

II. Definitions

- **Born-digital record:** Information created in electronic format. Examples include documents created in Microsoft Word, databases, and online content such as websites.
- **Electronic record:** An electronic record is a record that was created in electronic format and can be stored, transmitted, or processed by a computer; an electronic record is maintained in a coded format and can only be accessed by using a computer that converts the codes into human-readable text, images, or sounds. Electronic records are typically in a form of documentation that is static. A nonmodifiable electronic record is a .pdf file. Such files are electronically tangible in that they can be seen, worked with, and updated.
- **Digital data or digital object:** It is a single unit of digital content, such as a document, a photograph, or an audio file that is accessible through electronic format. A digital object is made up of multiple components including code that comprises word or images, and metadata that helps describes the object. Digital data is bytes of information this is integrated across different system. It includes the metadata of any object. Digital records include obsolete storage devices such as floppy disks, CD's, or microfiche.
- **Digitized records:** Records that have been converted from either a printed or an analog copy to a digital form, through scanning or other forms of digital reproduction.
- **Metadata:** Metadata is structured information that describes, explains, and/or locates an electronic file. Metadata provides answers to questions like "what is it," "where did it come from," and "who created it"?
- **Migration:** The process of moving data from one information system or storage medium to another to ensure continued access to the information as the system or medium becomes obsolete or degrades over time.
- **Redaction:** The process of censoring or obscuring of part of a text for legal or security purposes, especially to remove personally identifying information.
- **Retention and Disposition Schedule:** A document that identifies and describes an organization's records, usually at the series level, and provides instructions for the disposition of records throughout their life cycle as required by the Division of State Archives, NCDNCR.

III. Policy Statement

This policy applies to both born-digital records and electronic records generated by imaging systems.

The records covered by this Electronic and Digitized Records Policy are in the custody of the NCDOL and are maintained for the benefit of NCDOL use in delivering services and in documenting agency operations. This policy reflects guidelines established in the NCDNCR's publication *Guidelines for Managing Trustworthy Digital Public Records*. Complying with this policy will increase the reliability and accuracy of records stored in information technology systems and will ensure that they remain accessible over time. Exhibiting compliance with this

policy will enhance records' admissibility and acceptance by the judicial system as being trustworthy.

All public records as defined by North Carolina General Statute § 132-1 of the North Carolina Public Records Act are covered by this policy. In addition, this policy applies to records that are covered by the Occupational Safety and Health Act of North Carolina; specifically, N.C.G.S. § 95-136(e) and (e1) regarding "files and other records relating to investigations and enforcement proceedings . . ."

NCDOL records include permanent and non-permanent records, both of which may include confidential and non-confidential records. These classifications may warrant different treatments when processing the records. This policy serves as basic documentation of the procedures followed by NCDOL in imaging, digitizing, indexing, auditing, backing up, and purging electronic records in accordance with the disposition schedule, and in handling the original paper records, if applicable.

This policy serves to protect all records generated or digitized by the agency's in-house imaging system, which reduces required storage space for original documents as the agency transitions to a "more paperless" digital system, which provides instant and simultaneous access to documents as needed.

The form provided in **Section 10** of this document, *Authorization to Destroy Paper Records*, shall be completed whenever any division/bureau of this agency chooses to dispose of a series of paper record, which have been maintained pursuant to the Functional Schedule, s to create more physical space when such records are digitized. See the best practices for digital permanence guide published by NCDNCR: [Best Practices for Digital Permanence | NC Archives \(ncdcr.gov\)](http://ncdcr.gov).

This policy is NCDOL's initial electronic records policy. It will be reevaluated at a minimum of every five (5) years, or upon the implementation of a new information technology (IT) system and will be updated as required pursuant to IT upgrades.

The NCDNCR requires that a current copy of this policy remain on file at the NCDCNR.

IV. Responsible Parties

A. The following positions are responsible for NCDOL personnel adhering to this policy. This policy will be signed by the individuals holding the positions listed below:

- a. Commissioner of the NC Department of Labor: Josh Dobson
- b. Legal Affairs Division Director: Jill F. Cramer, NCDOL General Counsel
- c. IT Division Director: Gary Franks

B. It is the responsibility of the NC Commissioner of Labor to appoint a Chief Records Officer, determine access rights to the system, and approve the system as configured by the Information Technology Division (IT) of NCDOL.

