

# **FAQs on the Development of Regulations under Government Code 12168.7**

Title 2 – Administration, Division 7 - Secretary of State  
Chapter 15 – Trustworthy Electronic Document or Record Preservation

## **1) Why were these regulations developed?**

SB 2067, Chapter 569, Statutes of 2000, amended Government Code section 12168.7 to recognize the need to adopt uniform statewide standards for the purpose of recording, storing, and reproducing permanent and nonpermanent records or documents in electronic media. Government Code section 12168.7 was amended by SB 144, Chapter 342, Statutes of 2007, to extend its applicability to more government entities.

The Secretary of State's intent is to adopt regulations to help organizations create and maintain authentic, reliable, and useable records, and to protect the integrity of those records for as long as required.

## **2) How were these regulations drafted?**

The Secretary of State's office contracted with Robert Blatt, Subject Matter Expert from Electronic Image Designers to help draft the regulations to ensure the long-term preservation of records stored on electronic media. Mr. Blatt chairs several standards development committees for the Association of Information and Image Management (AIIM), co-chairs the United States delegation to the International Organization for Standardization (ISO), and is ISO Project Leader for multiple projects.

The proposed regulations will be shared with representatives from local governments, including cities, counties, and special districts. Since the Department of General Services (DGS) has responsibility for developing similar requirements for other entities within state government, the Secretary of State's office will partner with DGS in moving forward with the regulations.

The opportunity to share the understanding and experience of other state and local governmental entities will be mutually beneficial in the effort to establish statewide strategies, direction, and policies for the preservation of records in a trustworthy format that ensures access for years to come.

**3) Who does this impact?**

All county government offices, including the Board of Supervisors, County Recorder, County Auditor, County Treasurer, and social service agencies; city government offices; special districts; and the State Registrar of Vital Statistics are required to comply with these regulations.

Entities that convert documents to electronic media and want to destroy the original and/or have digital-born documents that need to be stored to a trusted system must ensure their electronic system complies with the standards set forth in these regulations.

**4) What will the regulations contain?**

The regulations will incorporate by reference standards and guidelines recommended by AIIM or American National Standards Institute (ANSI), which include ISO standards and provide clarification of the term “trusted system” as used in Government Code section 12168.7(c).

**5) When will these regulations take effect?**

The recommendation from the meeting with representatives of local governments and state departments held on February 11, 2009, and March 25, 2009, was to have an effective date of January 1, 2010. Since the Secretary of State cannot be certain when the regulations will be adopted, the regulations simply state they will be effective “six months” after the effective date of the regulations.

The Secretary of State would like to submit a notice of the proposed regulations to the Office of Administrative Law for posting in the California Regulatory Notice Registry during the Summer of 2009, allowing for public comment and response in accordance with the 45-day comment period required under Government Code section 11346.4. If there are no major changes, the regulations will be adopted shortly thereafter.

Most likely the regulations will apply to all newly created or stored official electronic documents or records stored as the official record sometime after December 31, 2009. The regulations would not require organizations to convert previously stored information to comply with the standards set forth in these regulations.

**6) Will there be training sessions?**

Once the regulations are adopted, the Secretary of State offer training sessions to help entities understand how the regulations will impact them.

**7) How can I get more information?**

Visit the Secretary of State's website for the Local Government Records Program at [www.sos.ca.gov/archives/](http://www.sos.ca.gov/archives/).

**8) Can I store to microfilm or microfiche and consider it the original for purposes of destroying the paper record?**

Organizations may continue to store to microfilm or microfiche if the law currently allows them to do so and not be required to store the record electronically.

If microfilm or microfiche ceases to be the official copy of a record and an electronic copy becomes the official record, then the regulations may apply.

**9) Does the format displayed on a website conflict with the format used for storage for long-term preservation?**

No. Webmasters may convert documents as needed to meet the public demand for accessibility.

**10) Do any vendors comply with the AIIM and ISO standards today?**

Most electronic content management vendors support the technologies required in the regulations. It would be the responsibility of the agency to confirm with their vendor whether their system(s) meets the relevant adopted standards under Government Code section 12168.7. It should be noted that the vendors would be responsible for technical compliance with the appropriate standards, and the organization would be responsible for the procedural aspects of this compliance.

Please note that many vendors are already members of either AIIM or ISO standard-setting committees and do try to stay current.

**11) Can we start converting archived records from microfilm to Blue Laser DVD Technology format today without running a risk of violating any archival standards?**

Blue laser technology-based DVD is not currently standardized but can be implemented by an agency as long as the overall solution, including media, comply with the definition of a trusted system as incorporated in the proposed regulations.

The Secretary of State is participating in various standard-setting committees, including the C27 Document Management, and Implementation Guidelines Committee, and thus monitoring the progress of DVD standards to include blue laser technology.

**12) Does the Secretary of State plan to enter into any contracts to convert documents to an authorized digital format? If so, is it the intent of the Secretary of State to allow local agencies to leverage those contracts? What is the estimated time frame to have the contracts in place?**

The Secretary of State has no such plans at this time.

**13) Will there be funds from the state to convert existing systems over to meet the new standards?**

The regulations do not provide for any special funding.

**14) Will the regulations require existing documents to be converted to meet the new standards?**

No.

**15) Will we be required to move from microfiche to electronic storage?**

No.

**16) Has any other entity adopted the standards?**

The Secretary of State put together a spreadsheet, which provides links to what other states are doing in the area of setting policy, guidelines, or regulations in the area of electronic technologies.

**17) Can the standards be posted on the Secretary of State’s website where they could be more readily updated as technology and legal requirements change, rather than having the standards embedded in the law?**

The AIIM Recommended Practices Report (ARP1-2009) will continue to be posted on the Secretary of State’s website as provided under the permission of AIIM. However, the other standards being adopted are from ISO and because of copyrights cannot be posted on the Secretary of State’s website.

**18) Why is PDF/A preferred over TIFF as part of a “trusted system?”**

PDF/A is being proposed as the standard in the regulations because it has been standardized by ISO and is a file format for the long term archiving of electronic documents and/or records while TIFF has not.

It is important to note that PDF/A does not define an archiving strategy or the goals of an archiving system. PDF/A format enables users to incorporate digital/electronic signatures and other security controls. The ability to implement an open format for long term archiving is critical and PDF/A is a widely accepted international standard format.

For more information, please refer to the FAQs on PDF/A-1 prepared by the PDF/A Joint Working Group consisting of representatives from various ISO Technical Committees. The published document is maintained at both NPES ([www.npes.org](http://www.npes.org)) and AIIM ([www.aiim.org](http://www.aiim.org)).

**19) Section 23060 of the proposed regulations requires adherence to ISO 12033 for selecting a compression method. What other compression methods are acceptable?**

ISO 12033 identifies all the industry standard compression methodologies, including JPEG, JBIG, and LZW.

**20) During early drafting of the regulations, it was suggested that the title of the regulations include terms such as “document,” “record,” “retention,” and/or “preservation” to more fully describe the applicability of the regulation. Also, these terms would become part of a key word index and provide several points of access to those searching the California Code of Regulations.**

**Suggestions for the title included:**

- **Preservation Standards for Electronic Records**
- **Trustworthy Electronic Document or Records Preservation**
- **Preservation Standards for Electronic Records**
- **Trustworthy Electronic Preservation and Reproduction**

**21) Do you plan to define terms such as “authenticity,” “accessible,” “record,” “permanent,” “nonpermanent,” “preservation,” and “retention.”**

The SOS has no plans to add additional definitions to this section. Please refer to your counsel for definitions in this area.