



Federal Register

**Friday,
October 2, 2009**

Part II

National Archives and Records Administration

**36 CFR Chapter XII, Subchapter B
Federal Records Management; Revision;
Final Rule**

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Chapter XII, Subchapter B

[FDMS Docket NARA-08-0004]

RIN 3095-AB16

Federal Records Management; Revision

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: As part of its initiative to redesign Federal records management, NARA is revising and reorganizing the existing regulations on Federal records management to update records management strategies and techniques and to make the regulations easier to read, understand, and use. This rule will affect Federal agencies.

DATES: This rule is effective on November 2, 2009. The incorporation by reference of the publications listed in the rule is approved by the Director of the Federal Register as of November 2, 2009.

FOR FURTHER INFORMATION CONTACT: Laura McCarthy at phone number 301-837-3023 or fax number 301-837-0319.

SUPPLEMENTARY INFORMATION:

Background

On August 4, 2008, at 73 FR 45274, NARA published a proposed rule to revise and reorganize the Federal records management regulations contained in 36 CFR Chapter XII, Subchapter B. We received timely comments from 12 Federal agencies, four agency records officers who did not identify their comments as agency responses, one former Federal agency records management professional, and one records management consultant and practitioner. We also considered a late comment submitted by a professional organization.

Discussion of Comments

General Overview

Two agencies concurred without further comment. Several agencies and records officers offered their support for most of the revisions, noting that the new regulations are easier to use and understand, while also addressing specific issues that caused them concern. The comments from the former agency records management official recommended that the regulation be “fundamentally rethought in light of the born-digital, end-user environment in which agencies operate today” and offered suggestions for doing so.

Specific issues raised in the comments and how we address them in this final rule follow.

Use of ISO 15489

Several comments addressed use of ISO 15489-1:2001, *Records Management—Part 1: General* in the regulation. Most supported its use and several suggested additional clauses to reference in specific parts, which we have adopted. The former agency records management official recommended a greater emphasis in the regulations on the ISO 15489-1 concepts of risk and business need. We believe that these concepts are implicit in the regulations. NARA guidance and training emphasize how to apply these concepts.

ARMA International advised against citing the standard because it is undergoing transformation into an ISO Management System Standard for Records Management and has not been adopted as an American National Standard in the United States. We did not accept this comment. NARA guidance and training for some time has emphasized the principles contained in ISO 15489-1. NARA is a participant with ARMA in the international standards (ISO) committee responsible for the standard and we believe that it is useful to records managers. We recognize that when the standard is replaced some time in the future by a new Management System Standard, the regulations will have to be modified. The records management consultant suggested that it wasn't necessary to cite the ISO standard in each part; we did not adopt this comment based on the responses from the agencies and recognition that users frequently consult one or more specific Code of Federal Regulations (CFR) parts and not the whole subchapter, when looking for specific information.

Updating Agency Guidance To Reflect Subchapter B Restructuring

Two comments noted that while the revisions were helpful and much needed, the renumbering and reorganization of the regulations will require agencies that reference specific CFR sections in their internal policies to update their citations. We have added a Derivation Table as an appendix to this preamble to assist agencies in performing that update. We note that agencies should review their agency internal policies, in any case, to incorporate changes in the regulations.

Record/Nonrecord Confusion

One commenter advised that NARA focused too strongly on the distinction

between record/nonrecord status of documentary materials and expressed a view that virtually all documentary materials meet the definition of a Federal record and need to be managed using records management principles. While we have clarified some sections in response to specific comments, we note that 44 U.S.C. 3301 defines what is a Federal record and 44 U.S.C. 3101 assigns to Federal agencies the responsibility to determine what records must be made and preserved for adequate and proper documentation.

Definition of Terms in § 1220.18

Several comments concerned the definitions, or omissions of definitions, from § 1220.18, which provides definitions of terms used throughout subchapter B.

In response to one comment on the definition of *Adequate and proper documentation*, we note that the definition is unchanged from the previous definition.

Two comments suggested that the definition of *Electronic records* belongs here rather than only in part 1236, *Electronic Records Management*; in response to these comments, we have moved the definition to § 1220.18.

We modified the definition of *Nonrecord* materials to use the term “documentary materials” instead of “informational materials,” as suggested by one comment.

One agency recommended that the definition of *Records maintenance and use* be restored because agencies may misinterpret the meaning of the term. We have added a new definition that emphasizes that the term covers management and handling of records after creation or receipt and before final disposition.

One agency suggested that we use a simpler definition of *Records management* provided by the Society of American Archivists. We have retained the statutory definition from 44 U.S.C. 2901.

We modified the introduction of the definition of *Records schedule or schedule* to clarify that the definition could mean any of the three sub-items, since this was not clear to a couple of reviewers. We did not adopt a recommendation that we add “or equivalent” to the first sub-item to allow for future changes in process using the Electronic Records Archives; at this time we do not anticipate such a need.