C. Day-to-day management of digital records will also include positions that are responsible for specific divisions' or bureaus' digital records management:

- a. Chief Records Officer: Legal Affairs Division Paralegal
- b. Managerial Staff: Records liaisons for each division
- c. Records Creators: Division personnel
- d. OSH – OSHA Express (OE) specialized system for OSH records
- e. Financial Services Division (FSD) – NC Financial System (NCFS)
- f. All NCDOL Divisions and Bureaus - OnBase Enterprise Content Management (ECM) and Business Process Management (BPM) – IT

D. **Managerial Staff.** Managerial Staff shall appoint a Records Liaison for each bureau. The responsibilities of the Records Liaison include:

- a. Ensuring training of records creators;
- b. Periodically auditing imaged records for accuracy, readability, and reproduction capabilities before the original documents are destroyed;
- c. Creating and updating detailed procedural manuals describing the imaging process and equipment;
- d. OSH OE (OSHA Express) systems; and
- e. OnBase Systems.

E. **IT Division.** Responsibilities of the IT Division include:

- a. Installing and maintaining equipment and software;
- b. Configuring the system according to agency needs, including creating and testing applications and indexes;
- c. Controlling permission rights to the system;
- d. Creating passwords for computers that are long, complex, and frequently changed within the NCDIT password requirements;
- e. Maintaining documentation of system hardware and software;
- f. Establishing audit trails that document actions taken on records stored by the information technology system;
- g. Providing backups for system records and recovering deleted imaged records when necessary;
- h. Completing a disaster recovery backup at least once every two (2) years as established by NCDIT (see Disaster Recovery Plan); and
- i. Establishing and providing training on equipment and software, documenting such training, and providing remedial training as needed, in relation to general overview of equipment and software. (Training on imaging system is performed by the specific Division or Bureau depending on the imaging hardware.)

F. **Chief Records Officer.** Responsibilities of the Chief Records Officer include:

- a. Coordinating with the Government Records Section all NCDOL requests for records assistance, training, and other offered consultative services;

- b. Coordinating interactions between NCDOL business units and the Department of Natural and Cultural Resources in preparing an inclusive inventory of and schedule for records in NCDOL custody and in establishing a time period for the retention and disposal of each records series;
- c. Assuring that public records are kept in secure but accessible places;
- d. Assisting in the timely transfer of semi-active records to the State Records Center;
- e. In cooperation with the Department of Natural and Cultural Resources, establishing and maintaining a program for the selection and preservation of NCDOL records considered essential to the operation of government and to the protection of the rights and interests of citizens; and
- f. Overseeing the design and implementation of electronic records initiatives.

G. Records Creators. Responsibilities of Records Creators include:

- a. Attending and signing off on training conducted by IT staff or by the NCDNCR;
- b. Creating and managing electronic records in their purview in accordance with the policies and other guidance issued by the Department of Natural and Cultural Resources and complying with all IT security policies;
- c. Reviewing system records annually and purging records in accordance with the retention schedule;
- d. Guaranteeing that records, regardless of format, be retained for the period of time required by NCDOL records retention schedules and/or the Functional Schedule for State Agency Records;
- e. Carrying out day-to-day processes associated with NCDOL's imaging program, including:
 - i. Designating records to be entered into the imaging system;
 - ii. Noting confidential information or otherwise protected records and fields'
 - iii. Removing transitory records from the scanning queue (IT can assist);
 - iv. Completing indexing guide form for each record being scanned;
 - v. Reviewing images and indexing for quality assurance;
 - vi. Naming and storing the scanned images in designated folders; and
 - vii. Once approved, destroying, or otherwise disposing of original records in accordance with guidance issued by the NCDNCR.
- f. NCDOL employees who have been approved to telework or use mobile computing devices must:
 - i. Comply with all information technology security policies, including the NCDOL and statewide acceptable use policies, as well as all statutes and policies governing public records (See Mobile Device Policy);
 - ii. Back up information stored on the mobile device daily to ensure proper recovery and restoration of data files; and
 - iii. Keep the backup medium separate from the mobile computer when a mobile computer is outside a secure area.
- g. NCDOL OSH Division – OSHA Express (“OE”) [a proprietary system];

- h. NCDOL Standards and Inspections Division – OnBase [a proprietary system];
- i. NCDOL FSD - NC Financial System (“NCFS”); uploading and managing financial documents in their purview in accordance with the policies and other guidance issued by the NC Office of State Controller (OSC) and complying with all IT security policies.

