NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Fall 2004 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Archives and Records Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since the spring of 2004. This agenda was developed under the guidelines in OMB’s Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated August 18, 2004. NARA’s purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA’s regulatory plans and to participate in the rulemaking process. Some of the regulations listed in the agenda are considered significant under Executive Order 12866, “Regulatory Planning and Review.”

For this edition of NARA’s regulatory agenda, the most important significant regulatory action is included in The Regulatory Plan, which appears in part II of this issue of the Federal Register. The Regulatory Plan entry is listed in the table of contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

FOR FURTHER INFORMATION CONTACT: Nancy Allard, Regulatory Contact, Policy and Communications Staff, (301) 837-1477.


John W. Carlin, Archivist of the United States.

National Archives and Records Administration—Proposed Rule Stage

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National Archives and Records Administration—Final Rule Stage

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3496. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

Legal Authority: 44 USC 2104(a); 42 USC 2000d to 2000d–7; EO 12250

CFR Citation: 36 CFR 1213

Legal Deadline: None

Abstract: NARA is adopting Governmentwide regulations on nondiscrimination on the grounds of race, color, or national origin in any program or activity receiving Federal financial assistance from NARA. These regulations will affect the National Historical Publications and Records Commission grant program.

Timetable:

Action Date FR Cite
NPRM 03/00/05

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Federalism: Undetermined

URL For Public Comments: www.regulations.gov

Agency Contact: Kimberly Richardson, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740

Phone: 301 837–1850

Fax: 301 837–0319

Email: kimberly.richardson@nara.gov

RIN: 3095–AB09

3497. FEDERAL RECORDS MANAGEMENT

Regulatory Plan: This entry is Seq. No. 143 in part II of this issue of the Federal Register.

RIN: 3095–AB16

3498. REVIEW OF RECORDS CENTER FACILITY STANDARDS

Priority: Other Significant

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1228.228(b); 36 CFR 1228.230(b); 36 CFR 1228.230(e); 36 CFR 1228.230(i); 36 CFR 1228.230(l); 36 CFR 1228.230(s)

Legal Deadline: None

Abstract: NARA proposes to modify its facility standards for records storage facilities that house Federal records to clarify and revise certain requirements that were identified as of particular concern to small businesses.

Timetable:

Action Date FR Cite
Begin Review 05/01/03
NPRM 09/07/04 69 FR 54091
NPRM Comment Period End 11/08/04

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

URL For Public Comments: www.regulations.gov

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740

Phone: 301 837–1850

Fax: 301 837–0319

Email: nancy.allard@nara.gov

RIN: 3095–AB31

3499. TESTIMONY BY NARA EMPLOYEES AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Priority: Substantive, Nonsignificant.

Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 44 USC 2104; 44 USC 2108; 44 USC 2109; 44 USC 2112; 44 USC ch 22

CFR Citation: 36 CFR 1201; 36 CFR 1250; 36 CFR 1251 (new); 36 CFR 1254

Legal Deadline: None

Abstract: This regulation will establish NARA’s policies and procedures with respect to testimony by NARA staff and/or production of information and records in legal proceedings.

Timetable:

Action Date FR Cite
NPRM 12/00/04

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, Local, State

Federalism: Undetermined

URL For Public Comments: www.regulations.gov

Agency Contact: Jason R Baron, Director of Litigation, National Archives and Records Administration, Room 3110, NGC, 8601 Adelphi Road, College Park, MD 20740

Phone: 301 837–1750

Fax: 301 837–0293

Email: jason.baron@nara.gov

RIN: 3095–AB32
### 3500. USE OF MEETING ROOMS AND PUBLIC SPACE

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** None

**Abstract:** NARA is updating its regulations on the use of NARA facilities in the Washington, DC area. The renovation of the National Archives Building in Washington, DC has changed and expanded the space available for public programs and meetings.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** Jennifer Davis Heaps, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740
Phone: 301 837–1850
Fax: 301 837–0319
Email: jennifer.heaps@nara.gov

**RIN:** 3095–AB33

### 3501. INFORMATION SECURITY OVERSIGHT OFFICE; NATIONAL INDUSTRIAL SECURITY PROGRAM

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** EO 12829, as amended by EO 12885

