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**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone located in 33 CFR 165.801, Table 5, line 15 for the Madisonville Old Fashioned 4th of July event. The regulations will be enforced from 8 p.m. through 9 p.m. on July 4, 2019. This action is being taken to provide for the safety of life on these navigable waterways during this event. Our regulations for marine events within the Eighth Coast Guard District, 33 CFR 168.801, as updated by **Federal Register** Document 83 FR 55488, specifies the location of the regulated area on the Tchefuncte River at approximate position 30°24'11.63" N 090°09'17.39 W, in front of the Madisonville Town Hall. During the enforcement period, if you are the operator of a vessel in the regulated area, you must comply with directions from Captain of the Port Sector New Orleans or a designated representative.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via a Marine Safety Information Bulletin and Broadcast Notice to Mariners.

Dated: April 2, 2019,

**K.M. Luttrell,**

*Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.*

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1236

[FDMS No. NARA-18-0003; NARA-2019-018]

RIN 3095-AB98

### Electronic Records Management

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

**ACTION:** Final rule.

**SUMMARY:** We are revising our electronic records management regulation to include standards for digitizing temporary Federal records so that agencies may dispose of the original source records, where appropriate and in accordance with the Federal Records Act amendments of 2014.

**DATES:** This regulation is effective on May 10, 2019.

**ADDRESSES:** Regulatory and External Policy Program, Strategy & Performance Division (MP); Suite 4100; National Archives and Records Administration;

8601 Adelphi Road; College Park, MD 20740-6001.

**FOR FURTHER INFORMATION CONTACT:**

Kimberly Keravuori, by email at [regulation\\_comments@nara.gov](mailto:regulation_comments@nara.gov), or by telephone at 301.837.3151. Contact [acps@nara.gov](mailto:acps@nara.gov) with any questions on records management and digitization.

**SUPPLEMENTARY INFORMATION:**

#### Background

In 2014, the Federal Records Act at 44 U.S.C. 3302 was amended by Public Law 113-87 to require NARA to issue standards for reproducing records digitally 'with a view toward the disposal of original records.' The amendment applies to both temporary and permanent records. This rule sets standards for digitizing temporary records so that agencies may establish appropriate processes. Temporary records constitute the majority of Federal records; agencies retain them for a specific period of time, as established by records schedules. At the end of the scheduled retention period, agencies then destroy the temporary records. Digitization standards for temporary records ensure that agencies can continue to use the digital versions for the same purposes as the original records for the duration of that time period.

In this rulemaking, in addition to issuing digitization standards for temporary records, we are also removing 36 CFR 1236.1 because it restates the authorities already cited in the authority line.

#### Proposed Rule and Public Comments

We published this rulemaking in the **Federal Register** as a proposed rule on September 10, 2018 (83 FR 45587) with a 60-day public comment period. We received 19 comments on the proposed rule. Several of them involved questions and requests for clarification regarding digitizing permanent Federal and Presidential records or asking about specific technical standards. However, this regulation does not cover such records. It covers only temporary Federal records. One comment asked that we specifically state that the new Subpart D does not apply to permanent records, but we feel that the title, "Digitizing Temporary Federal Records," is sufficient to make that clear.

For temporary records, the standards will be as they are stated in this regulation. While permanent records require more rigorous quality standards for archival reasons, most temporary records do not need to meet those standards. Because the needs and uses

for temporary records differ vastly across the Government, it is not reasonable to set a single baseline image quality or other similar standards; different standards will serve to meet the business needs for different records. As a result, this regulation focuses on the uses of the digitized records as the benchmark for effective digitization and requires that agencies ensure the digitized records can be used for all the purposes of the original source records. In some cases, that may involve higher image quality than in other cases. We will be issuing FAQs and guidance to agencies on applying the requirements to certain categories of records, as appropriate.

Several other comments asked us to clarify the validation requirements and process, whether agencies may develop their own process, and whether validation requires submitting to NARA for approval. We have revised the validation section to clarify that agencies must validate that the digitized versions are able to be used for all the purposes of the original records, and may use their own process or a third-party process to check the validity of the digitized versions. We also clarified that agencies do not need to seek NARA approval as part of validation. NARA may, however, review agency documentation of the validation process.

In the course of responding to the comments, we realized there was confusion about records schedule retention periods and disposing of original source records. Original source records do not become non-record copies when they have been digitized. As a result, they must still be treated as Federal records. They become intermediary records and may then be destroyed or retained according to the appropriate records schedule (either General Records Schedule 5.2 for intermediary records or an agency-specific records schedule governing the digitized records). We have noted this in the revised regulation as well.

A commenter asked if we would be addressing Employee Medical File System documents and setting digitization standards for these documents, including x-rays. The Employee Medical Folder (EMF) for the majority of agencies is under the recordkeeping authority of the Office of Personnel Management (OPM), not NARA. The Civilian Personnel Records Center (CPR/NPRC) stores and services the EMF for the owner of the record (OPM) and responds to requests for the documents. The EMF is currently retired to CPR/NPRC in paper form.