V. Availability of System and Records for Outside Inspection – Confidential Information

- a. NCDOL will honor inspection and copy requests pursuant to North Carolina Public Records Act (N.C.G.S. Chapter § 132) unless the records are confidential under other applicable laws and except as noted below.
- b. NCDOL will not produce or provide confidential records except as specifically authorized or required by law, a court order, or consistent with NCDOL’s public records policies. Further, if documents contain metadata such that confidential information can be extracted, the document will be provided in a different format at the cost of NCDOL.
- c. NCDOL will produce records in any format it is capable of producing if asked by the requesting party; however, NCDOL is not required to create or compile a record that does not already exist, nor is it required to provide documents in a specific format if the original documents are not in the same format. If it is necessary to separate confidential from non-confidential information to permit the inspection or copying of the public records, NCDOL will bear the cost of such separation. NCDOL refers to this process as redaction. NCDOL has an established redaction program for each division regarding confidential information.
- d. NCDOL responds to all public records requests categorically and by various means. The Communications Division responds to all media requests. Legal Affairs responds to all requests submitted regarding emails, third party litigation (in conjunction with Planning, Statistics, and Information Management “PSIM”), EAD, and Boiler and Pressure Vessel requests. PSIM responds to all OSH case file requests. Wage and Hour and the Retaliatory Employment both directly respond to all requests specific to their bureau.
- e. NCDOL will honor requests for pretrial discovery of NCDOL’s electronic records within the statutory authority of the NC Public Records Act and specific acts that are enforced by the NCDOL as noted below. However, this does not require NCDOL to create data bases or reports that it does not already create or maintain. In addition, it does not apply to the proprietary systems to which NCDOL is a subscriber and does not own in its entirety.
 - 1. Specific to Article 2A of Chapter 95 known as the **Wage and Hour Act**, files and other records relating to investigations and enforcement proceedings pursuant to the Wage and Hour Act or pursuant to Article 21 of Chapter 95 with respect to Wage and Hour Act violations, shall not be subject to inspection and examination as authorized by G.S. 132-6 while such investigations and proceedings are pending. Nothing under this section shall impede the right to discovery under G.S. 1A-1, Rules of Civil Procedure.

2. Specific to Article 16 of Chapter 95, known as the **Occupational Safety and Health Act of North Carolina (“OSH Act”)**, there are prohibitions regarding the release of OSH records. NCGS § 95-136(e) establishes that the Commissioner is authorized to compile, analyze, and publish, in summary or detailed form, all reports or information obtained during any investigation or enforcement proceeding. The files and other records relating to investigations and enforcement proceedings are not subject to inspection and examination as authorized by NCGS § 132-6 while such investigations and proceedings are pending, except that, subject to the provisions of NCGS § 95-136(e1), an employer cited under the OSH Act is entitled to receive a copy of the official inspection report which is the basis for citations received by the employer following the issuance of citations. Further, NCGS 95-136(e) prohibits the release of names of witnesses or complainants, and any information within statements taken from witnesses or complainants during the course of inspections or investigations conducted pursuant the OSH Act that would name or otherwise identify the witnesses or complainants, shall not be released to any employer or third party and shall be redacted from any copy of the official inspection report provided to the employer or third party. In addition, the Commissioner may permit the use of names and statements of witnesses and complainants and information obtained during the course of inspections or investigations conducted pursuant to Article 16 of Chapter 95 by public officials in the performance of their public duties.
3. Specific to Article 21 of Chapter 95, known as the **Retaliatory Employment Discrimination Act (REDA)**, the Commissioner's files and other records relating to investigations and enforcement proceedings pursuant to this Article shall not be subject to inspection and examination as authorized by G.S. 132-6 while such investigations and proceedings are open or pending in the trial court division. G.S. § 95-242. Complaint; investigation; conciliation. Further, pursuant to G.S. § 95-242(d), nothing said or done during the use of the informal methods described in G.S. 95-242(a) may be made public by the Commissioner or used as evidence in a subsequent proceeding under this Article without the written consent of the persons concerned.
4. For all other NCDOL records, the records must be made available for inspection and audit by a government representative as required by law and pursuant to approved records retention schedules, regardless of the life expectancy of the media on which the records are stored. Records must continue to exist when litigation, government investigation, or audit is pending or imminent, or if a court order may prohibit specified records from being destroyed or otherwise rendered unavailable.

