



Date: September 11, 2018

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Frequently Asked Questions about NARA's Digitization Regulations

As announced in [AC Memo 29.2018](#), NARA has posted a draft regulation with standards for digitizing temporary records in the Federal Register for public comment. This FAQ provides some additional information about this proposed regulation and the implications for agencies.

Why is NARA issuing this regulation?

In 2014, the Federal Records Act, [44 U.S.C. § 3302](#), was amended by Public Law 113-87 and required 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.

What records does this regulation cover?

This proposed regulation covers all temporary records, regardless of format. This proposed regulation does not cover permanent records. NARA plans to propose a regulation with digitization standards for permanent records in FY 2019.

May agencies destroy temporary original source records that have been digitized?

If agencies digitized temporary records according to the interim standards in the proposed regulation, they may destroy the original source records. In addition, the disposal must be pursuant to an appropriate approved disposition authority.

What disposition authority applies to temporary original source records?

Agencies may use the [General Records Schedule \(GRS\) 5.2, Item 20, Intermediary Records](#) or a current, approved agency-specific records schedule as the disposition authority for temporary original source records.

Will NARA change the GRS for original source records that have been digitized?

Yes, NARA plans to revise GRS 5.2 to align with the new standards issued in regulations. NARA plans to make these revisions when the regulations for permanent records are proposed.

May agencies destroy permanent original source records that have been digitized?

For permanent records, NARA advises against the disposal of original source records after digitizing until a regulation covering such records is proposed. Until then, while NARA's position is that we do not have the legal authority to approve the disposition of records, agencies may consult with their own General Counsel to assess the risks of destroying the records. In particular, there is a risk that the disposal of original source records could be subject to legal challenge absent an applicable NARA regulation. (*See Robinson v. McDonald*, 28 Vet. App. 178, 187 (No. 15-0715, 2016)). NARA's Office of General Counsel is available to meet with agency general counsel and staff to advise further on the issue.

How do media neutral notifications relate to permanent records?

In 2010, NARA established a process where agencies could notify NARA that permanent records were going to be scanned and digitized versions eventually transferred to NARA. The media neutral notification concept and processes are contained in 36 CFR 1225.24(a)(1) and [NARA Bulletin 2010-04](#). The Bulletin also provides guidance on the disposal of original source records when the media neutral notification process is completed.

Will NARA continue to accept media neutral notifications?

Yes, NARA will continue to accept media neutral notifications for permanent records. However, until a regulation for digitizing permanent records is proposed in the Federal Register, NARA will only provide advice on a case-by-case basis. Once the regulation is proposed, NARA will return to its normal processes for completing final action on media neutral notifications.

Will NARA continue to accept proposed schedules for digitized permanent records?

Yes, if NARA receives an agency-specific records schedule proposing disposal of original source records after digitization, NARA will register the submitted schedule and begin appraisal. However, we will advise the agency that the schedule cannot be approved by the Archivist of the United States until a regulation for digitizing permanent records is proposed in the Federal Register.

Will NARA accept transfers of digitized permanent records?

Yes, NARA is accepting transfers of digitized permanent records. An agency may begin the transfer process in [ERA](#) if they:

- have completed the media neutral notification process with NARA, if the analog copy was the recordkeeping copy, or
- have a valid schedule that declares the electronic record as the recordkeeping copy.

In either case, NARA may then have further consultations with the agency about the transfer.

What if the digitization processes used in the past for temporary records do not meet either the proposed or final standards issued in the regulations? Will agencies have to rescan the original source records?

It depends. Agencies may need to assess prior digitization work if the agency's previous digitization standards are not generally compliant with NARA's proposed or final regulations. If the digitization processes do not meet the standards, agencies will likely need to retain the original source records as the recordkeeping copy for the scheduled retention period, or they may choose to re-digitize.

Do agencies have to submit notices of unauthorized disposal for past destruction of original source records that were scanned prior to the proposed regulation?

An agency does not have to submit an unauthorized disposal notification if disposal was executed in accordance with a valid records schedule (agency-specific or GRS) or a completed media neutral notification process.

Who should agencies contact for additional information?

For questions about the proposed regulation, please contact Kimberly Keravuori, by email at regulation_comments@nara.gov or by telephone at 301-837-3151. Contact acps@nara.gov with any questions on records management and digitization.