OPM created a system in approximately 2007 to support an electronic Official Personnel Folder (OPF) but only the OPF is supported through that system. Because NARA will no longer accept paper/analog records for storage at a Federal records center after December 31, 2022, NARA has reached out to OPM to identify the impact to the paper EMF and recommend OPM consider the timeline needed to create an electronic EMF by that deadline. The x-ray will need to be addressed as part of the EMF. The dialogue continues with OPM concerning the electronic EMF under their recordkeeping authority. NARA will continue to store and service paper/analog records received by Federal records centers through December 31, 2022, until their scheduled disposition date. As a result, this regulation does not address EMFs or how NPRC would accept digital records. NARA will, of course, work with OPM on updating OPM/GOVT-10 EMFs as appropriate.

Another commenter asked that we clarify that the rule does not authorize an agency to destroy after digitization any records with a legal hold or that are subject to civil, criminal, or administrative proceedings. We have added clarifying language to address this comment. One commenter asked that we add a definition of “information,” and another asked for a definition of “digitizing.” We feel there is no need for a definition of “information”; it has already been defined in many contexts, and we do not feel an additional one would be helpful. However, we have added a definition of “digitizing,” because it is a new term within the records management arena. We have also made editorial revisions to make the revised rule easier to read and use.

### Digitizing Permanent Records and Electronic Records Rulemaking

We are currently developing standards for digitizing permanent records, which we will publish as an upcoming rulemaking. Until these standards are published as a rule, we recommend that agencies discuss digitization projects with their general counsel before disposing of any original permanent records.

While we develop the standards necessary for digitizing permanent Federal records, agencies should continue to follow the process in the General Records Schedule, 36 CFR 1225.24, and NARA Bulletin 2010-04, Guidance Concerning Notifications for Previously Scheduled Permanent Records (<https://www.archives.gov/records-mgmt/bulletins/2010/2010-04.html>).

We are also working on revisions to the rest of 36 CFR 1236, regarding electronic records management, which will be reflected in future rulemakings.

### Regulatory Review Information

This rule is not a significant regulatory action for the purposes of E.O. 12866 and a significance determination was requested from the Office of Management and Budget (OMB). As a result, this rule is also not subject to deregulatory requirements contained in E.O. 13771. It is also not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities; it applies only to agency efforts to digitize temporary records. This rule also does not have any Federalism implications and does not contain any collections of information under the Paperwork Reduction Act.

### List of Subjects in 36 CFR Part 1236

Archives and records, Electronic records, Records management.

For the reasons stated in the preamble, NARA amends 36 CFR part 1236 as follows:

### PART 1236—ELECTRONIC RECORDS MANAGEMENT

- 1. Revise the authority citation for part 1236 to read as follows:

**Authority:** 44 U.S.C. 2904, 3101, 3102, 3105, 3301, 3302, and 3312.

#### § 1236.1 [Removed]

- 2. Remove § 1236.1.

- 3. In § 1236.2, in paragraph (b), add a definition of “Digitizing” in alphabetical order to read as follows:

#### § 1236.2 What definitions apply to this part?

\* \* \* \* \*

(b) \* \* \*

*Digitizing* is the process of converting paper or analog records into electronic records.

\* \* \* \* \*

- 4. Add subpart D to read as follows:

### Subpart D—Digitizing Temporary Federal Records

Sec.

1236.30 Requirements for digitizing temporary records.

1236.32 Digitization standards.

1236.34 Validating digitization.

1236.36 Disposing of original source records.

### § 1236.30 Requirements for digitizing temporary records.

(a) If an agency intends to digitally reproduce (digitize) temporary records in order to designate the digitized version as the recordkeeping copy and destroy the original source records, the agency must: (1) Digitize the record to the standards in § 1236.32; and (2) validate the digitization according to § 1236.34.

(b) When the agency designates the digitized version as the recordkeeping copy, the original source record becomes an intermediary record. Agencies may dispose of intermediary records according to § 1236.36.

### § 1236.32 Digitization standards.

When digitizing temporary records, agencies must meet the following standards:

(a) Capture all information contained in the original source records;

(b) Include all the pages or parts from the original source records;

(c) Ensure the agency can use the digitized versions for all the purposes the original source records serve, including the ability to attest to transactions and activities;

(d) Protect against unauthorized deletions, additions, or alterations to the digitized versions; and

(e) Ensure the agency can locate, retrieve, access, and use the digitized versions for the records' entire retention period.

### § 1236.34 Validating digitization.

(a) Agencies must validate that the digitized versions are of suitable quality to replace original source records.

(b) Agencies may establish their own validation process or make use of third-party processes to validate that the digitized versions comply with § 1236.32. The process may be project-based or agency-wide policy.

(c) Agencies must document the validation process and retain that documentation for the life of the process or the life of any records digitized using that process, whichever is longer.

(d) NARA may review validation documentation as needed.

