

MSHA could regulate, it must focus its resources on risks that are significant, that the Agency has deemed to be the highest priorities, and that the Secretary has found to be appropriate. If data or information provides evidence of a significant risk that MSHA has not addressed, the Agency will evaluate whether rulemaking should be initiated for the individual substance or agent. This document does not preclude any Agency action that the Secretary may find appropriate in the future.

For the reasons stated herein, with the exception of provisions published at 59 FR 8318 (February 18, 1994), the proposed rule is withdrawn.

Signed at Arlington, Virginia, this 15th day of November, 2004.

David D. Lauriski,

Assistant Secretary for Mine Safety and Health.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095-AB43

Federal Records Management; Media Neutral Records Schedules

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA proposes to amend its regulations relating to scheduling Federal records to make existing approved records schedules and future records schedules applicable to bodies of records regardless of the medium in which the records are created and maintained. Both the agency (in submitting the schedule) and NARA (in approving the schedule) would be able to specify that certain disposition authorities are valid only for the current media/format of the records. Although agencies currently are permitted to submit "media-neutral" records schedules, most existing records schedules were developed for hard-copy (usually paper) recordkeeping systems and do not state that they apply to records in other formats. Therefore, agencies have been required to submit new schedules when they convert from a hard-copy system of records to an automated (electronic) system, including special media records (such as still pictures, aerial photography, maps, charts, drawings, motion picture film, analog videotape, and analog sound recordings). This proposed rule

would reduce the workload for both agencies and NARA, allowing both to focus resources on critical records management needs.

DATES: Comments are due by January 18, 2005.

ADDRESSES: NARA invites interested persons to submit comments on this proposed rule. Please include "Attn: RIN 3095-AB43" and your name and mailing address in your comments. Comments may be submitted by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: Send comments to comments@nara.gov. If you do not receive a confirmation that we have received your e-mail message, contact Nancy Allard at 301-837-1477.

- Fax: Submit comments by facsimile transmission to 301-837-0319.

- Mail: Send comments to Regulations Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

- Hand Delivery or Courier: Deliver comments to 8601 Adelphi Road, College Park, MD.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301-837-1477 or fax 301-837-0319.

SUPPLEMENTARY INFORMATION:

Background

Increasingly, agencies are automating their business processes in order to better meet their business needs. In many instances, the hard-copy records that new electronic systems replace are covered by a NARA-approved records schedule. Agencies currently are required to submit a Standard Form (SF) 115, Request for Records Disposition Authority, to obtain a new disposition authority when previously scheduled hard-copy records are now being created and maintained electronically. The only exceptions to this policy have been when the agency's approved schedule is media neutral or the records are covered by the General Records Schedules or by an agency-specific schedule that relates to administrative or housekeeping matters.

Proposed Regulatory Changes

As part of our Records Management Initiatives, we have re-examined this policy and determined that changes should be made to the regulations. This proposed rule would:

(1) Establish NARA policy that new records schedules submitted to NARA

for approval on or after the effective date of the final rule will be considered media neutral (*i.e.*, the dispositions will apply to the recordkeeping copies of the described files in all media) unless the schedule identifies a specific medium for a specific series. This policy is reflected in the proposed change to 36 CFR 1228.24(b). NARA also proposes to modify 36 CFR 1228.24(b) and 1228.28(b) to make it clear that agencies still must identify special media records (*e.g.*, still pictures, motion pictures and videos, maps, aerial photography, etc.) when they submit schedules.

(2) Require agencies to notify NARA within 45 days when converting records systems containing permanent records from hard-copy format to electronic medium, including special media records. As part of the notification, agencies would provide information about the format(s) and volume of records in the electronic system,

(3) Authorize agencies to apply existing previously approved agency records schedules that cover hard-copy temporary records to those records when they are created electronically, if *all* of the following conditions are met:

- The content and function of the records has not changed (*i.e.*, the electronic records do not contain information that is substantially different from the information included in the hard-copy series, the electronic records are used for the same purpose as the hard-copy records, the underlying business processes and the regulations or other authorities from which records stem remain the same, etc.)

- The records relate to program matters and are scheduled for disposal less than 20 years after cut-off, or relate to administrative (housekeeping) matters, and

- The records are not covered by one or more exclusions in the proposed § 1228.31(a)(3).

This authorization will apply to the vast majority of agencies' records series. NARA estimates that more than 90 percent of agency series have retention periods of less than 20 years.

