



Are you a target for a big OSHA fine?  
Should you be deleting emails?  
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## **New Electronic Discovery Rules: How long do I keep my e-mail?**

Does your company treat e-mail and data like discoverable legal evidence that must be retained, archived, and produced quickly in the event of a workplace lawsuit or regulatory investigation? If not, now is the time to get your business record retention policy and procedures in place. Due to new federal provisions, the failure to do so may provide severe consequences for employers.

In December of 2006, several amendments to the Federal Rules of Civil Procedure took effect to address "electronic discovery". Under these new statutes, parties involved in a legal dispute could face six-figure penalties for failing to produce email evidence during the pre-trial phase.

"With the new amendments to federal civil procedure, companies need to take a hard look at what they are doing on record retention for all electronic data", says local Attorney working in this field. "No matter what your company's size, if you don't have an effective electronic document retention policy, it is time to create one."

When it comes to electronic document retention policies, e-mail is the biggest problem for most employers. By now, most companies have policies governing the proper use and content of e-mail but few have retention policies. Emails once thought to be private are now made public through legal

discovery, and they can make for interesting reading and unpleasant headlines. Most consultants suggest the policy does not need be long, but it must be well thought out, describing the kind of documents your company produces and where they typically end up (customers, vendors, government agencies, etc). Access to email content is a standard request in corporate litigation. Define how, where and how long to store both paper and electronic records, being sure to specify retention periods for specific categories (for example, e-mails for 30 days unless they contain sensitive information).

## **2006 OSHA Top 10 Violations**

- 1. Scaffolding--General Requirements** (1926.451) with 9,012 violations
- 2. Hazard Communication** (1910.1200) with 6,704 violations
- 3. Duty to Have Fall Protection** (1926.501) with 6,378 violations
- 4. Respiratory Protection** (1910.134) with 4,332 violations
- 5. Lockout/Tag out** (1910.147) with 3,659 violations
- 6. Powered Industrial Trucks** (1910.178) with 3,080 violations
- 7. Electrical--Wiring Methods, Components, and Equipment for General Use** (1910.305) with 2,953 violations
- 8. Machine Guarding--General Requirements** (1910.212) with 2,749 violations
- 9. Ladders** (1926.1053) with 2,329 violations
- 10. Electrical--General Requirements** (1910.303) with 2,178 violations

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