

**Regulatory Review and Evaluation Act
Evaluation Report Form
2003 – 2011**

Chapter Codification: 14.18.04

Chapter Name: Electronic Records

Authority: State Government Article, 9-1007 and 10-632, Annotated Code of Maryland

Date Originally Adopted or Last Amended: Chapter revised effective November 15, 1999 (26:23 Md. R. 1778)

Purpose: These regulations define certain terms, establish minimum requirements to create, use, maintain, appraise, preserve, store, make accessible and dispose of electronic records and clarify the duties and responsibilities of State agencies and county and local governments.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i) – (viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

State agencies, the Judiciary, Legislative Reference, county and local officials, the University of Maryland System and other public colleges and universities, the Maryland Bar Association, the Maryland Land Title Association, Maryland Association of Counties, the Maryland Municipal League, and the Maryland Law Library were invited to review the regulations.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

The primary stakeholders for the State Archives are State agencies and the courts. These stakeholders were notified and given the opportunity to review and comment on the State Archives' existing regulations. Most State agencies and the courts have cooperated effectively with the Archives to insure proper retention of permanently valuable electronic records and disposal of electronic records deemed not permanently valuable.

(3) Describe the process used to solicit public comment, including:

- (a) any notice published in the Maryland Register;
- (b) any notice published in newspapers of general circulation;
- (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulations review;
- (d) any mailing by the adopting authority; and
- (e) any public hearing held.

The State Archives used a variety of traditional print and electronic media to insure wide-spread public notice including the Maryland Register (33:16 Md. R. 1360), the Daily Record, the Annapolis Capital, posting on the State Archives' web site; and traditional and electronic mailings to stakeholders, State agencies, the Judiciary, Legislative Reference, county and local officials, and the University of Maryland System and other public colleges and universities.

(4) Provide summaries of:

- (a) all comments received from stakeholders, affected units, or the public; and
- (b) the adopting authority's responses to those comments.

State agencies commented that they maintain back-up electronic records at an off-site facility in accordance with their disaster recovery plan. The University of Maryland System maintains an affiliate archives and electronic records could be maintained there as long as they abide by the State Archives' electronic records regulations. State agencies were reminded that current regulations require periodic appraisal and transfer of permanently valuable electronic records to the State Archives

(5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

The State Archives does not anticipate any interunit conflict with the proposed amendments.

(6) Provide a summary of any relevant scientific data gathered.

Senior staff archivists have reviewed the professional literature and found that the State Archives regulations are in line with professional archival standards for the preservation, storage, maintenance, accessibility and disposition of permanently valuable electronic records

(7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

Senior staff archivists have reviewed appropriate state archives and federal government regulations and found that the State Archives regulations are in line with archival standards for the preservation, storage, maintenance, accessibility and disposition of permanently valuable electronic records.

(8) Provide a summary of any other relevant information gathered.

Senior staff archivists have reviewed appropriate state archives and federal government "best practices" and found that the State Archives practices are in line with archival standards for the preservation, storage, maintenance, accessibility and disposition of permanently valuable electronic records.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

Prompted by recent technological developments, the highly perishable nature of electronic media and the growing reliance of State government agencies on electronic record-keeping, the State Archives feels the proposed amendments are a realistic attempt to insure the retention of permanently valuable electronic records.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

The State Archives proposes to amend this chapter to (1) require more timely transfer of permanently valuable electronic records to the State Archives; (2) encourage the use of non-proprietary electronic formats in electronic record-keeping; (3) strengthen requirements that proprietary electronic formats be transferred to the State Archives with accompanying software and operating instructions to insure retrieval and access to the records; and (4) require that electronic data transferred to the State Archives be accompanied by a security algorithm to provide information about the provenance of the record and to provide authentication and security for the electronic data.

Person performing review: Kimberly C. Moreno
Title: Director, Appraisal Program