VI. Proprietary Systems

The FSD will implement a new recordkeeping system known as the **North Carolina Financial System (NCFS)** in late 2021 into 2022; the system will be owned by and housed with the NC Office of State Controller (OSC). As of January of 2022, the NCFS has implemented the first phase, which is the Cash Management Control System. The remaining phases will become fully functional in 2022. The specific electronic records that will be part of this are the financial Journal Voucher backup documents. These are used for deposits (generally check and electronic payment summary reports). Later phases will include Accounts Payable and Grants Management Modules; those electronic records will be invoices and grant applications/awards that are uploaded. The NCFS will use the Oracle Cloud platform, and documents will be archived in the “cloud” but specific information regarding cloud sources are currently unknown.

The **OSHA Express (“OE”)** system is a fully functional **proprietary system** used by the Occupational Safety and Health Division of NCDOL for the purpose of maintaining all Occupational Safety and Health Division Compliance Bureau related complaint, investigation, and inspection files. In addition, the Consultative Service Bureau utilizes OE to maintain files associated with consultative audits. The system uploads data via an interface to the federal Occupational Safety and Health Administration’s OSHA Information System (OIS). This data transfer is pursuant to a mandate from OSHA for all approved Occupational Safety and Health State Plan programs.

The **OnBase** system is a software **modular system** purchased by NCDOL for the purpose of replacing an aging Content Management system (FileNet). The system offered NCDOL a method of managing content while offering functions such as Audit, edits, revisions and sharing based on user rights. The OnBase system additionally offers NCDOL Business Processes Management a tool allowing NCDOL to develop automated business process for Bureaus and Sections. Currently, the FSD, PSIM, the Wage and Hour Bureau, and REDB are active users of the business processes, with several bureaus and sections onboarding in the future. NCDOL has added operational application modules to meet the needs of the Bureau’s and Sections. Some of these modules have proprietary properties that incorporate with the existing functions.

VII. Systems controlled by the NC Department of Information Technology (NCDIT)

A. Cloud-Based Storage Computing

- a. NCDOL, in conjunction with the North Carolina Department of Information Technology (NCDIT), contracts with third party vendors to provide cloud storage. Other third-party vendors may be used to secure cloud-based storage to share information as authorized by law. These third-party vendors are subject to change.
- b. Any vendor relationship must fulfill the requirements for the E-Procurement requirements established by the OSBM and the NCDOL Financial Services Division.
- c. Any vendor must fulfill the requirements of the NC Department of Cultural Resources Archives and History Division’s Checklist for Scanning Contracts

found here: <https://archives.ncdcr.gov/government/digital-records/digital-records-policies-and-guidelines/checklist-scanning-contracts>.

B. Data Backup and Restoration

- a. NCDIT manages disaster recovery, including backups, of NCDOL's cloud-based storage systems. Routine backups of NCDOL servers and databases, to include OnBase, are conducted daily by NCDIT and are secured in an off-site storage facility. Individual files or complete servers can be restored as needed.
- b. NCDOL Phone system was converted in 2019 to the NCDIT Voice Over IP system. All NCDOL Office locations have a system to manage calls.