(4) Require agencies to submit a new SF 115 to obtain disposition authority for electronic versions of previously scheduled hard-copy temporary records with a retention period of 20 years or longer after cut-off. We estimate that less than ten percent of an agency's record series would be subject to this requirement. (If such records are already covered by a media neutral schedule item or conversion to electronic form was approved in the current schedule, this requirement does not apply.) As described later in this **SUPPLEMENTARY INFORMATION**, NARA expects that the

agency and NARA will be able to use an expedited process for review and approval of such schedules.

Explanation of New Policy

NARA's long experience with scheduling electronic records has shown that it is the basic content and function of records that determines their value in almost all cases. It is very rare that conversion of a series of records from hard-copy to electronic form changes its underlying value. That said, with the enhancements electronic recordkeeping brings (compactness, manipulability, and enhanced search capabilities), it is important to provide a safety net to further ensure that we are able to capture the rare series that is temporary in hard copy form but permanent in an electronic format. There are two situations where this safety net is being applied: temporary records with lengthy (20 years or more) retention periods, and certain types of temporary records with retention periods of less than 20 years.

Most temporary records that are scheduled for a retention period of 20 years or more in hard copy will also be temporary if converted to an electronic format. However, such records typically have significant legal rights implications or are needed for a lengthy period to ensure government accountability. Consequently, proposed § 1228.31 requires that agencies submit a SF 115 when they convert a temporary hard-copy series with a retention period of 20 years or more after cut-off. This will enable NARA to appraise the electronic records and, if warranted, designate them as permanent. If records with a retention period of 20 years or more are covered by a previously approved media neutral schedule item or by a previously approved schedule item for hard-copy records that authorizes the disposal of those records after they have been converted to an electronic format, NARA has already determined that the conversion of the records to an electronic format will not render them more valuable.

NARA also has determined that certain types of existing temporary records with a retention period of less than 20 years after cut-off (cut-off is when the file or transaction is complete) are not eligible for automatic application of the existing hard-copy disposition authority to the records when they are created on an electronic system. These exclusions are temporary program records that:

- Are covered by approved schedule items that explicitly exclude electronic records;

- Cover Web versions of hard-copy records;

- Document observations of natural events or the natural environment (e.g., weather, water levels, topographic features, air quality, etc.); or

- Consist of raw, unsummarized demographic or economic data collected for input into studies and statistical reports (e.g., data on wages and prices, education levels, health care, etc.).

The first exclusion (where the schedule approved for hard copy records explicitly excludes electronic versions) covers situations where NARA reserved the right to re-evaluate the temporary nature of records when NARA approved the media neutral schedule. The exclusion for Web records reflects NARA's belief that the approved retention period for a series of records in hard-copy (e.g., press releases or publications) may be longer than what is needed for Web versions. The third and fourth exclusions address the potential for such records, when automated, to be more valuable to the creating agency for additional purposes or to other researchers.

For permanent records, we propose that agencies must notify NARA within 45 days of the conversion to an electronic system. As part of the notification, an agency must provide the series identification (schedule item), and information on the format(s) of the electronic records and their expected volume. Since schedules developed for permanent hard copy records typically provide for the transfer of records to the National Archives after a longer period of time has elapsed than is advisable in the case of electronic records, after the review, NARA will contact the agency concerning when the agency can transfer the electronic records to us. NARA and the agency may decide to establish revised transfer instructions for the electronic records by making "pen-and-ink" changes to the previously approved transfer instructions. We specifically invite agency comments on whether the proposed notification process outlined here would be less work for the agency than submission of a new SF 115.

In cases where the proposed rule requires submission of a new SF 115 (temporary records with retention periods of 20 years or more after cut-off and certain other temporary records), NARA encourages agencies to use a streamlined review and sign-off process. For its part, NARA will process these SF 115s on an expedited basis also.

NARA will remind agencies that this proposed rule does not change NARA's longstanding policy that a new schedule must be submitted for approval if the

nature of a previously scheduled series changes in a substantial way, *i.e.*, the electronic versions of a previously scheduled hard-copy series contain significantly more information than the hard-copy records or are used in significantly different ways. NARA will also suggest to agencies that they may, as part of re-engineering agency processes, determine that the records should be scheduled in larger aggregations or "big buckets" to facilitate disposition through automated systems.

