

§ 1234.20

requirement in this paragraph (c) no later than October 1, 2009.

(d) *Nontextual permanent, unscheduled, and/or sample/select records.* All records storage facilities that store microfilm, audiovisual, and/or electronic permanent, unscheduled, and/or sample/select records must comply with the storage standards for permanent and unscheduled records in parts 1238, 1237, and/or 1236 of this subchapter, respectively.

Subpart C—Handling Deviations From NARA’s Facility Standards

§ 1234.20 What rules apply if there is a conflict between NARA standards and other regulatory standards that a facility must follow?

(a) If any provisions of this part conflict with local or regional building codes, the following rules of precedence apply:

(1) Between differing levels of fire protection and life safety, the more stringent provision applies; and

(2) Between mandatory provisions that cannot be reconciled with a requirement of this part, the local or regional code applies.

(b) If any of the provisions of this part conflict with mandatory life safety or ventilation requirements imposed on underground storage facilities by 30 CFR chapter I, 30 CFR chapter I applies.

(c) NARA reserves the right to require documentation of the mandatory nature of the conflicting code and the inability to reconcile that provision with NARA requirements.

§ 1234.22 How does an agency request a waiver from a requirement in this part?

(a) *Types of waivers that may be approved.* NARA may approve exceptions to one or more of the standards in this part for:

(1) Systems, methods, or devices that are demonstrated to have equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety to those prescribed by this subpart;

(2) Existing agency records centers that met the NARA standards in effect prior to January 3, 2000, but do not

36 CFR Ch. XII (7–1–10 Edition)

meet a new standard required to be in place on September 28, 2005; and

(3) The application of roof requirements in §§ 1234.10 and 1234.12 to underground storage facilities.

(b) *Where to submit a waiver request.* The agency submits a waiver request, containing the information specified in paragraphs (c), (d), and/or (e) of this section to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001, phone number (301) 837–1867.

(c) *Content of request for waivers for equivalent or superior alternatives.* The agency’s waiver request must contain:

(1) A statement of the specific provision(s) of this part for which a waiver is requested, a description of the proposed alternative, and an explanation how it is equivalent to or superior to the NARA requirement; and

(2) Supporting documentation that the alternative does not provide less protection for Federal records than that which would be provided by compliance with the corresponding provisions contained in this subpart. Documentation may take the form of certifications from a licensed fire protection engineer or a structural or civil engineer, as appropriate; reports of independent testing; reports of computer modeling; and/or other supporting information.

(d) *Content of request for waiver for previously compliant agency records center.* The agency’s waiver request must identify which requirement(s) the agency records center cannot meet and provide a plan with milestones for bringing the center into compliance.

(e) *Content of request for waiver of roof requirements for underground facility.* The agency’s waiver request must identify the location of the facility and whether the facility is a drift entrance facility or a vertical access facility.

§ 1234.24 How does NARA process a waiver request?

(a) *Waiver for equivalent or superior alternative.* NARA will review the waiver request and supporting documentation.

(1) If in NARA’s judgment the supporting documentation clearly supports the claim that the alternative is