well as any other position designated by the Managing Director.

Email User: An employee, contractor, volunteer, intern, or any other person who uses the FCC email system.

Federal Records: All information, regardless of medium or format, made or received by the FCC under Federal law or in connection with the transaction of public business, either preserved or appropriate for preservation because of their administrative, legal, fiscal or informative value.

## **I. Policy**

FCC Email Users routinely create, send, and receive electronic mail messages (email or email messages) to communicate information related to the mission or administrative matters of the Commission.<sup>2</sup> Emails (including their associated attachments) that contain content qualifying as federal records must be retained in 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. This Directive provides guidance on the retention and deletion of FCC emails.

### **A. Treatment of Emails Generally**

The incoming and outgoing emails of all Email Users will be available to the users in their electronic mailboxes for a period of time set by the Chief Information Officer (CIO). After the period of time has elapsed, the remaining emails will be archived. All emails of Capstone Officials will be accessioned to NARA after 15 years. The emails of all other Email Users will be deleted after seven years. Emails may be identified as records in other General Records Schedule and agency specific retention schedules. Email Users should continue to manage and retain these email records in accordance with those schedules.

### **B. Emails Subject to Preservation Holds**

Email Users will retain any email, regardless of its record status, as soon as the email becomes subject to a legal requirement to preserve or retain the email until the obligation to preserve ends. These preservation holds include, but are not limited to, emails subject to a Freedom of Information

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<sup>1</sup> See NARA's Record Schedule for Capstone Transmittal 26, p.111 (providing that the heads of "mission-centric" task forces should be included as Capstone officials). In determining whether a task force, panel or other temporary group is mission-centric, the Managing Director will consider such factors as whether (i) Congress required its creation under law; (ii) the agency announced its establishment publicly; and (iii) it engages with outside parties.

<sup>2</sup> The FCC permits staff, on a very limited basis, to use email for personal communication as long as it is within the *de minimis* use policy limitations found in the *FCC Cyber Security Policy* (version 3.6, effective May 2015).

Act (FOIA) request, a Congressional records request, or a litigation hold. Once the preservation hold ends, the emails may be disposed of consistent with this Directive.

### **C. Personal Email Accounts**

In general, Email Users should not create or send record emails or attachments using non-official email accounts. However, should circumstances require the use of a personal account to conduct FCC business, the Email User must ensure that the communicated information is fully captured in an FCC recordkeeping system within 20 days, consistent with federal law<sup>3</sup>. If sending the email from a non-official account, the Email User must copy his or her FCC email address as a recipient. If receiving a work-related email on a non-official email account, the Email User must forward the work-related email to his or her FCC email account. Once the Email User has ensured the capture of the email information in the FCC account, the Email User shall remove the record email from the non-official email account.

## **II. Responsibilities**

### **A. The Managing Director shall:**

Oversee management of the FCC records management program, including email records management.

Designate positions as Capstone Officials.

Maintain and publish for all Email Users the email records retention requirements.

With OGC, as needed, conduct annual training on email records retention in conjunction with the FCC's annual records management training.

### **B. The Associate Managing Director, Performance Evaluation and Records Management (AMD-PERM) shall:**

Maintain a list of positions at the FCC that are determined to be the applicable Capstone records retention positions and notify and annually inform the persons holding those positions of their status as Capstone Officials.

### **C. The Chief Human Capital Officer (CHCO) shall:**

Maintain a list of names and dates of tenure of all the individuals who are determined to be Capstone Officials.

Provide to the CIO and AMD-PERM any changes to the names and tenure of the FCC's Capstone Officials.

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<sup>3</sup> Presidential and Federal Records Act Amendments of 2014, Pub. L. 113-187, 128 Stat. 2091, §10(a)(2).

Provide support for the development and implementation of email records retention training for all Email Users.

**D. The Chief Information Officer (CIO) shall:**

Provide tools and approaches to maintain email in accessible and usable formats for the required retention period.

Ensure that processes and technology allow for retention of required email for periods identified herein; ensure storage and accessible archiving of email; and ensure accession of email records to NARA.

Maintain a system or systems that will enable email records to be retained and stored in accordance with applicable records retention schedules and in approved email formats according to existing NARA transfer standards.

**E. The General Counsel (OGC) shall:**

Provide advice and assistance on all legal matters related to the administration of the FCC email records retention policy and practices.

With the Office of the Managing Director, as needed, conduct training on email records retention in conjunction with the FCC's annual records management training.



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