

Records Freeze Frequently Asked Questions

1. What is a record?

Per the Federal Records Act that governs agencies' records management responsibilities, records include all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them. ([44 U.S.C. 3301](#)).

Specific types of physical forms or characteristics of records may include, but are not limited to:

- a. textual (paper);
- b. electronic formats and storage media:
 - (1) email messages;
 - (2) word processing files, spreadsheets, and databases;
 - (3) digital images;
 - (4) Web pages and SharePoint sites;
 - (5) network server information, including metadata;
 - (6) voicemail messages;
 - (7) backup tapes;
 - (8) hard drives;
 - (9) removable computer storage media (e.g., drives, tapes, disks, and cards);
 - (10) personal digital assistants and other mobile devices; and
 - (11) social media accounts;
- c. photographic;
- d. audiovisual (e.g., videotapes and sound recordings);
- e. cartographic (e.g., maps and architectural and engineering drawings); and
- f. micrographic (e.g., microfilm and microfiche).

Extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit are not considered official records and can be destroyed during a hold/freeze unless explicitly instructed otherwise.

2. What are personal papers/files?

Documentary materials belonging to an individual that are not used to conduct Agency business. These personal papers (files) are excluded from the definition of Federal records and are not owned by the Federal Government. These files may be deleted during a hold/freeze unless explicitly instructed otherwise.

3. What is a records freeze?

A records freeze is considered a type of hold or temporary suspension of the disposal, preservation, or management of Agency records or documentary materials. This means that records or documentary materials, regardless of their physical location, must be kept for as long as a hold or freeze is in place. Non-compliance with a hold could result in penalties on individual staff or on USDA as an agency.

4. What are frozen records?

Frozen records are records whose scheduled dispositions have been temporarily suspended because of special circumstances that alter the administrative, legal, or fiscal value of the records. Frozen records can be destroyed only after notification from the Office of General Counsel (OGC), the Agency Records Officer, and/or other authorized authority that ordered the hold/freeze.

5. What do I need to do during a freeze?

Frozen records can be destroyed only after notification from OGC, the Agency Records Officer, and/or other authorized authority that ordered the hold/freeze. Until that time:

- a. Do **not** destroy or manipulate any records/documentary materials, including those temporary records that are eligible for destruction in accordance with approved records disposition schedules.
- b. Follow instructions about maintaining records/documentary materials subject to the hold/freeze.
- c. Do **not** transfer permanent records to the National Archives and Records Administration (NARA), unless a transfer is permitted in accordance with the hold/freeze instructions.
- d. Do **not** transfer records to a Federal Records Center, unless a transfer is permitted in accordance with the hold/freeze instructions.
- e. Do **not** donate to interested individuals or organizations any records/documentary materials that are eligible for destruction.

In other words, take actions necessary to ensure records/documentary materials that are within your control are retained in their native format, segregated for production when requested, and that any routine destruction of records/documentary material that you created or control is halted.

6. In addition to APHIS employees, are contractors, volunteers, interns, and/or collaborators subject to the records freeze?

Yes. Anyone who has access to, custody of, responsibility of, etc., of APHIS records must adhere to the hold/freeze by not destroying any records subject to the hold/freeze.

7. What happens to records stored at Federal Records Centers during a freeze?

The Agency Records Officer ensures that Federal Records Centers carry out the hold/freeze by providing notice and not approving the destruction of any applicable records.

8. Can I use personal or non-official electronic messaging accounts for official USDA business?

Federal government employees may not create or send a record using non-official accounts unless the employee *either*:

- a. Copies his or her official electronic messaging account in the original creation or transmission; or
- b. Forwards a complete copy of the record to his or her official electronic messaging account not later than 20 days after the original creation or transmission.

Electronic messages in this context include both email and other electronic messaging systems used for communicating between individuals, such as text messaging/instant messaging programs.

These Federal Records Act requirements are designed to ensure that any use of a non-official information system does not affect the preservation of Federal records for Federal Records Act purposes, or the ability to

identify and process those records if requested under the Freedom of Information Act (FOIA), Privacy Act of 1974, or for other official business (e.g., litigation hold, congressional oversight requests, etc.).

9. Can I apply records disposition schedules while under a records freeze?

No. A records hold/freeze overrides any records retention schedule or any other Agency policy that may otherwise call for the transfer, disposal, or destruction of records/documentary materials until the hold/freeze has been removed by OGC, APHIS Records Officer, or other authorized authority that ordered the hold/freeze.

10. What circumstances may warrant the issuances of a hold/freeze?

A hold/freeze may be issued when:

- a. USDA is a party to a lawsuit that names USDA expressly as a party *or* in which the United States is participating as a plaintiff or defendant. The Department of Justice (DOJ), with the assistance of OGC, acts as attorney for USDA and its officials.
- b. An administrative proceeding, such as a case involving an equal employment opportunity matter, a Merit Systems Protection Board matter, or a contract before the Civilian Board of Contract Appeals may require the preservation of designated records and related documentary materials.
- c. The Office of the Inspector General (OIG), independent public accountants, or the Government Accountability Office (GAO) conducts a financial, performance, contract, or grant audit.
- d. OIG leads an administrative or criminal investigation.
- e. Congress has requested the production of certain documents as part of its oversight responsibilities.
- f. Another Federal agency with appropriate investigative authority requests a hold.
- g. A dispute in any matter gives rise to a reasonable anticipation of litigation.