**CFR Citation:** 32 CFR 2001

**Legal Deadline:** None

**Abstract:** The Information Security Oversight Office is publishing through NARA an implementing directive for Executive Order 12829 that is binding on executive branch agencies that enter into classified contracts, licenses, or grants. The purpose of the National Industrial Security Program is to safeguard classified information that may be released or has been released to current, prospective, or former contractors, licensees, or grantees of United States agencies.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Kimberly Richardson, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740
Phone: 301 837–1850
Fax: 301 837–0319
Email: kimberly.richardson@nara.gov

**RIN:** 3095–AB33

### 3502. NONDISCRIMINATION ON THE BASIS OF AGE WHEN RECEIVING FEDERAL FINANCIAL ASSISTANCE

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 42 USC 6101 et seq: 45 CFR 90

**CFR Citation:** 36 CFR 1214

**Legal Deadline:** None

**Abstract:** NARA is proposing to add a new part to its regulations. This new part concerns nondiscrimination on the basis of age when receiving Federal financial assistance. NARA and recipients of NARA grants must follow the nondiscrimination rules in this new part when they hire individuals for programs and projects.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Federalism:** Undetermined

**Agency Contact:** Jennifer Davis Heaps, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740
Phone: 301 837–1850
Fax: 301 837–0319
Email: jennifer.heaps@nara.gov

**RIN:** 3095–AB33

### 3503. DECLASSIFICATION OF NATIONAL SECURITY INFORMATION

**Priority:** Info./Admin./Other. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 44 USC 2104(a); 44 USC 2108(a); 5 USC 552, as amended; EO 12958 (60 FR 19825), 3 CFR, 1995 Comp., p. 333; EO 13142 (64 FR 66089); 3 CFR, 1999 Comp., p. 236; EO 13292 (68 FR 15315); 32 CFR 2001; 32 CFR 2004 (68 FR 55168)

**CFR Citation:** None

**Legal Deadline:** None

**Abstract:** NARA is updating references to Executive Order 12958, as amended, updating the section on reclassification to reflect the changes in the Executive order, and adding a section on automatic declassification to reflect how it will be applied to the equities of agencies that have not had a chance to review their information.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Federalism:** Undetermined

**Agency Contact:** J. William Leonard, Director, Information Security Oversight Office, National Archives and Records Administration, Room 500, 700 Pennsylvania Avenue NW., Washington, DC 20408
Phone: 202 219–5250
Fax: 202 219–5385
Email: william.leonard@nara.gov

**RIN:** 3095–AB34

### 3504. RECORDS MANAGEMENT; ELECTRONIC MAIL; ELECTRONIC RECORDS; DISPOSITION OF RECORDS

**Priority:** Substantive, Nonsignificant. Major under 5 USC 801.

**Legal Authority:** 44 USC 2104(a)

**CFR Citation:** 36 CFR 1228
### 3505. • PRESIDENTIAL RECORDS ACT PROCEDURES

**Priority:** Other Significant  
**Legal Authority:** 44 USC 2104(a)  
**CFR Citation:** 36 CFR 1270  
**Legal Deadline:** None  
**Abstract:** In response to a petition for rulemaking, NARA proposes to amend part 1270 to lengthen the time from 10 days to 35 days to appeal denial of access to Presidential records. The proposed rule will affect the public.  
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**Regulatory Flexibility Analysis:** Required: No  
**Government Levels Affected:** Federal  
**URL For Public Comments:** www.regulations.gov  
**Agency Contact:** Cheryl StadelBevans, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740  
Phone: 301 837–1850  
Fax: 301 837–0319  
Email: cheryl.stadelbevans@nara.gov  
**Related RIN:** Related to 3095–AB16  
**RIN:** 3095–AB39

### 3506. • RECORDS MANAGEMENT; UNSCHEDULED RECORDS

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 44 USC 21; 44 USC 29; 44 USC 33  
**CFR Citation:** 36 CFR 1228  
**Legal Deadline:** None  
**Abstract:** As part of NARA’s Records Management Initiatives to redesign Federal records management, NARA has determined that Federal agencies should be allowed to transfer unscheduled records to records storage facilities after notification to NARA but in advance of submitting a Standard Form (SF) 115 to schedule the records. The proposed rule does not change the prohibition on destruction of records without an approved SF 115. The existing regulation requires agencies to develop and submit the SF 115 prior to transferring records into a records storage facility. We believe that the proposed change would facilitate agency operations.  
**Timetable:**

