



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

7/26/2019 7:59:27 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Administration TITLE-SERIES: 148-14  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 148-14 Management of Records Maintained by the Records Center

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: W. Va. Code Section 5A-8-1 through 5A-8-20

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code Chapter 5A, Article 8 pertains to the Public Record Management and Preservation Act. W. Va. Code Section 5A-8-8 states the Department of Administration's "administrator shall promulgate such rules and regulations concerning the management and selection and preservation of essential state records as are necessary or proper to effectuate the purpose of this article."

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/24/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/24/2019

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Notice was posted on the state's "Records Management SharePoint Site."

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The rule relates to storage, maintenance, and destruction of state records at the state records center. The rule establishes procedures for the state Records Administrator to designate the state records center and for agency responsibilities determining when records may be appropriately destroyed.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The rule has not been amended since 2003. The amendments update the rule with new definitions, clarify requirements for the state records center, require adequate description for all records maintained at the state records center, and provide processes for agency records manager to annually review inventory of records at the state records center and to appropriately seek destruction of records that have reached the end of the retention periods.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

Savings may be achieved when improved records management processes are fully implemented and maintained, however it is not possible to project such savings at this time.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Misty Peal -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 148  
LEGISLATIVE RULE  
WEST VIRGINIA DEPARTMENT OF ADMINISTRATION

SERIES 14  
RULES FOR THE MANAGEMENT OF RECORDS MAINTAINED BY THE  
RECORDS CENTER

**§148-14-1. General.**

1.1. Scope. -- This legislative rule sets forth the Standards, procedures and techniques for effective management of records.

1.2. Authority. -- W. Va. Code §5A-8-1 through §5A-8-20.

1.3. Filing Date. -- ~~April 17, 2003.~~

1.4. Effective Date. - ~~July 1, 2003.~~

~~1.5. Purpose. -- The purpose of the rule is to establish standards, policies and procedures to be followed and used for the management of records maintained by the Records Center.~~

1.5. Sunset provision. – This rule shall terminate and have no force and effect upon the expiration of five years from the effective date.

**§148-14-2. ~~Applicability.~~ Definitions.**

~~2.1. This legislative rule applies to all agencies, except those statutorily exempted from its application.~~

2.1. “Administrator” means Secretary of the Department of Administration, as designated by statute as State Records Administrator.

2.2. “Agency Records Manager” means an employee appointed by the agency head to manage the agency’s records inventory and to act as liaison with the Administrator.

2.3. “Record” means any document, paper, spreadsheet, correspondence, electronic file, photograph, sound recording or other material, regardless of format, made or received pursuant to law or in connection with the transaction of official state business.

2.4. “Records Center” means the facility for storage of records that are required to be retained long-term.

2.5. “Retention and Disposal Schedule” means a schedule of approved retention periods for the records of an agency.

**§48-14-3. Records Center.**

3.1. The West Virginia State Records Center shall be a fireproof storage facility located in a centralized location in West Virginia which may be owned and/or operated or privatized. The Administrator shall provide for a Records Center for the purpose of storing physical records that are required to be maintained for an extended time period. Agencies may use the Records Center at their

option.

~~3.2. Records whose reference rate does not warrant retention in expensive office space and equipment may be retired to the Records Center at the option of the agency.~~

~~3.3. Records Center will provide security of agency records, along with such services as retrieval of records, shredding of records eligible for disposal, and limited copying services.~~

~~3.4. The Agency Records Manager and personnel responsible for packing and transferring records to the Records Center shall do so as required by the Records Center.~~

3.2. The Records Center shall be a secure facility that maintains industry standards for records retention. The Records Center should provide related services such as retrieval, transportation of records, indexing, destruction and materials necessary for storage.

3.3. The agency records manager is responsible for packing the records in the manner required by the Records Center, and utilizing any forms required by the Records Center.

#### **§148-14-4. Selection of Records for Retirement.**

4.1. Records ~~eligible for~~ requiring long-term physical storage should be transferred at least annually by the agency to the Records Center.

4.2. Listings of records eligible for storage should be prepared by the Agency Records Manager from the agency's current Retention & Disposal Schedule.

4.3. When planning records retirement, sufficient time should be allowed to secure storage cartons, ~~accession number,~~ pack and label cartons, index records contained in each carton, and make arrangements regarding physical transfer of records.

#### **§148-14-5. Standard Records Storage.**

5.1. All records retired to the Records Center should be packed in standard records storage cartons. Odd-sized boxes and transfer cases will not be accepted without prior approval of the Records Center.

5.2. All records should be organized, boxed, and filed as required by the State Records Center.

5.3. All records retired to the Records Center shall have an adequate description for the records contained in each carton and a retention period clearly identified.

#### **§148-14-6. Authorized Personnel.**

6.1. The agency ~~Chief Executive Officer~~ head shall submit to the Administrator and the Records Center a listing of agency personnel authorized to request records or information stored in the Records Center.

#### **§148-14-7. Procedure.**

7.1. Records and/or information may be requested from the Records Center in accordance with the records request policy of the ~~State~~ Records Center.

#### **§ 148-14-8. Disposal of Records by Records Center Personnel.**

8.1. ~~Records and documents stored in the Records Center will be held until either removal or destruction is requested by the agency the disposal date specified on the accompanying Records Center Shelf Listing form. Once sections §§148-14-11 and 148-14-12 of these rules have been completed, the records will be removed from the Records Center.~~

8.2. To protect confidentiality of certain records, agencies may request records to be shredded or securely destroyed by the Record Center, if the Record Center offers such services.

8.3. Agency records managers should annually review the inventory of records stored at the Records Center and the Records Retention and Disposal Schedule to determine if records stored at the Records Center have reached the end of the retention period and are eligible for disposal or destruction.

8.4. Requests to destroy records should be prepared for the records stored at the Records Center in the same manner as any other request to destroy and submitted to the Administrator for approval. Once approved, the agency records managers may either have the records destroyed or disposed of by the Records Center or may destroy or dispose of the records in-house.

**~~§148-14-9. Request for Authorization to Destroy Records Stored in Records Center.~~**

9.1 ~~Request for Authorization to Destroy Records will be prepared and forwarded to the appropriate agency by the Administrator whenever records in his/her custody become eligible for disposal.~~

~~The agency head will either approve or disapprove disposal action and so advise the Administrator. If the Administrator is not advised within thirty days from date of request, the records will be destroyed. If the agency disapproves destruction of the records, it must furnish a detailed justification on reverse side of the form for extending retention time.~~

**~~§148-14-10. Destruction of Eligible Records by the Records Center.~~**

10.1 ~~On return of the Request for Authorization to Destroy Records which is approved by the agency, the Administrator will destroy the records listed thereon by the method authorized on the agency's current Retention and Disposal Schedule.~~

10.2. ~~After the records have been destroyed, the Administrator will furnish the agency a Certificate of Destruction. Upon receipt of the Certificate of Destruction the Records Manager will destroy the pending or unsigned copy of the Request for Authorization to Destroy Records.~~

10.3. ~~Disposal information will then be transferred to a Records Disposal Log, thus providing the complete disposal history of the record series.~~

10.4. ~~The Certificate of Destruction and Request for Authorization to Destroy Records should be filed by the Records Manager in a folder and retained permanently.~~