Finally, we did not move the definition of *Vital records* from § 1223.2, as suggested by one comment, because the term is used primarily in part 1223 and the few other references in other

sections clearly associate the term with part 1223.

Other General Comments

Two comments suggested that NARA provide a section in part 1220 that lists the NARA offices and common acronyms referenced throughout the CFR Subchapter B. We agree and have added § 1220.20, What NARA acronyms are used in this subchapter?

One comment applauded the reference to industry (*i.e.*, voluntary consensus) standards that are relevant to records management, but expressed concern over the expense to agencies of purchasing these standards. We note that this final rule specifies in each part that incorporates a standard by reference where the standard may be inspected or purchased. We also note that most of the standards were also incorporated by reference in the previous NARA regulations.

One comment asked what reports, if any, NARA must make to Congress and the Office of Management and Budget (OMB), since the revised regulation does not include the information contained in the previous § 1220.16. NARA makes the reports specified under 44 U.S.C. 2904(c)(8) as part of our Performance and Accountability Act and other special reports. In response to a comment from another individual, we did add a reference in § 1239.20 to the reporting that NARA will make to Congress and OMB on the results of inspections.

We did not adopt one comment that suggested we include a section that provides minimum qualifications for records officers and a process that would promote direct communication between the designated records officer and the head of the agency. We believe that these issues can and should be addressed outside the regulatory process. We note, for example, that NARA has established a records management training certification program and meets regularly with senior agency officials on records management issues, emphasizing the role of the records officer.

Comments on Part 1220—Federal Records; General

One comment suggested revising the wording of § 1220.12(c) to emphasize that the appraisal process and Archivist's determination involve both temporary and permanent records. We have clarified the paragraph, although we did not use the suggested wording.

The title and text of § 1220.16 referred to both recorded information and documentary materials. Since "documentary materials" are defined in

§ 1220.18 as recorded information, we accepted a comment to drop "documentary materials" from the title of the section. We also struck the reference to "recorded information" in the text of the section.

Discussion of the comments on the definitions in § 1220.18 were addressed earlier in this **SUPPLEMENTARY INFORMATION**.

Three comments were received on § 1220.32. One records officer asked for definitions of the terms "authentic," "reliable," and "useable" when applied to records; paragraphs (a) through (f) explain how agencies create and maintain such records. In response to an agency comment, we have deleted from § 1220.32(a) a requirement for specifying the form or format of each record, which is not necessary with media-neutral records scheduling. In response to another agency comment, we amended paragraph (b) of this section to incorporate a requirement for ensuring the integrity of records.

One agency asked for more guidance on § 1220.34(c), which requires agencies to issue a records management directive, to disseminate it throughout the agency, and to send a copy to NARA. This is an existing requirement; NARA expects to receive the agency wide directive. Another agency recommended that we specify in § 1220.34(j) that agencies must audit their records management program to keep it up to date. We accepted this comment, modifying the proposed wording slightly.

Comments on Part 1222—Creation and Maintenance of Federal Records

We received several comments on the terms explained in § 1222.10(b). In response to two comments that the discussion of "documentary materials" did not match our earlier definition, we revised the wording to state that it has the meaning provided in the definition in § 1220.18. One comment on "made" asked that we define "official duties" to distinguish them from other types of duties that would not result in the creation of records; we do not think that such a definition is needed.

We also received two comments on "preserved." One agency suggested that we clarify the discussion by indicating that it covers documentary materials in any medium; we agree and have made the change. One agency asked if the phrase "maintaining documentary materials" should be stated as "maintaining record material"; since this paragraph is addressing only one of the criteria for determining that documentary material meets the definition of Federal record,

"documentary materials" is the correct wording.

A former agency records management official asked a series of questions about application of the discussion, but did not offer suggestions for change. He also asked whether information that an agency does not deem "appropriate for preservation" is a temporary (disposable) record or nonrecord material. The discussion of the meaning of "appropriate for preservation" makes the point that documentary material that the agency believes should be filed, stored or otherwise systematically maintained is a record even if the materials are not covered by the current filing or maintenance procedures.

Three agencies expressed serious concern with the change in the specification in § 1222.12(c) of conditions for determining that working files are records. The previous regulations specified that both of two conditions must be met; the proposed rule changed this to an "or." As two of the agencies pointed out, the revision would require retention as a record of even non-substantive editorial changes to preliminary drafts made by anyone other than the creator. In response to these comments, this final rule restores the requirement that both conditions be met.

One agency suggested that we reference the § 1220.18 definition of record in § 1222.12(b). We do not believe this is needed as the reference is contained in § 1222.12(a).

Another agency felt the proposed change to the second sentence in § 1222.12(d) relating to multiple copies was confusing. We have restored the wording used in the previous regulation.

