

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #3 □

Do Not Mark In This Box

FILED

2002 JUL 25 P 3:40

STATE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Department of Administration TITLE NUMBER: 148

CITE AUTHORITY: W.Va. Code 5A-8-1

AMENDMENT TO AN EXISTING RULE: YES  NO

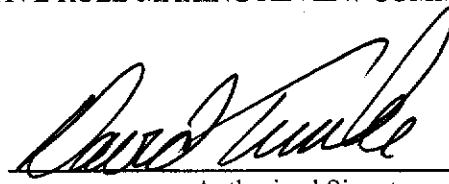
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

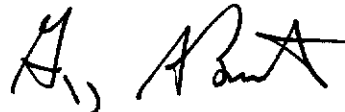
TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 13

TITLE OF RULE BEING PROPOSED: Records Retention and Disposal Scheduling

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
\_\_\_\_\_  
Authorized Signature



SCANNED

**Agency:** Department of Administration  
**Rule Type:** Legislative

**Title Number:** 148  
**Cite Authority:** 5A-8-1

## **STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY**

The Public Records Management and Preservation Act was previously established by the Legislature. The purpose of the rules is to establish the Records Management Program policies, definitions and procedures to be followed and used by each executive agency and its subordinate offices.

**Agency:** Department of Administration  
**Rule Type:** Legislative

**Title Number:** 148  
**Cite Authority:** 5A-8-1

## **COMMENTS / RESPONSES**

No comments were received by Donna Prunty, the designated individual to accept comments on behalf of the Department of Administration or by David Tincher, the Director of Purchasing and the Administrator of Records Management and Preservation, during the comment period on this proposed rule. Therefore, no responses were required.

TITLE 148  
WEST VIRGINIA DEPARTMENT OF ADMINISTRATION  
RECORDS MANAGEMENT AND PRESERVATION

FILED

JUL 25 P 3:40

SERIES 13  
RULES FOR RETENTION AND DISPOSAL SCHEDULING

WEST VIRGINIA  
SECRETARY OF STATE

**§ 148-13-1 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. - \_\_\_\_\_

1.4 Effective Date. - \_\_\_\_\_

1.5 Purpose. - The purpose of the rule is to establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal, or fiscal value to warrant their further keeping.

**§ 148-13-2 Applicability.**

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

**§ 148-13-3 Destruction of Record and Non-Record Material.**

3.1 No record shall be disposed of by an agency of the state, unless it is determined by the Administrator that the record has no further administrative, legal, fiscal, research or historical value.

3.2 Non-record materials may, if not

otherwise prohibited by law, be destroyed at any time by the agency in possession of such materials without the prior approval of the Administrator.

3.3 Any questions as to whether or not material is record or non-record will be resolved by the Administrator.

**§ 148-13-4 Inventory of Agency Records Holdings**

4.1 Each executive agency will make a biennial inventory of their total records holdings as of June 30 to be submitted to the Administrator with a duplicate retained by the agency.

4.2 The Administrator will furnish each agency the required forms and instructions for taking the biennial inventory.

4.3 The inventory shall reflect departmental changes, addition of new record series, deletion of obsolete record series, changes in record series titles and location, and revised retention recommendations.

**§ 148-13-5 Records Retention Authorization**

5.1 All agencies shall prepare a Records Retention Authorization and submit it to the Administrator for each record series held by them. The authorization must contain the chronological period of the record series; if it is a continuing record the word "present" shall be used in order to eliminate preparing a new authorization each time the retention period expires. When the record becomes obsolete, the word "present" is annotated

to read the final date of the record.

5.2 The agency shall request amendment of approved retention periods on the Records Retention Authorization in the same manner as requesting an original authorization. The reasons for such change shall be clearly explained.

5.3 Upon receipt of the retention authorization the Administrator shall analyze the information contained thereon. If the Administrator concurs in the proposed retention recommendations he/she will affix his/her signature in a space provided.

5.4 The Administrator may seek approvals of recommended retention appraisals from any other agency he may deem necessary. If the Administrator does not concur with the recommendations of the originating agency, conferences shall be arranged to reconcile the differences.

#### **§ 148-13-6 Record Retention and Disposal Schedules**

6.1 After Records Retention Authorization has been approved by the Administrator, Retention Disposal Schedule shall be compiled and submitted to the State Archivist and the Agency Head for approval. After approved schedule has been returned, the Administrator will approve, print and supply the agency with five copies to be distributed by them on a "need-to-know" basis.

6.2 The agency's Retention and Disposal Schedule shall be reviewed biennially of each even year to determine if revisions are necessary. The agency will certify by letter to the Administrator this review has been completed.

#### **§ 148-13-7 Retirement of Records to Records Center**

7.1 Records eligible for storage should be transferred annually by the agency as needed to the

Records Center.

#### **§ 148-13-8 Destruction of Records by the Agency**

8.1 The agency may destroy any record held by them whenever such record becomes eligible for disposal as indicated by the agency's current Records Retention and Disposal Schedule.

8.2 Upon completion of the destruction, agency personnel shall promptly list all records destroyed and all records microfilmed on a Records Disposal Report worksheet. The worksheet should then be sent to the agency Records Manager. Do not include records destroyed at the Records Center but do list any records which have been transferred to Archives and History.