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**Regulatory Flexibility Analysis:** Required: No  
**Small Entities Affected:** No  
**Government Levels Affected:** None  
**URL For Public Comments:** www.regulations.gov  
**Agency Contact:** Jenifer Davis Heaps, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740  
Phone: 301 837–1850  
Fax: 301 837–0319  
Email: jennifer.heaps@nara.gov  
**Related RIN:** Related to 3095–AB16  
**RIN:** 3095–AB40

### 3507. • PUBLIC AVAILABILITY AND USE OF FEDERAL RECORDS

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 36 CFR 1250  
**CFR Citation:** 44 USC 2104(a); 5 USC 552  
**Legal Deadline:** None  
**Abstract:** NARA is making minor revisions to its Freedom of Information Act (FOIA) regulation, which governs access to NARA’s archival holdings and NARA’s own operational records through FOIA. These revisions include: clarifying that records transferred to NARA from legislative branch agencies retain their legislative branch status and remain outside the scope of FOIA; noting that the custody of certain official military personnel files at NARA’s National Personnel Records Center located in St. Louis, Missouri has been transferred to NARA; and modifying section 1250.26(e) to reflect E.O. 13233, Further Implementation of the Presidential Records Act.  
**Timetable:**

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**Regulatory Flexibility Analysis:** Required: No  
**Small Entities Affected:** No  
**Government Levels Affected:** None  
**URL For Public Comments:** www.regulations.gov  
**Agency Contact:** Ramona Oliver, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740  
Phone: 301 837–2024  
Fax: 301 837–0293  
Email: ramona.oliver@nara.gov  
**Related RIN:** 3095–AB42  
**RIN:** 3095–AB42

### 3508. • FEDERAL RECORDS MANAGEMENT; MEDIA NEUTRAL RECORDS SCHEDULES

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 44 USC 21; 44 USC 29; 44 USC 33  
**CFR Citation:** 36 CFR 1228; 36 CFR 1234  
**Legal Deadline:** None  
**Abstract:** NARA proposes to amend its regulations relating to scheduling Federal records to make existing approved records schedules and future
records schedules applicable to bodies of records regardless of the medium in which the records are created and maintained. This proposed rule would reduce the workload for both agencies and NARA, allowing both to focus resources on critical records management needs.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740–6001 Phone: 301 837–1850 Fax: 301 837–0319 Email: nancy.allard@nara.gov

RIN: 3095–AB43

3509. ● NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2501 to 2506

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: NARA is updating and clarifying its regulations relating to the National Historical Publications and Records Commission Grant Program.

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Regulatory Flexibility Analysis Required: No

3510. ● CLASSIFIED NATIONAL SECURITY INFORMATION DIRECTIVE NO. 1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: EO 12958

CFR Citation: 32 CFR 2001

Legal Deadline: None

Abstract: The Information Security Oversight Office (ISOO) is revising Directive No. 1 in two subject areas: Referrals, subpart C section 2001.34, and Identifications and Markings, subpart B section 2001.21. The revisions update and clarify the current policy in these sections. While ISOO expects to revise section 2001.34 extensively, so that we can provide guidance on the use of the marking “25X,” we will add an appendix B titled “Supplementary Guidance,” rather than revise section 2001.21. Adding an appendix B provides a mechanism for future guidance on other parts/sections of the Directive. We expect to insert an explanatory paragraph about appendix B just before the Table of Contents for the Directive.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laura Kimberly, National Archives and Records Administration, 700 Pennsylvania Avenue NW., Washington, DC 20408 Phone: 202 219–5250 Fax: 202 219–5385 Email: laura.kimberly@nara.gov