One agency commended NARA for the clarity of the guidance on identification and management of nonrecord material in § 1222.14, while a former agency records professional recommended removing the reference to the volume of nonrecord materials because in his view, this cannot be proven and it leads people to suspect that much of their documentary materials are nonrecord. We did not remove the reference. However, we agreed with this commenter and another agency comment that the examples of extra copies of documents (§ 1222.12(b)(1)–(4)) should be removed because the examples were confusing and difficult to interpret; we have removed that item from § 1222.12.

One comment asked that we emphasize in § 1222.16 that nonrecord materials be organized, accessible and usable (the same as records) for as long as needed. We do not agree; if the

agency has documentary materials that must be organized and available for use in conducting agency business, it is likely that the materials meet the definition of Federal record. Another comment suggested that we not use the term nonrecord materials but refer to them as documentary materials that can generally be purged; we do not find this suggestion helpful.

A third comment asked for clarification on what needs to be done to separate electronic records and non-records. We note that § 1222.16(b)(2) requires that electronic non-record materials be readily identified and segregable from records; agencies have discretion to specify how that should be accomplished in their working environment. The proposed wording of § 1222.20(b)(2) limited its applicability to electronic non-record materials maintained in an electronic repository. In the course of reviewing this comment, we determined that it should be applicable to all electronic non-record materials.

One agency stated that § 1222.18(d) might be confusing because agencies have specific program requirements for telework and information dissemination. The comment suggested that NARA should elaborate with instructions for following agency program requirements. We did not adopt this comment. Agency records management requirements relating to telework and authorized information dissemination should be addressed in the agency controls over creation, maintenance and use of records in the conduct of current business (see §§ 1220.30(c)(1) and 1220.32).

One agency recommended that the regulation retain the examples of personal files rather than direct users to NARA publications that provide more detailed discussion. The agency suggested that employees needed to see this in the regulation itself. We did not adopt this comment. The examples are not regulatory, and the NARA publication *Documenting Your Public Service* has been used by a number of agencies to brief their personnel on the issue. We also note that the regulation contains the definition of personal files in § 1220.18, which is referenced in § 1220.20(a).

Another agency expressed concern with § 1220.20(b)(2), which allows agencies to redact information about private matters on a copy of the document and treat that copy as the agency record if it was improperly mixed with agency business in a received document that is a Federal record. The agency stated that redacting the original affects its authenticity;

private papers and Federal records should always be separate and clearly marked. We did not delete this provision, which has been contained in the NARA regulation on personal papers for a number of years. Agencies have the discretion to require the retention of the original document containing the private matters as the agency record or to do as § 1220.20(b)(2) allows.

One agency suggested adding three additional types of records to the list in § 1222.22 that must be created and maintained. Two items—documenting the National experience and contributing substantially to scientific knowledge—are criteria that NARA uses in appraising records, and not separate categories of adequate documentation of agency business. The third item—documenting data on the observation of natural phenomena—is specific to a subset of agencies and covered, we believe, in paragraph (a) on documenting the persons, places, things or matters dealt with by the agency.

An individual asked for clarification of a number of items, including the relationship of §§ 1222.22 and 1222.24 to the requirement in § 1220.30 to document essential transactions, whether there are agency activities that aren't included in the list in § 1222.22, and whether all employees are agency officials. He suggested that agencies be required to identify essential transactions and that NARA recommend that agencies take a risk management approach to determine what is needed to ensure adequate and proper documentation. Section 1222.22 specifies in broad terms the types of records that agencies must create and maintain in order to carry out their statutory responsibility (44 U.S.C. 3101, as cited in § 1220.30) to “make and preserve adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency * * *.” We believe that the wording of § 1222.22 is sufficient to identify essential transactions as well as the other categories of information specified in 44 U.S.C. 3101. Section 1222.24 states how agencies are to carry out the responsibilities in § 1220.30.

One agency recommended incorporating language from § 1224.10(d) relating to addressing records management requirements during the planning stages of an information technology system in §§ 1222.24 or 1222.26, or both. We did not adopt this comment. The provision is explicitly addressed in § 1220.34(d) and (e) and § 1236.12.

One commenter suggested adding a requirement to § 1222.28 to create

documentation of e-mail, phone calls, etc. We believe that § 1222.26, when taken in conjunction with § 1222.28, provides this requirement. Section 1222.26 is focused on maintenance requirements. The commenter also suggested that § 1222.28(e) should focus on determining and standardizing the retention of working files for specific types of transactions rather than determining which working files are records; we did not adopt this suggestion. We agree with his premise that working files necessary to conduct the work of the agency should meet the definition of a record; this paragraph is requiring agencies to identify what working files meet the conditions in § 1222.12(c) to be a record. Determining and standardizing the retention of working files for specific types of transactions should be done in conjunction with the scheduling process prescribed in part 1225.