In a related action to this proposed rule, NARA will modify the General Records Schedules (GRS) to authorize agencies to apply previously approved agency records schedules to the electronic versions of temporary records if the NARA-approved retention period is less than 20 years (except for electronic records that are derived from or replace hard-copy records excluded by proposed § 1228.31(a)(2)). Agencies already have authority under GRS 20, Item 3, to apply the GRS disposal authority when the agencies move from hard copy to electronic systems for records covered by an agency-specific schedule for administrative/housekeeping records or by the GRS, except for those few series where the GRS specifically requires submission of a SF 115 when the records are maintained in electronic form.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies. This regulation does not have any federalism implications.

List of Subjects in 36 CFR Part 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend part 1228 of title 36, Code of Federal Regulations, as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

2. Amend § 1228.24 by redesignating paragraphs (b)(3) and (b)(4) as paragraphs (b)(4) and (b)(5) respectively, and adding new paragraph (b)(3) to read as follows:

§ 1228.24 Formulation of agency records schedules.

* * * * *

(b) * * *

(3) Records schedules submitted to NARA for approval on or after [the effective date of the final rule] are media-neutral, *i.e.*, the disposition instruction applies to the described records in all media, unless the schedule identifies a specific medium for a specific series.

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3. Add § 1228.31 to read as follows:

§ 1228.31 Authority to apply previously approved schedules to electronic records.

(a) *Temporary program records with retention periods of less than 20 years after cut-off.* Agencies may apply disposition authorities for temporary program records in previously approved schedules to the electronic versions of those records if:

(1) The content and function of the records has not changed significantly (*i.e.*, the electronic records do not contain information that is substantially different from the information included in the hard-copy series, the electronic records are used for the same purpose as the hard-copy records, the underlying business processes and the regulations or other authorities from which records stem remain the same, etc.);

(2) The records are scheduled for disposal less than 20 years after cut-off; and

(3) The records are not derived from or replace hard-copy records that are covered by schedule items that explicitly exclude electronic records; are not web versions of hard-copy records; do not document observations of natural events or the natural environment (*e.g.*, weather, water levels, topographic features, air quality, etc.); or do not consist of raw, unsummarized demographic or economic data collected for input into studies and statistical reports (*e.g.*, data on wages and prices, education levels, health care, etc.).

(b) *Temporary program records with retention periods of 20 years or more after cut-off.* Agencies must submit an SF 115 when they convert temporary program records with approved retention periods of 20 years or more after cut-off to electronic media, unless the records are covered by a previously approved media neutral schedule item or by a previously approved schedule item that authorizes the disposal of hard copy records after they have been converted to an electronic format.

(c) *Temporary administrative or housekeeping records.* Agencies may apply previously approved agency schedules or the General Records

Schedules to the electronic versions of temporary records that relate to administrative (housekeeping) matters if the approved agency schedule or the GRS does not specifically require submission of a SF 115 when the records are maintained in electronic form.

(d) *Permanent records.* (1) Agencies must notify NARA (NWML) within 45 days of implementation of an electronic system that will maintain permanent records that have been scheduled as permanent in hard-copy form, including special media records as described in 36 CFR 1228.266 and 1228.268.

(2) The notification must contain the:

- (i) Name of the electronic system;
- (ii) Name of the agency and organizational unit that has the records;
- (iii) Current disposition authority reference;

(iv) Annual volume of records created; and

(v) Format of the records.

(3) NARA and agencies will change the previously approved transfer instructions for the series if necessary to incorporate the requirements for electronic records in 36 CFR 1228.28(b)(8)(i).

Dated: November 15, 2004.

John W. Carlin,*Archivist of the United States.*

[FR Doc. 04-25691 Filed 11-18-04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA-295-0470b; FRL-7834-1]

Revisions to the California State Implementation Plan, Great Basin and Ventura County Air Pollution Control Districts**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Great Basin Air Pollution Control District (GBAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). We are proposing to approve local rules concerning definitions under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by December 20, 2004.

ADDRESSES: Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection

Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514-3537.

Ventura County Air Pollution Control District, 669 County Square Drive, 2nd Fl., Ventura, CA 93003-5417.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbltx.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT:

Cynthia G. Allen, EPA Region IX, (415) 947-4120, allen.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: GBAPCD 101 and VCAPCD 2. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: October 5, 2004.

Laura Yoshii,*Acting Regional Administrator, Region IX.*

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