VIII. NCDOL Procedures

A. Imaging.

NCDOL does not have a centralized imaging system. Documents are imaged by NCDOL employees using desktop scanners and other scanning enabled devices, some specific to the particular system (e.g., "tiffing" documents into OE). Generally, throughout NCDOL there is no standardized training required, but it is instead geared to the specific device. The OSH staff responsible for scanning documents in OE do receive specific instructions on the process, as it is important that documents are scanned in the correct manner to ensure they are stored with the correct files. In addition, any document provided to NCDOL in a specific digital format is generally saved in the same format or as a .pdf document. Each Division or Bureau will ensure that appropriate staff are trained on scanning procedures and will make efforts to document that training.

B. File Naming.

NCDOL scans original and copies of documents into digital formats. Scanners and scanning enabled devices used in some sections of NCDOL automatically name files using a series of letters and/or numbers.

NCDOL employees save documents using applicable names within applicable digital filing systems. The filing systems vary by Division or Bureau. Each Division or Bureau will use file names that are specific enough for other NCDOL employees to quickly identify and retrieve documents or to locate documents using the "Search" capability in Microsoft Word file storage or other file storage formats.

All OSH files are scanned and ultimately stored into OE under company name and a unique assigned activity/file number. PSIM scans and indexes hard copy OSH inspection files into OnBase and indexes paperless files into OE. The primary searching mechanism is by opening and closing dates of the inspection.

Bureaus that fall under the Standards and Inspections Division have particularized practices as well, but generally save by name and date. Related guidance/training is addressed in Standard Operating Procedures (SOPs). The Boiler Safety Bureau prefers to use the YYYY/MM/DD format for dates. For REBD, complaint files are automatically numbered by the OnBase system when opened. Documents and letters relevant to those complaint files are generated in OnBase as well and are named as: "file number, party name, document name, date uploaded, folder." The folders are built into the system and basic training is provided. REDB prefers to use the MM/DD/YYYY format. For the Elevator & Amusement Device Bureau (EAD), there is a consistent practice for naming files based on type of document. EAD has files for Alteration Permits (File is Named: State ID No. and then name of where elevator is located); Variance Requests (File is Named: State ID No. and then name of where the elevator is located); Accident Reports (File is Named: date of accident and business name of where accident happened); and Location Notices (File is Named: date proof of insurance is received with name of company). All of EAD's files are electronic and a paper copy of each is filed in a folder according to year with format YYYY. File folders are named by year and type of document, such as "2021 Alteration Permits." The Wage & Hour Bureau (W&H) assigns each file a unique identifying number when a complaint is entered into the database. All documentation falls under that unique number and specific files are named using a Document Key. All W&H employees are trained to use the Document Key upon hiring. W&H prefers a MM/DD/YYYY format for dates.

While NCDOL recognizes that file names may currently vary by Division or Bureau, the use of standardized file names will be encouraged with the general format of name of the Complainant or Employer, name of document type, and the date entered with month, day, and year (MM/DD/YYYY format). Requiring standardized formats may counter specific Division or Bureau's existing workflows. Therefore, NCDOL Divisions and Bureaus will adopt these imaging and file naming procedures going forward to the fullest extent possible but will allow for the possibility of the continuation of existing practices so long as they meet the minimum level of searchability described above.

For more information on file naming, refer to the best practices recommended by NCDRC: <https://files.nc.gov/dncr-archives/documents/files/filenaming.pdf>.

C. Indexing.

Divisions and bureaus of NCDOL have specific indexing protocols. As indicated above, the OSH Division has a specific numbering system for activities such as inspections, complaints, referrals, and visits. This numbering system is incorporated into the OE system and the federal OIS system.

D. Auditing.

The Office of the State Auditor has authority to audit NCDOL, as well as other various state entities, such as but not limited to the NC Office of State Budget and Management, the NC Office of the State Controller, NC Department of Information Technology, and the NC Department of Administration, Division of Purchase and Contract. NCDOL also has an internal auditor who is authorized to audit divisions and bureaus within the agency. The OSH Division also conducts process audits, which is one of the required OSHA mandates. In addition, federal OSHA conducts a Federal Annual Monitoring Evaluation (FAME), which includes an auditing of case files to ensure they contain all required documentation and that established procedures are being followed.