11. How should retirements and other departures be handled in regards to records management and the records freeze?

Contact your Program/Division Records Management Liaison or Information Management and Compliance (records@aphis.usda.gov or 301-851-2483) to conduct a records exit interview/inventory; complete AD Form 3001, Documentary Materials Removal /Non-Removal Certification and Non-Disclosure Agreement; compose a detailed inventory list of records and non-records to ensure that no departing official, employee, contractor, or volunteer removes records/documentary materials without authorization; etc.; in accordance with [Departmental Regulation 3099-001, Records Management Policy for Departing Employees, Contractors, Volunteers, and Political Appointees](#).

12. How long will the hold/freeze last?

Until OGC, the Agency Records Officer, and/or other authorized authority lifts the hold/freeze.

13. What are the consequences if USDA staff members do not preserve records/documentary materials subject to a hold/freeze?

Individual staff could face severe penalties imposed by a court, or agency performance-based action or disciplinary action for *not* preserving records and documentary materials subject to a hold/freeze.

14. What are the consequences to USDA, as an agency, if records/documentary materials subject to a hold/freeze are not preserved?

USDA could be subject to sanctions if records and other documentary materials, deemed as “evidence,” are missing. For instance, the court could employ one or more of the following sanctions:

- a. Issue an adverse finding against USDA on the merits of the case;
- b. Instruct a jury that it is permitted to draw an “adverse inference” against USDA;
- c. Preclude USDA from introducing certain evidence or calling certain witnesses;
- d. Hold individual USDA officials and USDA in contempt; or
- e. Impose monetary sanctions against USDA, or against involved individuals.

15. Where can I get more information?

- [Departmental Regulation 3080-001, Records Management](#)
- [Departmental Regulation 3085-001, Vital Records Management Program](#)
- [Departmental Regulation 3090-001, Litigation Retention Policy for Documentary Materials including Electronically Stored Information](#)
- [Departmental Regulation 3099-001, Records Management Policy for Departing Employees, Contractors, Volunteers, and Political Appointees](#)
- [APHIS Records Management Program Web site](#)
- USDA Records Management – Training 101 and Refresher in AgLearn

16. Who do I contact with questions and/or for assistance?

Please direct any questions to the following Program/Division Records Management Liaisons or Information Management and Compliance (records@aphis.usda.gov or 301-851-2483).

APHIS Program/Division Records Management Liaisons			
Program/Division	Name	Contact Telephone Number	Email Address
Animal Care (AC)	Kay Carter-Corker	301-851-3741	Kay.A.Carter-Corker@aphis.usda.gov
Biotechnology Regulatory Services (BRS)	Cynthia Eck	301-851-3921	Cynthia.A.Eck@aphis.usda.gov
International Services (IS)	Marcella Rabb	301-851-3801	Caroldine.M.Rabb@aphis.usda.gov
Legislative and Public Affairs (LPA)	Mavis Fergus	301-851-4098	Mavis.Fergus@aphis.usda.gov
Marketing and Regulatory Programs Business Services (MRPBS) Acquisition and Asset Management Division (AAMD)	Latisha Beverly	301-851-2646	Latisha.M.Beverly@aphis.usda.gov
MRPBS Emergency Management Safety and Security Division (EMSSD)	Holly O’Brien	301-436-3113	Holly.J.O’Brien@aphis.usda.gov
MRPBS Financial Management Division (FMD)	Lashaun Nelson	301-851-2852	Lashaun.F.Nelson@aphis.usda.gov

MRPBS Human Resources Division (HRD)	Patricia Murray	301-851-2869	Patricia.A.Murray@aphis.usda.gov
MRPBS Investigative Enforcement Services (IES)	Troy Perry	301-851-2756	Troy.L.Perry@aphis.usda.gov
MRPBS Information Technology Division (ITD)	Andrea Small	301-851-2658	Andrea.W.Small@aphis.usda.gov
Office of Civil Rights, Diversity and Inclusion (OCRDI)	Arletha Stepe	301-851-4187	Arletha.K.Stepe@aphis.usda.gov
Policy Program and Development (PPD)	Lois Perry	301-851-3150	Lois.I.Perry@aphis.usda.gov
Plant Protection and Quarantine (PPQ)	Nikki Finley	301-851-2073	Nikki.C.Finley@aphis.usda.gov
Veterinary Services (VS)	Katherine Jarred	301-851-3540	Katherine.A.Jarred@aphis.usda.gov
Wildlife Services (WS)	Sue Brungardt	970-498-1448	Sue.A.Brungardt@aphis.usda.gov

Quick Checklist for Determining Whether Information is an Official Record

Did you create or receive the information in conducting Agency business?	YES
Does it contain informational value as evidence of your organizations' functions, policies, decisions, procedures, operations, mission, programs, projects, or activities?	YES
Is it material that originated in another office or outside your Agency, but you commented or took action on the material?	YES
Does it document business actions, such as: what happened, decisions, what advice was given, who was involved, when it happened, the order of events, and decisions?	YES
Is it an original document related to Agency business that does not exist elsewhere?	YES
Is it a draft or interim document that has not been circulated to others or does not contain substantive comments and for which there is a final version being maintained?	NO
Is it published or processed information that you received and use as reference?	NO
Is it a copy of a document or correspondence kept only for convenience of reference on which no action is taken?	NO
Is it information accumulated and maintained at the workplace, but which does not affect or reflect the transaction of your Agency business?	NO
Is it junk mail or documentation that has no work-related informational or evidentiary value?	NO