### § 1236.36 Disposing of original source records.

(a) When an agency has validated that the digitized versions meet the standards in § 1236.32, the agency may destroy the original source records pursuant to General Records Schedule (GRS) 5.2 (intermediary records) or an agency-specific records schedule that addresses disposition after digitization, subject to any pending legal constraint on the agency, such as a litigation hold.

(b) The agency must treat the digitized versions, now the recordkeeping versions, in the same way it would have treated the original source records. The agency must retain the digitized versions for the remaining portion of any retention period established by the applicable records schedule.

(c) Agencies do not need to obtain NARA approval to destroy scheduled temporary records they have digitized according to this part.

**David S. Ferriero,**

*Archivist of the United States.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2018-0353; FRL-9991-76-Region 8]

### Clean Data Determination; Provo, Utah 2006 Fine Particulate Matter Standards Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing a clean data determination (CDD) for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) Provo, Utah (UT) nonattainment area (NAA). The determination was based upon quality-assured, quality-controlled and certified ambient air monitoring data for the period 2015–2017; available in the EPA's Air Quality System (AQS) database, showing the area has monitored attainment of the 2006 24-hour PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). Based on this determination that the Provo, UT NAA is currently attaining the 24-hour PM<sub>2.5</sub> NAAQS, the EPA is also finalizing a determination that the obligation for Utah to make submissions to meet certain Clean Air Act (CAA or the Act) requirements related to attainment of the NAAQS for this area is not applicable for as long as the area continues to attain the NAAQS.

**DATES:** This rule is effective on May 10, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0353. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:**

Crystal Ostigaard, Air Program, U.S. EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6602, [ostigaard.crystal@epa.gov](mailto:ostigaard.crystal@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” and “our” means the EPA.

### I. Background

On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour PM<sub>2.5</sub> NAAQS, lowering the primary and secondary standards from the 1997 standard of 65 micrograms per cubic meter (µg/m<sup>3</sup>) to 35 µg/m<sup>3</sup>. On November 13, 2009 (74 FR 58688), the EPA designated several areas as nonattainment for the 24-hour PM<sub>2.5</sub> NAAQS of 35 µg/m<sup>3</sup>, including the Provo, UT NAA.

On February 12, 2019 (84 FR 3373), the EPA proposed a CDD for the 2006 24-hour PM<sub>2.5</sub> Provo, UT NAA based on the area's current attainment of the standard. Pursuant to 40 CFR 51.1015(a) and (b), the EPA proposed to determine that the obligation to submit any remaining attainment-related state implementation plan (SIP) revisions arising from classification of the Provo, UT area as a Moderate NAA and subsequent reclassification as a Serious NAA under subpart 4 of part D (of title I of the Act) for the 2006 24-hour PM<sub>2.5</sub> NAAQS is not applicable for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS. However, the CDD does not suspend Utah Division of Air Quality's (UDAQ's) obligation to submit nonattainment-related requirements, which includes the base-year emission inventory, nonattainment new source review (NNSR) revisions, and best available control measures/best available control technologies (BACM/BACT). This action does not constitute a redesignation to attainment under CAA section 107(d)(3). Additional detail can be found in the February 12, 2019 (84 FR 3373) proposed action.

### II. Response to Comments

The EPA did not receive any comments on the proposed action.

### III. Final Action

The EPA is finalizing a CDD for the 2006 24-hour PM<sub>2.5</sub> Provo, UT NAA based on the area's current attainment of the standard. Pursuant to 40 CFR 51.1015(a) and (b), the EPA is determining that the obligation to submit any remaining attainment-related SIP revisions arising from classification of the Provo, UT area as a Moderate NAA and subsequent reclassification as a Serious NAA under subpart 4 of part D (of title I of the Act) for the 2006 24-hour PM<sub>2.5</sub> NAAQS is not applicable for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS. In particular, as discussed in the proposed action (84 FR 3373), the obligation for UDAQ to submit attainment demonstrations, projected emissions inventories, RACM (including RACT), reasonable further progress (RFP) plans, motor vehicle emissions budgets (MVEB), quantitative milestones, and contingency measures, for the Provo, UT area are suspended until such time as: (1) The area is redesignated to attainment, after which such requirements are permanently discharged; or (2) the EPA determines that the area has re-violated the PM<sub>2.5</sub> NAAQS, at which time the state shall submit such attainment plan elements for the Moderate and Serious NAA plans by a future date to be determined by the EPA and announced through publication in the **Federal Register** at the time the EPA determines the area is violating the PM<sub>2.5</sub> NAAQS.

However, the CDD does not suspend UDAQ's obligation to submit non-attainment-related requirements, which includes the base-year emission inventory, NNSR revisions, and BACM/BACT. This action does not constitute a redesignation to attainment under CAA section 107(d)(3).

### IV. Statutory and Executive Order Reviews

This action finalizes a determination of attainment based on air quality and suspends certain federal requirements, and thus would not impose additional requirements beyond those imposed by state law. For this reason, this final action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;