NCDOL's IT Division establishes users' rights and access based on the request of each Bureau or Division and the needs of the department. General access can be reviewed as needed along with general file access. System and File access is based on a user's rights and the allowed functions by those rights. Files and access can be audited as needed with general knowledge of whom and when a file was access based on the file's history tracking and access login logs. NCDOL's IT Division does conduct periodic audits of users' ID's and system permissions.

E. Purging of Digital Records.

Digital records are purged in accordance with NCDOL's retention schedules regardless of the media used.

IX. Compliance and Electronic Records Self-Warranty

The completion of this form by all signing employees signals that all employees will adhere to the rules set forth in this policy. Furthermore, this section is to be used as a self-evaluation tool to ensure that electronic records produced by NCDOL are created, reproduced, and otherwise managed in accordance with guidelines for electronic public records published by the North Carolina Department of Natural and Cultural Resources. [The self-warranting of records in itself does not authorize the destruction of records, to include either originals or copies, nor does it change current records retention and disposition scheduling procedures.] Destructions of records are authorized when NCDOL approves the current functional retention and disposition schedule. If scanned records are intended to take the place of original paper records, NCDOL must complete the *Authorization to Destroy Paper Records* form.

Each signatory should initial each element for certification, print his/her name on the Approved by line, fill in the job title, and sign and date the form. Records Custodian/Managerial Staff (Records liaisons).

X. Authorization to Scan and Destroy Physical Records

The attached form is used to request the approval of the disposal of non-permanent paper records that have been scanned and entered into a database or which have been otherwise duplicated through digital imaging or other conversion methods. This form does not apply to records that have been microfilmed or photocopied, including photocopies made for reference use.

NOTE regarding OSH files uploaded into OE:

OSH records, to include hard/analog copies or born-digital documents, entered into OE are not considered as "record copies" until they are in the OE database. However, to fully comply with NCDNCR Best Practices Policy, upon implementation of this policy, OSH personnel shall complete a onetime Authorization to Destroy Paper Records that authorizes destruction of original documents, which were provided to OSH personnel externally. A single Authorization to Destroy Paper Records form shall be completed to cover the entire scanning process for any documents that may be a part of the Functional Schedule. Information regarding the date range of the records will be listed as "2022 - 2023 and ongoing" to reflect that the scanning process will continue indefinitely. Specific records information does not have to be entered on the form; general references is all that is required (e.g., OSHA 300 logs, investigative documents, etc.). All external records that have been scanned into OE for the purpose of being part of a final OSH inspection record may then be destroyed without filling out additional Authorization to Destroy Paper Records forms because the investigative documents are effectively working drafts that (while still subject to public records law) are not considered the final record copy of the record.

The completed form shall be maintained by the Records Liaison for the OSH Division and a copy shall be provided to the Chief Records Officer.

The Authorization to Destroy Paper Records form applicable to OSH documents scanned into OE shall remain valid until the Department of Labor revises this Electronic Records Policy or upon the five-year required reevaluation noted in Section III, Policy Statement.

SEE: Authorization to Destroy Paper Records (attached)

Chief Records Officer

The Chief Records Officer (CRO) coordinates records management training and compliance. The CRO certifies:

_____ Oversight of the design and implementation of NCDOL electronic records initiatives.

Approved by: Carla Rose Date: 1-27-2022

Title: Chief Records Officer

Signature: Carla Rose

NCDOL Chief of Staff

The NCDOL Chief of Staff is the person responsible for approving internal policies and procedures related to the creation and maintenance of electronic records. The NCDOL Chief of Staff certifies that:

_____ A Chief Records Officer is appointed.

_____ Determinations are made regarding employees' permission rights to the electronic records system.

_____ IT's configurations for the electronic records system are reviewed and approved before the electronic records system becomes operational.

Approved by: Arthur V. Britt Date: 1/26/2022

Title: Chief of Staff

Signature: Arthur V. Britt

FOR DEPARTMENT OF NATURAL AND CULTURAL RESOURCES USE

Approved by: Rebecca McGee-Hankford Date: 2/3/22

Title: Assistant State Records Administrator

Signature: Rebecca McGee-Hankford

