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Approved: February 22, 2010.

**M. Robb Hyde,**

*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).*

Dated: February 24, 2010.

**A.M. Vallandigham,**

*Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.*

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**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

**36 CFR Part 1254**

[FDMS Docket NARA-09-004]

RIN 3095-AB59

**Researcher Identification Card**

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule.

**SUMMARY:** NARA is amending its regulations to require researchers using original records, NARA microfilm, and public use computers at the National Archives Building in Washington, DC, to obtain a researcher identification card. Under the new requirements, researchers at regional archives are also required to obtain a researcher identification card when there is no separate research room for the use of microfilm and public access computers.

**DATES:** This rule is effective April 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Redman at telephone number 301-837-3174 or fax number 301-837-0319.

**SUPPLEMENTARY INFORMATION:** On September 25, 2009, NARA published a proposed rule in the **Federal Register** (74 FR 48892) for a 60-day public comment period. The proposed rule required researchers using original records, NARA microfilm, and public use computers at the National Archives Building in Washington, DC, to obtain a researcher identification card. Researchers at regional archives are also required to obtain a researcher identification card when there is no separate research room for the use of microfilm and public access computers. The proposed rule also updated our regulations to reflect changes in available technology and research room practices, such as abolishing the three-hour time limit for using microfilm readers. Six comments were received.

Of these, three basically supported the changes. One commenter wrote that the ID should include a requirement for an approved form of Federal identification before issuing the research card. Currently, States are converting their driver's licenses to a single federally-approved system. Our preferred form of identification is either a driver's license or a passport for our foreign researchers. We record these numbers as part of the registration process. In some cases, researchers do not have either type of identification and present a school ID or some other proof of address. In these situations, it is not feasible to require a federally-approved ID and we do not have the right to limit one's access to Federal records based on the absence of a Federally-approved ID. Of the other comments, one suggested that we accept the Library of Congress (LOC) researcher identification card. We rejected this comment because the Library of Congress and NARA are not connected administratively in any way. The Library of Congress is in the Legislative Branch and NARA is in the Executive Branch. Federal regulations apply to Executive Agencies only. Further, the NARA identification card is tied to a unique building security system shared by the National Archives Building in Washington, DC, and the National Archives at College Park. Another comment objected to having to carry another card and questioned how a card could make NARA more secure than using another common form of identification. Again, the application of the identification card is how we determine who is eligible to conduct research in our facility. The other forms of identification are required as proof of address to permit researcher access. The information must be standardized for both security purposes and for efficiently capturing administrative information on the characteristics of our users. Other forms of identification are not compatible with the computer system used for the registration process. This commenter also suggested that NARA record information from identification provided by the researcher upon each visit and that NARA also capture additional administrative information about each visit at that point. We rejected this comment because our current process is an OMB-approved information collection structured to minimize the paperwork burden on the public as required by the Paperwork Reduction Act. Another comment requested that any denials of access be appealable to the Archivist of the United States. Federal regulation 36 CFR 1254.50

already makes the Archivist of the United States the final determiner of research access when it has been denied at lower levels in the agency. Two commenters expressed doubt that the rule would improve security at the National Archives Building. The researcher identification cards are just one of several means employed by NARA that provide both physical and personal security. Because the cards are renewed annually, they provide the most reliable contact information available. Such information has proved useful in investigations conducted by the NARA Inspector General.

**What changes are we making in this rule?**

We are making substantive changes by amending the following sections:

- *§ 1254.6(b):* We are adding the requirement for researchers using the National Archives Building, even those only using microfilm publications or public use computers, to apply for and obtain a researcher identification card. This rule applies to regional archives facilities, as well, except where the microfilm research area is separate from the area where original records are used. We made other changes in the text to reflect that none of the affected facilities has more than one textual research room.
  - *§ 1254.22(a):* The term "bar-coded" is deleted and replaced with the broader term "encoded." We no longer use bar-codes on researcher identification cards in the Washington, DC, area. The plastic cards we issue now have a magnetic strip and future cards may use other technology.
  - *§ 1254.44(a):* Because fewer researchers are using microfilm and there are no waits, the 3-hour limit on use and waiting lists are no longer needed for the use of microfilm readers. We are removing references to the 3-hour limit.
  - *§ 1254.84:* Since this section was last revised, the researcher identification card can be linked to a personal account established through the National Archives Trust Fund Cashier's Office and function as a debit card in Washington, DC, area research rooms. The regulation is being clarified to describe that capability. In addition, we are removing discussion of deposit accounts, which are no longer maintained by the Trust Fund.
- We also are making non-substantive editorial changes in §§ 1254.6(c) and 1254.10(b).

