



Periodic Review / Retain Regulation Agency Background Document

Agency name	The Library of Virginia
Virginia Administrative Code (VAC) citation	17 VAC 15-20
Regulation title	Standards for Microfilming Public Records
Document preparation date	February 22, 2013

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

§ 42.1-82 of the Code of Virginia gives the State Library Board the authority to “issue regulations and guidelines designed to facilitate the creation, preservation, storage, filing, reformatting, management, and destruction of public records...”

§ 42.1-86 of the Code of Virginia directs the Library of Virginia to establish and maintain a program that provides for the making of recovery copies of essential public records, that the “Recovery copies shall meet quality standards established by The Library of Virginia and shall be made by a process that accurately reproduces the record and forms a durable medium,” and that “Recovery copies shall be preserved in the place and manner prescribed by the State Library Board and the Governor.”

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

The Library of Virginia has determined that there are no viable alternative to this regulation in that it provides the standards that source microfilm must meet in order to preserve the permanent records contained thereon.

Based on scrutiny by staff and no comments provided by the public, the Library has determined that there is no need to modify the regulation at this time.

Repeal of the regulation is not a viable option based on the mandates set forth in the Code of Virginia, and because the regulation is effective in meeting the goals of those mandates.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

There was no informal advisory group formed and no comments were received during the public comment period.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation meets the criteria set out in Executive Order 14 (2010) and is necessary for the protection of the public's welfare. The regulation is clearly written and easily understood by the regulated community.

There is nothing within any Virginia statute that requires any agency or private entity to produce microfilm for the purpose of preserving permanent records, but rather, only if microfilm is produced to preserve permanent records and that microfilm is delivered to the Library of Virginia for permanent storage, then such microfilm must meet the standards set forth in this regulation in order to meet the goal for which the microfilm is produced.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

This regulation provide the minimum requirements to comply with the mandates of the Code of Virginia, per Sections 42.1-82 and 42.1-86, and should remain in effect as currently written. The regulation has been effective in ensuring that the quality of microfilm submitted to the Library of Virginia for permanent

retention will be just that, permanent. The agency is recommending that the regulation stays in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

(1) There is a continued need for this regulation. It establishes the minimum requirements set forth by national standards for source microfilm to be considered acceptable for permanent retention.

(2) No complaints were received concerning the regulation from the public during the comment period.

(3) The regulation is clearly understandable by the regulated community. While not entirely composed of simple language, the standards promulgated by their respective national and international standards organizations, and incorporated into this regulation, are clearly understood by the regulated agencies as well as the business entities providing the services and supplies required to produce source microfilm containing permanent records.

(4) There are no other federal or state laws or regulations that govern the quality of preservation microfilm and the submission requirements of the same to the Library of Virginia.

(5) This regulation was last revised in 2001. The processes for the manufacturing of microfilm, the microfilming procedure, microfilm processing, and the storing of microfilm have not significantly changed in the time period since. Storing records electronically has become an alternative to paper and microfilm, but for those agencies, specifically circuit court clerk's offices, who would choose to continue preserving records on the medium of source microfilm, the requirements for this regulation for ensuring the standards of said source microfilm have not diminished.

(6) This regulation has minimal impact on small businesses overall since they apply only to the few remaining businesses that supply microfilm, microfilming services, and microfilm processing services to the commonwealth's agencies, and then only for those agencies who submit the microfilm copies of permanent records to the Library of Virginia.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

This regulation has a positive impact on the institution of the family and family stability by helping to ensure the longevity of the microfilm that is used to safeguard the permanent public records of their communities, such as deeds, wills, marriage licenses, and court orders.