

(d) When within a naval vessel protection zone, all vessels shall operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Coast Guard, the senior naval officer present in command, or the official patrol. When within a naval vessel protection zone, no vessel or person is allowed within 100 yards of a large U.S. naval vessel unless authorized by the Coast Guard, the senior naval officer present in command, or official patrol.

(e) To request authorization to operate within 100 yards of a large U.S. naval vessel, contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF-FM channel 16.

(f) When conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should:

(1) Give advance notice on VHF-FM channel 16 of all large U.S. naval vessel movements; and

(2) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(3) Permit commercial vessels anchored in a designated anchorage area to remain at anchor when within 100 yards of passing large U.S. naval vessels; and

(4) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored large U.S. naval vessel with minimal delay consistent with security.

Note to § 165.2025 paragraph (f): The listed actions are discretionary and do not create any additional right to appeal or otherwise dispute a decision of the Coast Guard, the senior naval officer present in command, or the official patrol.

Dated: April 26, 2002.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Atlantic Area.

[FR Doc. 02-11919 Filed 5-10-02; 8:45 am]

BILLING CODE 4910-15-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1222 and 1228

RIN 3095-AB02

Records Disposition

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is revising the records management regulations in Subchapter B to simplify certain records disposition procedures. The current rule addresses only hard copy distribution of agency records disposition manuals. This rule reflects agencies' use of the Internet and Intranets to distribute copies of agency records manuals that include the disposition authorities approved by NARA. The rule also eliminates the requirement that agencies request authority for a retention period that differs from the General Records Schedules if NARA previously has granted a disposition authority specifically to an agency. NARA is also correcting references in parts 1220, 1222, and 1228. This final rule will affect Federal agencies.

EFFECTIVE DATE: June 12, 2002.

FOR FURTHER INFORMATION CONTACT:

Nancy Allard on 301-837-1850 or fax number 301-837-0319.

SUPPLEMENTARY INFORMATION: The proposed rule was published in the July 17, 2001, **Federal Register** (66 FR 37202) for a 60-day public comment period. NARA notified Federal records officers of the availability of the proposed rule. A copy of the proposed rule was also posted on the NARA web site.

NARA received 14 responses to the proposed rule, 12 from Federal agencies and two from private sector commenters. Six agencies and the two non-Federal commenters concurred with both changes. Comments from six agencies on the proposed rule related mainly to the clarity of the requirements and the format of the electronic copies of schedules submitted to NARA. Comments on each of the sections of the regulation are summarized below, followed by NARA's response.

36 CFR 1228.42

Comment: One agency recommended that NARA eliminate the requirement to submit a schedule for any deviation from GRS authorities.

NARA response: We did not adopt this comment. Application of the GRS is mandatory unless NARA has approved an alternate disposition. NARA has the statutory responsibility to approve all records disposition authorities, including those on agency-specific schedules and those contained in the GRS. See 44 U.S.C. 3303a.

36 CFR 1228.42(b)

Comments: Under the new rule, agencies need to notify NARA when they intend to apply a previously approved agency schedule instead of a newly-approved or newly-revised GRS.

One agency suggested that it would be easier for agencies to notify NARA when they are not going to continue using the agency schedule rather than when they intend to continue to apply it. Another agency recommended that NARA add a time limit of 60-90 days for agencies to notify NARA that they intend to continue using their schedules. That agency also asked how NARA would determine which GRS items need be applied "without exception."

NARA response: The GRS, as the later authority, would normally supersede the agency schedule, so agencies need to tell NARA when they do not choose to apply the GRS. The rule has been modified to require notification within 90 days from issuance of the GRS change. GRS items that must be used without exception will be those that have a retention period based on another statutory or regulatory requirement. For example, retention periods for such records as accountable officers accounts and contracts are based on the statute of limitations on claims. A shorter retention period than provided in the law would deny an agency the ability to defend itself against claims, and a longer retention period may put the Government in jeopardy of processing untimely claims. NARA will identify such items clearly on the GRS Transmittal and in the disposition instruction for the applicable item.

36 CFR 1228.42(c)

Comment: One agency commented that NARA needs to process schedules for exceptions to the GRS more quickly, including shortening the 45-day review period on pending schedules listed in **Federal Register** notices to 14 days.

NARA response: We did not adopt this comment. NARA is concerned about the time required to approve many of the schedules submitted by agencies, and has undertaken a review of the scheduling process. NARA will consider, as part of this review, whether the Federal Register notice period should be modified. Public notice on pending schedules is required by law (44 U.S.C. 3303a(a)), and the current review period provides reasonable accommodation. In the meantime, NARA appraisal archivists work with agencies to set priorities for schedule processing.