8.3 The agency Records Manager shall submit to the Administrator a quarterly summary of records disposals/transfers.

8.4 The Records Manager shall then post disposal/transfer information as required.

8.5 A list of records destroyed shall be retained permanently showing the history of records series.

#### **§ 148-13-9 Microfilming**

9.1 When a record series or portion thereof is microfilmed and the original document is destroyed, this disposal shall be shown on the quarterly Records Disposal Report submitted to the Administrator.

#### **§ 148-13-10 Filing Plans**

10.1 Directors and Supervisors should have a written plan of the filing system within their division for quick reference.

10.2 The agency head should have an over-all file plan of the information sources within

his/her agency.

10.3 The Records Manager of each agency should know where each record originates and why, where they are stored temporarily and how, and the final action of the records.

10.4 Each executive agency shall furnish the Administrator with a copy of the agency's filing plan and any revisions of the plan.

#### **§ 148-13-11 Forms**

11.1 It is mandatory that all reports be submitted to the Administrator on forms provided by or approved by the Administrator.

## APPENDIX B

### FISCAL NOTE FOR PROPOSED RULES

Rule Title: 148, Series 12, 13 & 14, W.Va. Code §5A-8-1

Type of Rule:  X  Legislative        Interpretive        Procedural

Agency: Department of Administration

Address: 1900 Kanawha Boulevard, East

Building 1, Room E-119

Charleston, WV 25305

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#### 1. Effect of Proposed Rule:

	ANNUAL FISCAL YEAR				
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST					250,000.00
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

#### 2. Explanation of Above Estimates:

There would be no anticipated increased cost to the State for the management and preservation of hard-copy records maintained at the records center. However, the State needs to evaluate the possibility of providing a place for agencies to archive their digital data much like the Records Center and the possibility of an automated Records Management system. The estimated cost would be approximately \$250,000.00 just for the study and then hardware and software would come later.

**3. Objectives of These Rules:**

To establish policies, definitions and procedures to be followed and used by each executive agency and its subordinate offices.

**4. Explanation of Overall Economic Impact of Proposed Rule:**

**A. Economic Impact on State Government:**

No immediate fiscal impact to the State. However, future costs for the storage of digital data would be estimated at \$250,000.00.

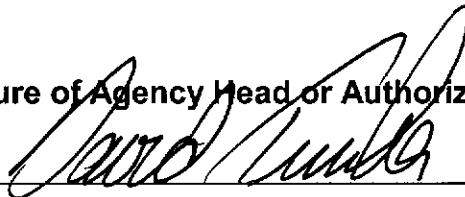
**B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:**

None

**C. Economic Impact on Citizens/Public at Large.**

None

Date: 7/25/02

Signature of Agency Head or Authorized Representative:  


A. AB

## QUESTIONNAIRE

**DATE:** July 25, 2002

**TO:** Legislative Rule-Making Review Committee

**FROM:** Donna Prunty, Executive Coordinator  
Department of Administration  
1900 Kanawha Boulevard, East  
Room E-119  
Charleston, WV 25305  
304-558-3392

**LEGISLATIVE RULE TITLE:** 148, Records Management and Preservation

1. Authorizing statute(s) citation 5A-8-1
2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
May 30, 2002
- b. What other notice, including advertising, did you give of the hearing?  
None
- c. Date of Public Hearing(s) or Public Comment Period Ended:  
July 25, 2002
- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received X
- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)  
July 25, 2002
- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (please type)  
Donna Prunty, Executive Coordinator  
Department of Administration  
1900 Kanawha Boulevard, East

State Capitol, Room E-119

Charleston, WV 25305

304-558-3392

- g. IF DIFFERENT FROM ITEM "f", please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (please type)

David Tincher, Director of Purchasing

2019 Washington Street, East

Charleston, WV 25301

304-558-2538

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing or comment period:

July 25, 2002

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

Attached           No comments received



STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE CABINET SECRETARY  
July 25, 2002

BOB WISE  
GOVERNOR

GREGORY A. BURTON  
CABINET SECRETARY

***Via Hand-Delivery***

The Honorable Joe Manchin, III  
Secretary of State  
Building 1, Suite 157K  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

**Re: Legislative Rules**

Dear Secretary Manchin,

I am enclosing an original and fifteen copies of the documents listed below for filing. The proposed rules establish policies and procedures for Records Management and Preservation. Three separate sets of rules are being filed (Series 12, 13 and 14). I will provide the copies of the enclosed documents to the Legislative Rule Making Review Committee once they are marked filed by your office.

The documents enclosed consist of the following documents for each series:

1. Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee,
2. Statement of Circumstance and Brief Summary of the rules,
3. Brief Summary of comments received, agency response, and amendments,
4. Proposed Rules,
5. Fiscal Note,
6. Questionnaire.

Thank you very much for your assistance. If you have any questions, or need any additional information, please do not hesitate to give me a call.

Sincerely,

Donna M. Prunty  
Executive Coordinator

DMP:dp

Enclosures

cc: Gregory A. Burton, Cabinet Secretary