**Paperwork Reduction Act**

The information collection in this regulation was previously approved by

the Office of Management and Budget (OMB) under OMB control number 3095-0016, which expires on September 30, 2011.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has 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 the regulation affects individual researchers. This regulation does not have any federalism implications.

#### List of Subjects in 36 CFR Part 1254

Archives and records.

■ For the reasons set forth in the preamble, NARA amends part 1254, in title 36 of the Code of Federal Regulations, as follows:

#### PART 1254—USING RECORDS AND DONATED HISTORICAL MATERIALS

■ 1. The authority citation for part 1254 continues to read as follows:

**Authority:** 44 U.S.C. 2101–2118.

■ 2. Amend § 1254.6 by revising paragraphs (b) and (c) to read as follows:

##### § 1254.6 Do I need a researcher identification card to use archival materials at a NARA facility?

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(b) You also need a researcher identification card if you wish to use only microfilm copies of documents at NARA's Washington, DC, area facilities and in any NARA facility where the microfilm research room is not separate from the textual research room.

(c) If you are using only microfilm copies of records in some regional archives where the microfilm research room is separate from the textual room, you do not need an identification card but you must register as described in § 1254.22.

■ 3. Amend § 1254.10 by revising paragraph (b) to read as follows:

##### § 1254.10 For how long and where is my researcher identification card valid?

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(b) At NARA facilities in the Washington, DC, area and other NARA facilities that issue and use plastic researcher identification cards as part of their security systems, we issue a plastic card to replace the paper card issued at some NARA facilities at no charge. The plastic card is valid at all NARA facilities.

■ 4. Amend § 1254.22 by revising paragraph (a) to read as follows:

##### § 1254.22 Do I need to register when I visit a NARA facility for research?

(a) Yes, you must register each day you enter a NARA research facility by furnishing the information on the registration sheet or scanning an encoded researcher identification card. We may ask you for additional personal identification.

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■ 5. Amend § 1254.44 by revising paragraph (a) to read as follows:

##### § 1254.44 How long may I use a microfilm reader?

(a) Use of the microfilm readers in the National Archives Building is on a first-come-first served basis.

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■ 8. Revise § 1254.84 to read as follows:

##### § 1254.84 How may I use a debit card for copiers in the Washington, DC, area?

Your research identification card can be used as a debit card if you arrange with the Cashier's Office to set up an account using cash, check, money order, debit card, or credit card. Your researcher identification card number as encoded on the card forms the basis of your account in the debit system. You may also purchase generic debit cards of values up to \$20 each from the Cashier's Office using any of the above payment methods. When the Cashier's Office is closed or at any other time during the hours research rooms are open as cited in part 1253 of this chapter, you may use cash or credit card to purchase a debit card from the vending machines located in the research rooms. Inserting the debit card into a card reader connected to the copier enables you to make copies for the appropriate fee, which are found in § 1258.12 of this chapter. You can add value to your card using the vending machine in the research room or at the Cashier's Office. We do not make refunds.

Dated: March 2, 2010.

**David S. Ferriero,**

*Archivist of the United States.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0609; FRL-9123-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; NSR Reform Regulations—Notice of Action Denying Petition for Reconsideration and Request for Administrative Stay

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; action denying petition for reconsideration and request for administrative stay.

**SUMMARY:** EPA is providing notice that it has responded to a petition for reconsideration and a request for an administrative stay of certain provisions of the final rule titled, "Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; NSR Reform Regulations, Rule AM-06-04" published December 17, 2008. The final rule approved certain revisions to Wisconsin's Prevention of Significant Deterioration and Nonattainment New Source Review (NSR) construction permit programs, which Wisconsin submitted on May 25, 2006. The Wisconsin Department of Natural Resources sought approval of rule AM-06-04 to implement the NSR Reform provisions that were not vacated by the United States Court of Appeals for the District of Columbia (DC Circuit) in *New York v. EPA*. On February 17, 2009, EPA received a petition for reconsideration pursuant to section 307(d)(7)(B) of the Clean Air Act (CAA) from the Natural Resources Defense Council (NRDC) and Sierra Club. The petition also requested that EPA stay implementation of certain provisions of the final rule pending its reconsideration. The EPA considered the petition for reconsideration and request for an administrative stay, along with information contained in the rulemaking docket, in reaching a decision on both the petition and request for a stay. The EPA Administrator, Lisa P. Jackson, denied both the petition for reconsideration and request for stay in letters to the petitioners dated January 19, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Painter, Air Quality Policy Division, (C 504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541-5515; or e-mail address: painter.david@epa.gov.

**SUPPLEMENTARY INFORMATION:**