Two agencies and one individual commented on § 1222.32. One agency stated that the language is clear and unambiguous, while the other agency asked for additional stronger language in several areas, including regarding when contractor records belong to the government, the authority of record managers to determine whether contract records belong to the government, and that contractors must follow agency records management requirements. We believe that these issues are clearly addressed in §§ 1222.32(b), (a)(3), and (a)(2), respectively. The agency also asked for a statement that all records created or stored on government networks are the property of the government and to have a sample list of the types of contractor records the government has no interest in. We also did not adopt these comments. As we noted previously with the comment on telework policy, policies relating to storing records on government networks should be addressed in the agency controls over creation, maintenance and use of records in the conduct of current business (see §§ 1220.30(c)(1) and 1220.32). There is no single list of examples of contractor records that would be applicable to all contracts.

The individual recommended that we modify the language of § 1222.32(a)(4) to read “* * * sufficient technical documentation to permit understanding and use of the records and data,” because “use” alone could be very narrowly interpreted. We have made this change.

One agency commented that § 1222.34(d) should include a requirement to ensure that electronic records are migrated to future technology to ensure their readability.

We did not adopt this comment. Paragraph (b) of this section requires agencies to maintain electronic records in accordance with 36 CFR part 1236; one of the requirements in part 1236 addresses migration. In response to a comment from an individual, we have modified § 1222.34(f) to reference § 1222.16, which calls for electronic nonrecord material to be segregable from electronic records.

Comments on Part 1223—Managing Vital Records

One comment noted that this part makes no reference to records safety procedures that should be followed in the day-to-day operations of an agency. Such procedures are addressed in other parts; part 1223 concerns the agency vital records program that is part of the agency's continuity of operations program (COOP). Two agencies noted that Federal Preparedness Circular (FPC) 65 has been superseded by Federal Continuity Directives (FCD) 1 and 2 in February 2008. We have updated the references in §§ 1223.1 and 1223.14.

One agency suggested adding to the definition of *legal and financial rights records* in § 1223.2 such examples as memorandums of understanding and host tenant agreements. We believe that the additional examples are not required.

One agency noted confusion with the statement in § 1223.16 that the information content determines which records series and electronic systems are vital records, and that only the most recent and complete sources of the information are vital records. Vital records are a subset of the agency's records that are needed for the agency to be able to operate in an emergency or under COOP conditions.

One agency recommended providing more explicit detail in § 1223.22 for the requirement that vital records dispersal sites must be "a sufficient distance away so as not to be subject to the same emergency." It is not feasible for NARA to establish more specific criteria, such as "close enough for staff to access and retrieve records within 12 hours" which the agency suggested. Agencies must determine what dispersal distances and retrieval requirements will address their needs, as identified in their continuity plans.

Comments on Part 1224—Records Disposition Programs

Two agencies commented on § 1224.10. One agency suggested that records management program promotion activities should be given more emphasis, either here or in

§ 1220.34; we did not adopt this suggestion. We note that § 1224.10(e) and § 1220.34(f) require agencies to provide training and guidance to all employees on records management responsibilities. Another agency asked that § 1224.10(b) state the time frame for dissemination of records schedules and General Records Schedules (GRS), noting that § 1226.12(a) gives a time limit of six months. We have added a reference to that section.

Comments on Part 1225—Scheduling Records

We received comments from three agencies and an editorial comment from an individual on § 1225.12. One agency asked where additional NARA guidance could be found; we added the URL for the NARA Web site. One agency asked for additional step by step guidance for scheduling and how GRS 20, Electronic Records, applies; such guidance is available in the *Disposition of Federal Records* handbook and other NARA guidance referenced in the introductory paragraph. A third agency asked for clarification of the phrase "flexible retention period" in paragraph (d); the details of this are provided in the NARA guidance described in the introductory paragraph to the section. This agency also asked for clarification of the wording for media neutral schedules; in response to that comment we have made a minor edit. We also made a minor edit to paragraph (i) in response to an individual's comment.

We made two changes to § 1225.14(b)(2) in response to agency comments. To reflect that new schedules are media neutral, unless the agency proposes otherwise, we modified § 1225.14(b)(2)(ii) to read "Physical type, if appropriate;" and clarified what we meant by arrangement statement in § 1225.14(b)(2)(iv).

We modified § 1225.14(b)(3)(i) to add "if appropriate, the time period for retiring inactive records to an approved records storage facility" at the suggestion of an agency records officer. A similar statement is already provided for temporary records in § 1225.16. The records officer also suggested adding the statement where a permanent records series is nonrecurring; we believe that the existing choices of immediate transfer to the National Archives of the United States or transfer at a set date in the future are sufficient.

We clarified the language in § 1225.14(c) after reviewing a comment on the wording of subparagraph (c)(2). We did not adopt the comment to require submission of a revised Standard Form (SF) 115 within one year after an SF 115 item is withdrawn.

