



NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1237

[FDMS No. NARA-24-0006; NARA-2024-022]

RIN 3095-AC17

Federal Records Management: Digital Photographs

AGENCY: National Archives and Records Administration (NARA).

ACTION: Direct final rule.

SUMMARY: The National Archives and Records Administration (NARA) is removing provisions in established regulations that cover special concerns for digital photographs. This revision is necessary because recent amendments create new and more specific requirements for digitizing permanent photographic prints. The recent amendments do not address digitized negatives and slides, therefore requirements for managing these formats have been revised and retained in the existing regulations.

DATES: This rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further action, unless adverse comment is received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comment is received, NARA will publish a timely withdrawal of the rule in the Federal Register.

The incorporation by reference of certain material listed in the rule was approved by the Director of the Federal Register as of November 2, 2009.

ADDRESSES: You may submit comments on this rule, identified by RIN 3095-AC17, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Email: Regulation_comments@nara.gov. Include RIN 3095-AC17 in the subject line of the message.

Mail (for paper, disk, or CD-ROM submissions): Send comments to Regulation Comments Desk (External Policy Program, Strategy & Performance Division (MP)); Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740-6001.

Hand delivery or courier: Deliver comments to the front desk at 8601 Adelphi Road, College Park, MD, addressed to: Regulations Comments Desk, External Policy Program; Suite 4100.

FOR FURTHER INFORMATION CONTACT: Edward Germino, Strategy and Performance Division, by email at regulation_comments@nara.gov, or by telephone at 301-837-3758. Contact rmstandards@nara.gov with any questions on records management standards and policy.

SUPPLEMENTARY INFORMATION:

Background

Digital photographs play a vital role in modern recordkeeping and NARA has been actively involved in creating guidelines for their preservation. The changes we made in May 2023 to 36 CFR part 1236 subpart E (88 FR 28410, May 4, 2023) supersede the requirements for digitizing permanent photographic prints in § 1237.28(d). Therefore, NARA is removing the provisions of § 1237.28(d) relating to scanned digital images of photographic prints. Section 1237.28(d) now refers to part 1236 subpart E for digitizing photographic prints. Because NARA does not yet have standards for digitizing negatives and slides, we have retained § 1237.28(d) and limited its scope to apply only to records in these formats.

Once our revision of § 1237.28(d) is complete, agencies and contractors must follow the provisions outlined in part 1236 subpart E and the instructions in other relevant sections of part 1236 for digitizing photographic prints. These provisions cover various aspects such as scheduling and transfer, selection of image management software and hardware, digital image storage strategies, quality control for scanned digital images, inspection and preservation of born-digital images, record set designation, organization of digital images, documentation

requirements, and creation of finding aids. Agencies and contractors are encouraged to consult the appropriate NARA guidance and resources for detailed instructions and help in implementing these management practices.

Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review, and [Executive Order 13563](#), Improving Regulation and Regulation Review

The Office of Management and Budget (OMB) has reviewed this rulemaking and determined it is not “significant” under section 3(f) of Executive Order 12866. It is not significant because it applies only to Federal agencies, updates the regulations due to a statutory requirement, only clarifies requirements that agencies already have to follow, and does not establish a new program. The requirements are necessary to comply with statute and to ensure agencies are appropriately preserving records.

Regulatory Flexibility Act ([5 U.S.C. 601](#), et seq.)

This review requires an agency to prepare an initial regulatory flexibility analysis and publish it when the agency publishes the proposed rule. This requirement does not apply if the agency certifies that the rulemaking will not, if promulgated, have a significant economic impact on a substantial number of small entities ([5 U.S.C. 603](#)). We certify, after review and analysis, that this rulemaking will not have a significant adverse economic impact on small entities.

Paperwork Reduction Act of 1995 ([44 U.S.C. 3501](#) et seq.)

The Paperwork Reduction Act of 1995 (PRA) ([44 U.S.C. 3501](#), et seq.) requires that agencies consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from OMB for

each collection of information we conduct, sponsor, or require through regulations. This rulemaking does not impose additional information collection requirements on the public that are subject to the Paperwork Reduction Act.

Executive Order 13132, Federalism

Executive Order 13132 requires agencies to ensure State and local officials have the opportunity for meaningful and timely input when developing regulatory policies that may have a substantial, direct effect on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. If the effects of the rule on State and local governments are substantial, the agency must prepare a Federal assessment to assist senior policymakers. This rulemaking will not have any effects on State and local governments within the meaning of the EO. Therefore, no federalism assessment is required.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4; 2 U.S.C. 1532)

The Unfunded Mandates Reform Act requires that agencies determine whether any Federal mandate in the rulemaking may result in State, local, and Tribal governments, in the aggregate, or the private sector, expending \$100 million in any one year. NARA certifies that this rulemaking does not contain a Federal mandate that may result in such an expenditure.

Materials Incorporated by Reference

The following standards appear in the amendatory text of this document and were previously approved for the locations in which they appear: ANSI/AIIM TR34; ISO 2859-1.

List of Subjects in 36 CFR 1237

Archives and records, Digital photographs, Digital records, Incorporation by reference, Records management.

For the reasons discussed in the preamble, NARA amends 36 CFR part 1237 as follows:

**PART 1237 – AUDIOVISUAL, CARTOGRAPHIC, AND RELATED RECORDS
MANAGEMENT**

1. The authority citation for part 1237 continues to read as follows:

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

§ 1237.3 [Amended]

2. Amend § 1237.3 by removing and reserving paragraph (e)(1).

3. Amend § 1237.28 by revising paragraph (d) to read as follows:

§ 1237.28 What special concerns apply to digital photographs?

(d)(1) When digitizing permanent or unscheduled slides and negatives, agencies must document the quality control inspection process used during the digitization process.

(i) Conduct a visual inspection of a sample of the scanned images to identify any defects. Additionally, evaluate the accuracy of finding aids, and verify the integrity of file header information and file names.

(ii) The sample size must be large enough to yield statistically valid results. To determine the appropriate sample size, use one of the quality sampling methods outlined in ANSI/AIIM TR34 (incorporated by reference, see § 1237.3). Agencies may consult ISO 2859-1:1996 for further guidance (contact NARA's textual research room or NARA's Regulation Comments Desk, see § 1237.3(a), for availability).

(2) When digitizing permanent or unscheduled photographic prints, refer to the requirements specified in part 1236 subpart E of this subchapter.

Colleen J. Shogan,
Archivist of the United States.

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