



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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

NAME: Jennelle Jones
ADDRESS: 1900 Kanawha Blvd E
Charleston, WV 25305
EMAIL: jennelle.h.jones@wv.gov
PHONE NUMBER: 304-352-4941

CITE STATUTORY AUTHORITY: W. Va. Code §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."

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

(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?

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.

The only change to the rule extends the sunset date from 2025 to 2035.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The changes to the rule extend the sunset date from 2025 to 2035, allowing it to remain in effect.

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 ON SPECIAL REVENUE ACCOUNTS:

None

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

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 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

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

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. -- ~~Technical amendment filed March 21, 2024.~~

1.4. Effective Date. -- ~~February 13, 2020.~~

1.5. Sunset provision. -- This rule shall terminate and have no force and effect after August 1, ~~2025~~ 2035.

§148-14-2. Definitions.

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 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. 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 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, 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 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 Records Center.

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

8.1. Records stored in the Records Center will be held until either removal or destruction is requested by the agency.

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.