One agency expressed concern with the requirement to schedule agency Web sites in § 1225.22(h), noting that the requirement creates a burden on NARA and agencies. We note that this requirement is consistent with both the Managing Web Records guidance issued in January 2005 and the NARA Bulletin 2006-02, which implemented section 207(e) of the E-Government Act. Another agency asked how paragraph (h)(4) differs from the guidelines in GRS 20 regarding the applicability of GRS to electronic records and when an SF 115 must be submitted. Paragraph (h)(4) is the NARA policy. The revised GRS 20 is the specific disposition authority for agencies to use for specific types of records described in the individual GRS items.

Two agencies raised questions about the application of the notification requirement in § 1225.24(a) for permanent records. One agency asked when the agency is required to notify NARA if only some electronic case files are permanent. The requirement is to notify NARA in writing that the series is now maintained electronically; we have clarified the wording. Another agency interpreted the requirement to notify NARA within 90 days of when an electronic recordkeeping system for permanent records becomes operational as being contrary to the guidance in NARA Bulletin 2006-02, which requires agencies to schedule previously unscheduled electronic systems and records by October 1, 2009. We have clarified with the agency that if the conditions in paragraph (a)(1) apply, the agency may notify NARA in accordance with that paragraph rather than submit a new SF 115.

An agency records officer suggested that we explicitly state in § 1225.26 that a new SF 115 is not required as the form of written request to extend the time period that permanent record remain in agency custody. We have added a sentence to that effect. He also questioned the need to submit an SF 115 if the agency needs to increase the retention period for a series of temporary records, suggesting that a notification should be sufficient. While NARA has relaxed the requirements for NARA approval of temporary increases in retention to meet special circumstances (see § 1226.18), we believe that ongoing application of a different retention period than what NARA approved on the SF 115 requires NARA review.

Comments on Part 1226—Implementing Disposition

An agency records officer asked that we modify the time limit in § 1226.12

for issuing new approved disposition authorities to allow 1 year for dissemination; we did not adopt this comment. The current 6 month requirement has been in effect for a number of years. Because the new disposition authorities go into effect on NARA approval, we believe that prompt dissemination to agency staff is necessary.

Two comments asked why an agency must inform NARA about the need to maintain records longer than the retention period in the case of legal holds. We have removed this notification requirement from § 1226.20. We remind agencies that they must ensure that records in records storage facilities, including any NARA Federal records centers, are retained for the duration of the legal hold, as paragraph (c) of this section states.

Two comments addressed the requirements in § 1226.24 for destroying temporary records through sale as waste paper or salvage. One comment asked that we explicitly identify the actions in paragraphs (a)(1) and (a)(2) as recycling; we do not believe this is necessary. One agency noted that this may not be feasible for overseas bases and that an agency may want its personnel to destroy security classified records. We have modified paragraph (b)(1) to clarify that the agency or its wastepaper contractor may be the responsible party.

We did not adopt a comment on § 1226.26 to reduce the information required to request approval to donate disposable temporary records to appropriate recipients. NARA needs this information to make its determination. We note that the provisions of this section have been in place for more than 10 years.

Comments on Part 1227—General Records Schedules

We received two comments on this part. One comment concerned whether NARA issues General Records Schedules (GRS) covering permanent records; we do. The other comment suggested that the time period for notifying NARA that an agency wishes to continue to use an agency-specific records schedule in lieu of the GRS be changed from 90 days to 1 year. We extended the notification period to 4 months; the revised time frame will still enable the agency to disseminate the newly issued GRS to agency staff within the time limits specified in § 1226.12 should a decision be made to no longer use the agency-specific schedule item.

Comments on Part 1228—Loan of Permanent and Unscheduled Records

One agency suggested that we specifically address loan of temporary records. We have added a new § 1228.8, *Do loans of temporary records require NARA approval?* with a clear statement that NARA approval is not required for loan of temporary records, but that agencies must maintain their own controls over such loans.

We received two comments on § 1228.14 regarding the time frames in which NARA will act on requests to loan permanent records. One agency suggested that NARA should be able to act on a request within 15 days; an individual suggested that we provide a time frame for denying requests. In this final rule, the time frames for approving or denying loans of original permanent or unscheduled records are set as within 30 days. Where NARA can act more quickly, we will.

One agency noted that it must loan medical records routinely to another agency; while these records are currently scheduled as temporary records, we recognize that there may be a few instances where agencies cannot provide copies in lieu of original permanent records. Therefore, we have modified this section by adding a new paragraph (b) to allow an agency to prepare an annual loan agreement covering multiple transfers from the same series of records to another single Federal agency.