RIN: 3095–AB46

3511. ● NARA FACILITY LOCATIONS AND HOURS

Priority: Info./Admin./Other

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1253

Legal Deadline: None

Abstract: NARA is updating its regulation on the locations of our facilities and hours of use to reflect the opening of the Clinton Presidential library and the regional archives facility in Morrow, Georgia in fiscal year 2005.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Jennifer Davis Heaps, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740 Phone: 301 837–1850 Fax: 301 837–0319 Email: jennifer.heaps@nara.gov

RIN: 3095–AB47
National Archives and Records Administration (NARA)  Final Rule Stage

3512. PRESIDENTIAL LIBRARY FACILITIES

Priority: Substantive, Nonsignificant  
Legal Authority: 44 USC 2104(a); 44 USC 2112  
CFR Citation: 36 CFR 1281  
Legal Deadline: None  
Abstract: NARA is issuing regulations relating to the acceptance of a Presidential library facility by the Archivist of the United States from a non-Federal group or institution. The regulations will address requirements in the Presidential Libraries Act of 1986 for architectural and design standards, certifications, and reporting to Congress.  
Timetable:

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Regulatory Flexibility Analysis:
Required: No

Government Levels Affected: None

URL For Public Comments:
www.regulations.gov

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740–6001. Phone: 301 837–1850. Fax: 301 837–0319. Email: nancy.allard@nara.gov

RIN: 3095–AA82

3513. NONDISCRIMINATION ON THE BASIS OF DISABILITY WHEN RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant  
Legal Authority: 29 USC 794  
CFR Citation: 36 CFR 1208  
Legal Deadline: None  
Abstract: NARA is proposing to modify its regulations on nondiscrimination on the basis of disability by adding rules that recipients of NARA grants must follow when they hire individuals for programs and projects.

Timetable:

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Federalism: Undetermined

URL For Public Comments:
www.regulations.gov

Agency Contact: Kimberly Richardson, Policy Specialist, National Archives and Records Administration, Room 4100, 8601 Adelphi Road, College Park, MD 20740–6001. Phone: 301 837–1850. Fax: 301 837–0319. Email: kimberly.richardson@nara.gov

RIN: 3095–AB21

3514. IMPLEMENTATION OF OMB CIRCULAR A–110, SECTION 36

Priority: Other Significant  
Legal Authority: 5 USC 301  
CFR Citation: 36 CFR 1210  
Legal Deadline: None  
Abstract: This rule will incorporate the provisions of OMB Circular A–110, section 36, regarding the availability of data produced under an award through the Freedom of Information Act (FOIA) into our NHPRC grants administration regulation at 36 CFR part 1210.

Timetable:

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Federalism: Undetermined

URL For Public Comments:
www.regulations.gov

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740–6001. Phone: 301 837–1850. Fax: 301 837–0319. Email: nancy.allard@nara.gov

RIN: 3095–AA96

3515. REVISION OF NARA RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant  
CFR Citation: 36 CFR 1254; 36 CFR 1284  
Completed:

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Regulatory Flexibility Analysis:
Required: No

Federalism: Undetermined

URL For Public Comments:
www.regulations.gov

Agency Contact: Jennifer Davis Heaps, Phone: 301 837–1850. Fax: 301 837–0319. Email: jennifer.heaps@nara.gov

RIN: 3095–AB10

3516. RESTRICTIONS ON THE USE OF RECORDS

Priority: Substantive, Nonsignificant  
CFR Citation: 36 CFR 1256  
Completed:

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Federalism: Undetermined

URL For Public Comments:
www.regulations.gov

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPOL, 8601 Adelphi Road, College Park, MD 20740–6001. Phone: 301 837–1850. Fax: 301 837–0319. Email: nancy.allard@nara.gov

RIN: 3095–AB10
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**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Jennifer Davis Heaps
Phone: 301 837–1850
Fax: 301 837–0319
Email: jennifer.heaps@nara.gov

**RIN:** 3095–AB11

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**3517. NARA FACILITIES: PHONE NUMBERS**

**Priority:** Routine and Frequent

**CFR Citation:** 36 CFR 1253

**Completed:**

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**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Kimberly Richardson
Phone: 301 837–1850
Fax: 301 837–0319
Email: kimberly.richardson@nara.gov

**RIN:** 3095–AB30

[FR Doc. 04–22121 Filed 12–10–04; 8:45 am]