36 CFR 1228.50(a)(4)

Comments: One agency asked for clarification of the requirement that agencies submit copies of schedules to NARA within 30 days as it relates to the provision in 36 CFR 1228.50(a)(4)(ii) that agencies submit a copy to NARA

when posted. That agency also recommended that NARA provide links to printed schedules of all agencies. Another agency suggested that the regulation specify that if the agency both prints and posts an electronic copy of its schedule, it need only submit an electronic copy to NARA.

NARA response: The provisions of 36 CFR 1228.50(a)(4) apply to both subordinate paragraphs ((a)(4)(i) and (a)(4)(ii)). Therefore, agencies are required to submit printed directives, schedules, and schedule changes within 30 days of the date they were issued, and a printed or electronic copy of the materials on an Internet or Intranet web site within 30 days of the date they were posted. Agencies may email electronic copies of schedules to NARA at the email address now indicated in the rule. The NARA records management web site includes the Agency Records Disposition Online Resource (<http://ardor.nara.gov/index.html>) which contains agency schedules or links to agency schedules, and the GRS. NARA urges agencies to provide information on their schedules to add to this resource. NARA agrees that agencies may submit only electronic copies of schedules if they both post an electronic copy and print copies for distribution. This change has been made.

36 CFR 1228.50(a)(4)(ii)

Comments: Three agencies raised questions about the format of the electronic copy of the records schedule that agencies would send to NARA. One agency asked whether the term meant the method of transmission, e.g., via email, instead of the format of the document itself. That agency also asked if the requirement to provide the Internet address for relevant schedules could be met if the address (URL) is on the electronic copy submitted to NARA. Another agency believed that the "format specified by NARA" referred to the requirement for transfer of permanent records in 36 CFR 1228.270, because it requested that HTML and PDF be acceptable as well as ASCII. A third agency commented that NARA should be able to accept all formats. Another agency recommended that the regulation specify that any revisions to schedules also be covered by the requirement to submit copies of schedules to NARA.

NARA response: The regulation relates to the format of the directives, schedules, and schedule changes, not the method of transmission for either the schedules or the transfer of permanent electronic text records to NARA. NARA will accept the schedules in all formats that it is able to read and

disseminate, e.g., Word, WordPerfect, HTML, RTF (rich text format), and PDF. If the copy of a schedule posted on a publicly available web site is submitted to NARA and includes the URL, the requirement to provide the Internet address would be met. However, inclusion of the URL for schedules posted on an agency's internal Intranet is not required because an agency's Intranet is not available to either NARA or the public. The regulation clearly states that agencies are to submit "changes to all manuals as they are issued." NARA believes that the requirement is sufficiently clear.

Other Changes in This Final Rule

After publication of the proposed rule, the General Services Administration (GSA) updated its records management regulations. Cross-references to specific sections of GSA's records management regulations in title 41, Code of Federal Regulations, have been changed in this rule.

This rule is a significant regulatory action for the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies. This rule has no federalism or tribalism implications. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

List of Subjects in 36 CFR Part 1228

Archives and records, Federal buildings and facilities.

For the reasons set forth in the preamble, NARA amends parts 1220, 1222, and 1228 of title 36, Code of Federal Regulations, as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 continues to read as follows:

Authority: 44 U.S.C. 2104(a) and chs. 29 and 33.

§ 1220.2 [Amended]

2. In § 1220.2, remove the term "41 CFR chapter 201, Subchapters A and B" and add in its place the term "41 CFR part 102–193."

§ 1220.34 [Amended]

3. In § 1220.34, remove the term "41 CFR part 201–9" and add in its place the term "41 CFR part 102–193."

§ 1220.36 [Amended]

4. In paragraph (c) of § 1220.36, remove the term "41 CFR part 101–11" and add in its place the term "41 CFR part 102–193."

PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

5. The authority citation for part 1222 continues to read as follows:

Authority: 44 U.S.C. 2904, 3101, and 3102.

§ 1222.20 [Amended]

6. In paragraph (a) of § 1222.20, remove "41 CFR Chapter 201" and add "41 CFR part 102–193."

PART 1228—DISPOSITION OF FEDERAL RECORDS

7. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

8. Revise § 1228.40 to read as follows:

§ 1228.40 Authority.

The Archivist of the United States issues schedules authorizing disposal, after specified periods of time, of temporary records common to several or all agencies of the U.S. Government. General Records Schedules authorize the destruction of records after the stated retention period expires. Application of the disposition instructions in these schedules is mandatory (44 U.S.C. 3303a), provided an agency has not already received disposition authority from NARA.

9. Amend § 1228.42 by redesignating paragraph (c) as paragraph (d); revising paragraphs (a) and (b); and adding new paragraph (c) to read as follows:

§ 1228.42 Applicability.