Comments on Part 1229—Emergency Authorization To Destroy Records

We received three comments on this part. We made two editorial revisions to § 1229.10 in response to comments—“the Archivist” has been replaced by “NARA” and we made the references to “continuing menace to human health or life, or to property” consistent in the section title, introductory paragraph, and paragraph (a) of § 1229.10. One agency non-concurred with the introductory paragraph, which is taken directly from 44 U.S.C. 3310; the agency also asked that NARA impose a 72-hour limit on responding to an agency request. NARA will respond quickly to urgent requests, as we have demonstrated with Hurricane Katrina records in the past, and we do not believe that the rule needs to include a specific short timeframe. We also did not adopt the suggestion from another agency that the wording of § 1229.12 should specify “scientific records” as a category of records lacking sufficient value to warrant continued preservation when the space they occupy is urgently needed for military purposes. We

believe that the current wording, taken from 44 U.S.C. 3311, would cover such scientific records under the category of “other value.”

Comments on Part 1230—Unlawful or Accidental Removal, Defacing, Alteration, or Destruction of Records

One agency noted that the language in § 1230.10 more closely tracked 44 U.S.C. 3106 and asked if the new wording increased liability for agency heads and records officers. The regulation now more clearly states what have always been the agency responsibilities under 44 U.S.C. 3106. Another agency claimed that § 1230.14 should require NARA Federal Records Center staff to report loss of records in Federal Records Center space to NARA (NWM). We did not modify the section. It is the responsibility of the agency to report all instances of accidental or unlawful removal, defacing, alteration or destruction of its records. If records are damaged (e.g., water leaks or fire) while in NARA Federal Records Center space, the records center will notify the customer agency which will in turn notify NWM.

Comments on Part 1232—Transfer of Records to Records Storage Facilities

One agency raised concerns with § 1232.18(h), which requires agencies to provide access to appropriate NARA staff to records in records storage facilities in order to conduct inspections or process SF 115s. Their concerns center on access to security classified records. No change is required in the regulation. The NARA staff would have the appropriate clearances and access would be requested and conducted in accordance with all regulations governing access to national security classified information (e.g., IRS or Census records). This is an existing requirement in 36 CFR 1228.154(e) and is based on the statutory authority in 44 U.S.C. 2906.

Comments on Part 1233—Transfer, Use, and Disposition of Records in a NARA Federal Records Center

We have deleted a paragraph from § 1233.10 in this final rule as unnecessary and potentially confusing. The paragraph in the proposed rule stated that NARA Federal Records Centers may accept contaminated records. Any decision on whether specific contaminated records may be transferred to a Federal Records Center will be addressed in the agency agreement with NARA.

One agency commented on § 1233.14(b) that all active duty

outpatient records are transferred to the VA Records Center at the time of the discharge of the member from active duty. We have modified paragraph (b) to reflect this exception.

One agency requested that § 1233.16 provide additional detailed guidance on transferring Official Personnel Folders (OPFs) to the National Personnel Records Center (NPRC). The Office of Personnel Management is the agency responsible for OPFs and their transfer requirements. We updated the URL for the Guide to Personnel Recordkeeping. Another agency objected to the statement in § 1233.20(a) that NPRC does not send a disposal notice to the transferring agency before destroying records covered in General Records Schedules (GRS) 1 and 2. The records addressed by paragraph (a) and GRS 1 and 2 belong to the Office of Personnel Management, not the transferring agency.

Comments on Part 1235—Transfer of Records to the National Archives of the United States

One agency suggested that we add a section concerning pre-accessioning (early physical transfer to NARA) of permanent electronic records. We did not adopt this comment because the cases where pre-accessioning can be considered is currently limited and the nature of the program may change as the Electronic Records Archives (ERA) matures and the NARA Federal Records Center Program adds to its electronic records storage services.

Another agency expressed concerns that the proposed § 1235.16 would lessen the ability of agencies with national security classified information to exempt particularly sensitive classified information from transfer to NARA. The conditions for agency retention of records that are more than 30 years old have been in place since 1992 and remain unchanged. We did, however, add a section with timeframes for NARA action on agency requests. An individual recommended that we add a timeframe to § 1235.22 for acting on submitted SF 258s; we did not adopt this comment because the timeframes needed will depend on the types and volumes of records transferred and whether we must clarify information with the transferring agency.

Another agency asked that we add to § 1235.32(b)(1) examples of the restrictions on records; we did not adopt this comment because paragraph (c) of that section directs readers to 36 CFR part 1256, which covers restrictions that NARA imposes.

Several comments addressed the Subpart C provisions for transfer of

records in electronic and other special media formats. We made editorial edits to refer consistently to “digital geospatial data.” We have clarified the use of DVDs for transfer of electronic sound recordings (§ 1235.42(e)) and when Tape Archive (TAR) utility can be used for transferring electronic records (§§ 1235.46 and 1235.50). We also restored to § 1235.46(b)(3) a table for the standards to be used in conjunction with DLT tape cartridges that was inadvertently omitted from the proposed rule. The table is the same as in the previous regulation at § 1228.270(c)(1)(iii). We also added to § 1235.50(d) the use of XML markup language.

