

U.S.C. 3310). When such records are identified, the agency head shall notify NARA (NWML), specifying the nature of the records, their location and quantity, and the nature of the menace. If NARA concurs in the determination, the Archivist will direct the immediate destruction of the records or other appropriate means of destroying the recorded information. However, if the records are still or motion picture film on nitrocellulose base that has deteriorated to the extent described in paragraph (b) of this section, the head of the agency may follow the procedure therein provided.

(b) Whenever any radarscope, aerial, or other still or motion picture film on nitrocellulose base has deteriorated to the extent that it is soft and sticky, is emitting a noxious order, contains gas bubbles, or has retrograded into acrid powder, and the head of the agency having custody of it shall determine that it constitutes a menace to human health or life or to property, then the agency shall without prior authorization of the Archivist:

(1) Arrange for its destruction in a manner that will salvage its silver content if the silver content is of sufficient quantity and market value per troy ounce to warrant such salvage;

(2) Authorize burial in approved landfills, in the event the quantity is not sufficiently large to justify the salvaging of its silver content; or

(3) Effect other appropriate methods in the event that the methods provided in paragraph (b)(1) or (2) of this section are not feasible.

(c) These films should be removed from inhabited buildings as soon as possible.

(d) Within 30 days after the destruction of the film as provided in this section, the head of the agency who directed its destruction shall submit a written statement to NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740-6001, describing the film and showing when, where, and how the destruction was accomplished.

(e) This report has been cleared in accordance with GSA regulations in Title

41 of the CFR and assigned Interagency Report Control Number 1095-NAR-AR.

[45 FR 5705, Jan. 24, 1980. Redesignated and amended at 50 FR 15723, 15725, Apr. 19, 1985; 51 FR 23538, June 30, 1986. Redesignated and amended at 55 FR 27433, July 2, 1990; 63 FR 35829, July 1, 1998; 66 FR 27027, May 16, 2001]

§ 1228.94 State of war or threatened war.

(a) Destruction of records outside the territorial limits of the continental United States is authorized whenever, during a state of war between the United States and any other nation or when hostile action by a foreign power appears imminent, the head of the agency that has custody of the records determines that their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient administrative, legal, research, or other value to warrant their continued preservation (44 U.S.C. 3311).

(b) Within 6 months after the destruction of any records under this authorization, a written statement describing the character of the records and showing when and where the disposal was accomplished shall be submitted to NARA (NWML) by the agency official who directed the disposal.

[55 FR 27433, July 2, 1990, as amended at 63 FR 35829, July 1, 1998]

Subpart G—Damage to, Alienation, and Unauthorized Destruction of Records

§ 1228.100 Responsibilities.

(a) The Archivist of the United States and heads of Federal agencies are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Records may not be removed from the legal custody of Federal agencies or destroyed without regard to the provisions of agency records schedules (SF 115 approved by NARA or the General Records issued by NARA).

(b) The heads of Federal agencies are responsible for ensuring that all employees are aware of the provisions of the law relating to unauthorized destruction, alienation, or mutilation of

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records, and should direct that any such action be reported to them.

[55 FR 27433, July 2, 1990, as amended at 64 FR 67665, Dec. 2, 1999]

§ 1228.102 Criminal penalties.

The maximum penalty for the willful and unlawful destruction, damage, or alienation of Federal records is a \$2,000 fine, 3 years in prison, or both (18 U.S.C. 2071).

[55 FR 27434, July 2, 1990]

§ 1228.104 Reporting.

(a) The head of a Federal agency shall report any unlawful or accidental destruction, defacing, alteration, or removal of records in the custody of that agency to NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740-6001. The report shall include:

(1) A complete description of the records with volume and dates if known;

(2) The office of origin;

(3) A statement of the exact circumstances surrounding the alienation, defacing, or destruction of the records;

(4) A statement of the safeguards established to prevent further loss of documentation; and

(5) When appropriate, details of the actions taken to salvage, retrieve, or reconstruct the records.

(b) This report has been cleared in accordance with GSA regulations in Title 41 of the CFR and assigned Interagency Report Control Number 0285-NAR-AR.

(c) The Archivist of the United States will assist the head of the agency in contacting the Attorney General for the recovery of any unlawfully removed records.

[45 FR 5705, Jan. 24, 1980, as amended at 46 FR 60205, Dec. 9, 1981. Redesignated and amended at 50 FR 15723, 15725, Apr. 19, 1985; 51 FR 23538, June 30, 1986. Redesignated and amended at 55 FR 27434, July 2, 1990; 63 FR 35829, July 1, 1998; 66 FR 27027, May 16, 2001]

§ 1228.106 Exclusions.

Private or personal files are not governed by these provisions. 36 CFR 1222.36 provides the legal definition of

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personal papers and prescribes standards for their maintenance.

[45 FR 5705, Jan. 24, 1980. Redesignated and amended at 50 FR 15723, 15725, Apr. 19, 1985. Further redesignated at 55 FR 27433, July 2, 1990; 66 FR 27027, May 16, 2001]

Subpart H—Transfer of Records from the Custody of One Executive Agency to Another

SOURCE: 45 FR 5705, Jan. 24, 1980, unless otherwise noted. Redesignated at 50 FR 15723, Apr. 19, 1985, and further redesignated at 55 FR 27433, July 2, 1990.

§ 1228.120 Authority.

The Archivist of the United States will issue regulations governing the transfer of records from the custody of one executive agency to another (44 U.S.C. 2908).

§ 1228.122 Approval.

No records shall be transferred from the custody of one executive agency to another without the prior written approval of the National Archives and Records Administration except as provided in § 1228.136.

§ 1228.124 Agency request.

The head of any executive agency may request the transfer of records to or from his or her agency. Approval shall be requested by letter addressed to the NARA (NWML), in which are included:

(a) A concise description of the records to be transferred, including the volume in cubic feet;

(b) A statement of the restrictions imposed on the use of records;

(c) A statement of the agencies and persons using the records and the purpose of this use;

(d) A statement of the current and proposed physical and organizational locations of the records; and

(e) A justification for the transfer including an explanation of why it is in the best interests of the Government.

[45 FR 5705, Jan. 24, 1980. Redesignated at 50 FR 15723, Apr. 19, 1985, and amended at 50 FR 26934, June 28, 1985. Redesignated and amended at 55 FR 27434, July 2, 1990; 63 FR 35829, July 1, 1998]