(a) Agencies must apply GRS authorizations except as provided in paragraphs (b) or (c) of this section. Agencies must not include on SFs 115 records covered by the GRS unless a different retention period is requested, as specified in paragraph (c) of this section.

(b) Agencies may apply either the disposition instructions in a new or revised GRS or the disposition instructions previously approved by NARA in an agency schedule for the same series or system of records, unless NARA indicates that the new GRS disposition instruction must be applied without exception. The authority chosen by the agency must be applied on an agency-wide basis. The agency must notify NARA within 90 days of the date of the GRS change if it intends to continue using the agency schedule.

(c) Except as provided in paragraph (b) of this section, agencies that wish a different retention period must request an exception to the GRS by submitting an SF 115 in accordance with § 1228.30 accompanied by a written justification for the different retention period.

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10. Revise § 1228.50(a)(4) to read as follows:

§ 1228.50 Application of schedules.

* * * * *

(a) * * *

(4) Agencies must submit to the National Archives and Records Administration (NWML) copies of published records schedules and all directives and other issuances relating to records disposition, within 30 days of implementation or internal dissemination, as specified below. If an agency both prints copies for distribution and posts an electronic copy, it should follow the instructions in paragraph (a)(4)(ii) of this section.

(i) Agencies that print these materials for internal distribution must forward to NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740-6001, three copies of each final directive or other issuance relating to records disposition and 20 copies of all published records schedules (printed agency manuals) and changes to all manuals as they are issued.

(ii) Agencies that make these materials available via the Internet or internally on an Intranet web site or by other electronic means must submit one printed or electronic copy, in a format specified by NARA, to NARA (NWML) when the directive or manual is posted or distributed. Electronic mail messages transmitting copies of agency schedules as electronic attachments may be sent to records.mgt@nara.gov. These submissions must specify the name, title, agency, address, and telephone number of the submitter. If the records schedule is posted on a publicly available web site, the agency must also provide the Internet address (URL).

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Dated: February 11, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02-11577 Filed 5-10-02; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN63-01-7288a; FRL-7165-7]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving a revision to the Minnesota State Implementation Plan (SIP) which updates Minnesota's performance test rule in the SIP. The Minnesota Pollution Control Agency (MPCA) submitted the proposed revision to EPA on December 16, 1998. The proposed revisions set out the procedures for facilities that are required to conduct performance tests to demonstrate compliance with their emission limits and/or operating requirements. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

DATES: This direct final rule will be effective July 12, 2002, unless EPA receives adverse comment by June 12, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353-8328, before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR-18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. General Information

1. What action is EPA taking today?
2. Why is EPA taking This action?
3. What is the background for this action?

II. Review of State Implementation Plan Revision

1. Why did the State submit this SIP Revision?
 2. What information did Minnesota submit, and what were its requests?
- III. Final Rulemaking Action
IV. Administrative Requirements

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is approving into the Minnesota SIP a revision to the SIP that MPCA submitted on December 16, 1998 which updates the Minnesota performance test rule. The Minnesota performance test rule was originally approved into the SIP on May 6, 1982 (47 FR 19520). Specifically, EPA is approving into the SIP Minnesota Rules 7017.2001 through 2060, removing from the SIP Minn. R. 7017.2000, and amending in the SIP Minn. R. 7011.0010, 7011.0105, 7011.0510, 7011.0515, 7011.0610, 7011.0710, 7011.0805, 7011.1305, 7011.1405, and 7011.1410.

2. Why Is EPA Taking this Action?

EPA is taking this action because the state's submittal, which revises the performance test rule SIP, is fully approvable. The revisions made by MPCA to the performance test rule since 1976 vastly improve the performance testing requirements found in the Minnesota SIP. The 1976 rule, which is currently enforceable by EPA in the SIP (Minn. R. 70 17.2000), lacks many of the requirements now specifically set forth in the revised state rules.

EPA reviewed the SIP revision request for completeness based on the completeness requirements contained in Title 40 of the *Code of Federal Regulations*, Part 51, Appendix V. The EPA determined that the submittal is complete, and notified the State of Minnesota in a March 23, 1999 letter from Richard C. Karl, EPA, to Karen Studders, MPCA. The state has adequately addressed EPA's concerns, as discussed below, and the performance test SIP revision satisfies the applicable requirements of the Act. A more detailed explanation of how the state's submittal meets these requirements is in EPA's June 19, 2001 Technical Support Document (TSD).

3. What Is the Background for This Action?

A. Original Performance Test Rule SIP Submittal

Minnesota promulgated the original performance test rules in 1976 as Air Pollution Control 21 (APC 21). APC 21 was submitted to EPA in 1980 as part of Minnesota's Total Suspended Particulate Matter control plan and was incorporated into the SIP on May 6,