One agency objected to the specifications in § 1235.50 for electronic records, stating that this goes against NARA’s ERA vision. The ERA vision statement accurately reflects NARA’s view of the functionality of the system when ERA is fully deployed. This CFR provision reflects the reality of what NARA can accept today. As ERA is able to accept additional record formats in future increments, we will further revise this section.

Comments on Part 1236—Electronic Records Management

One comment from the former agency records management official recommended that most of part 1236 should be combined with part 1222. He argued that this would provide the media-neutral approach that ISO 15489-1 has adopted and that most of the requirements of part 1236 apply to all recordkeeping systems. While we agree that the fundamental concepts applicable to managing records are the same regardless of media, we believe that specifying the requirements for electronic records management in a separate part is still helpful to agencies. We note that § 1236.6 clearly requires agencies to incorporate management of electronic records into the records management activities required by parts 1220–1235.

Two agencies asked whether the requirements in §§ 1236.10, 1236.20, 1236.22 and 1236.24 are applicable to all systems that maintain electronic records, including transitory e-mail records. We have clarified § 1236.24 to state that transitory e-mail may be managed as specified in § 1236.22(c). The agencies also asked about the difference between structured and unstructured records and whether a record created using an e-mail system is always considered an unstructured record. Structured records, such as database records, have predetermined data types and understood

relationships. The definition of “unstructured record” specifies that records created using electronic mail and other messaging applications are considered unstructured records; this is because e-mail records may contain attachments that are unstructured in format. Finally, they asked how to manage transitory e-mail records in accordance with § 1236.22(c)(2). This provision has not changed since it was established in 2006 and allows agencies to maintain and delete transitory (*i.e.*, with a retention period of 180-day or less retention) e-mail records from their live e-mail systems without transferring these records to a recordkeeping system if certain conditions are met. The agency would use GRS 23, item 7 or a NARA-approved agency schedule that covers such e-mail records as the disposition authority.

In response to one agency’s concern that agencies may not consider the need to migrate electronic records that have been sent to off-line or off-site storage areas, we have added a new § 1236.14(c) to emphasize that this section applies to such records. Another agency expressed a view that it is not feasible for all agencies to continuously migrate electronic media to current formats. The section requires agencies to plan and take actions to ensure their electronic records are usable for their full agency retention period; agencies are given flexibility as to how they do this.

One agency suggested that NARA provide a list of metadata elements in both §§ 1236.12 and 1237.28 pertaining to content, context, and structure of electronic information. We did not adopt this suggestion. While § 1236.22(a)(1) specifies certain minimum metadata that must be preserved for e-mail records, each agency must identify for itself what metadata is needed to meet agency business needs.

One agency argued that the print-and-file method of recordkeeping cannot always capture a complete record; we agree and § 1236.24(b) requires agencies to establish policies and issue instructions to ensure capture of any pertinent hidden text or structure relationships that the agency identifies as required for its business needs. We disagree with the agency’s view that part 1236 should not apply to temporary records if an agency risk analysis supports using a method for managing electronic records that best meets its business needs even though it might not meet every records management requirement.

Comments on Part 1237—Audiovisual, Cartographic, and Related Records Management

One agency suggested adding “orthophoto images” to the list of cartographic records in § 1237.3 and expanding paragraph (b) of that section to address aerial observations that are not film-based. We adopted the first suggestion; we will consider specific coverage of other aerial observation records in a future rulemaking. Another agency asked if § 1237.12 applies to only records created in the future. We note that the previous NARA regulations on permanent audiovisual records (36 CFR 1232.20(a) and 1228.266) already require agencies to be able to transfer the same record elements that are cited in this section. We added the elements to part 1237 so that agencies are aware of what they eventually will need to transfer to the National Archives of the United States.

In response to comments from two agencies, we corrected the wording in § 1237.14 to state that disposition instructions should provide for early transfer of permanent audiovisual, cartographic, and related records. One agency asked for more guidance in

§§ 1237.22(f) and 1237.28(b); those sections advise agencies to contact specific NARA organizations for additional assistance.

Comments on Part 1239—Program Assistance and Inspections

As noted earlier in this Supplementary Information, we added a new final sentence to § 1239.20 addressing reporting to Congress and the Office of Management and Budget on inspections.

Other Changes in This Final Rule From the Proposed Rule

In addition to the changes to the proposed rule discussed in previous sections of this **SUPPLEMENTARY INFORMATION**, we have revised language relating to the incorporation by reference (IBR) of standards throughout to meet the Office of the Federal Register’s requirements; corrected erroneous cross references to other sections; and, as announced in the proposed rule, added as part 1234, Facility Standards for Records Storage Facilities, the regulatory text of the previous 36 CFR part 1228, subpart K and the two appendixes to the previous 36 CFR part 1228. We also made other

minor, nonsubstantive editorial corrections.

Regulatory Impact

This rule is a significant regulatory action for the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because this regulation will affect Federal agencies. This regulation does not have any federalism implications. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

Appendix to the Preamble—Derivation Table

The following derivation table is provided as a convenience to readers to assist them in locating where each piece of the revised material in this final rule comes from. This table will not be published in the Code of Federal Regulations. It will be available on NARA’s Web site at <http://www.archives.gov/about/regulations/subchapter/b.html>.

New section	Old section	Notes on significant policy changes	
Part 1220	Part 1220		
1220.1	1220.1.	New summary of NARA responsibilities.	
1220.2	1220.10.		
1220.3.			
1220.10	1220.2.		
1220.12 .....	.....	
1220.14	1220.12.		
1220.16 .....	.....	
1220.18	1220.14		
1220.30	1220.30; 1222.10 (b) and (c).		New explicit statement that the regulations cover Federal records. Terms that were added: <i>Disposition authority.</i> <i>Electronic record.</i> <i>Information system.</i> <i>Personal files.</i> <i>Retention period.</i> Terms that were substantively revised: <i>Documentary materials.</i> <i>Records schedule.</i>
1220.32	1220.34–1220.38		
1220.34 .....	.....	
		Added reference to continuity of operations. Comprehensive high level list of responsibilities across the records lifecycle drawn from old §§ 1220.40, 1228.42, 1222.20, and 1228.12.	
Part 1222	Part 1222		
1222.1	1222.10.	New; previous covered in NARA guidance. Substantive change in policy.	
1222.2.			
1222.3.			
1222.10	1222.12.		
1222.12	1222.34(a)–(d).		
1222.14	1222.34(f).		
1222.16(a)	1222.30(b).		
1222.16(b) .....	.....	
1222.18	1222.42		
1222.20	1222.36.		
1222.22	1222.38.		
1222.24	1222.32.		

New section	Old section	Notes on significant policy changes
1222.26 .....	.....	New; previous covered in NARA guidance.
1222.28 .....	.....	New; previous covered in NARA guidance.
1222.30	1222.46.	
1222.32	1222.48	Substantively expanded.
1222.34	1222.50.	
Part 1223	Part 1236	
1223.1	1236.12	Updated references.
1223.2	1236.14.	
1223.3.		
1223.10	1236.10.	
1223.12	1236.20 Introductory paragraph.	
1223.14	1236.20(a)–(d).	
1223.16	1236.22.	
1223.18.		
1223.20	1236.24.	
1223.22	1236.26.	
1223.24	1236.28.	
Part 1224	Part 1228 Subpart A	
1224.1	1228.10.	
1224.2.		
1224.3.		
1224.10	1228.12.	
Part 1225	Part 1228 Subpart B	
1225.1.		
1225.2.		
1225.3.		
1225.10 .....	.....	New statement of long-standing policy that all records must be scheduled.
1225.12	1228.22	Updated with NARA guidance on conducting functional or work process analysis and flexible scheduling.
1225.14	1228.28.	
1225.16	1228.30.	
1225.18	1228.22 and 1228.24.	
1225.20	1228.22(f).	
1225.22	1228.31(a)	Comprehensive listing of situations when new SF 115 is needed drawn from multiple other sections.
1225.24	1228.31(b).	
1225.26	1228.32.	
Part 1226	Part 1228 Subpart B	
1226.1.		
1226.2.		
1226.3.		
1226.10	1228.50 introductory paragraph.	
1226.12	1228.50(a)(1)–(4) and (d)	Substantive change in policy.
1226.14	1228.50 (c)	Substantive change in policy.
1226.16	1228.52.	
1226.18	1228.54(a).	
1226.20	1228.54(c).	
1226.22	1228.56.	
1226.24	1228.58 (b) and (c).	
1226.26	1228.60.	
Part 1227	Part 1228, Subpart C	
1227.1.		
1227.2.		
1227.3.		
1227.10	1228.40.	
1227.12	1228.42	Deadlines changed.
1227.14	1228.46.	
Part 1228	Part 1228, Subpart E	
1228.1.		
1228.2.		
1228.10	1228.72	Substantive change in policy.
1228.12	1228.74.	

New section	Old section	Notes on significant policy changes
1228.14 1228.16	1228.76. 1228.78.	
Part 1229	Part 1228, Subpart F	
1229.1. 1229.2. 1229.3. 1229.10 1229.20	1228.92(a). 1228.94.	
Part 1230	Part 1228, Subpart G	
1230.1. 1230.2. 1230.3 1230.10 1230.12 1230.14 1230.16 1230.18 .....	..... 1228.100. 1228.102. 1228.104(a). 1228.104(c).	Added definitions <i>Alteration, Deface, Removal and Unlawful or Accidental Destruction</i> . New section on NARA actions.
Part 1231	Part 1228, Subpart H	
1231.1 1231.2. 1231.10 1231.12 1231.14 1231.16 1231.18	1228.120. 1228.122. 1228.124 and 1228.126. 1228.128. 1228.134. 1228.136.	
Part 1232	Part 1228, Subpart I	
1232.1. 1232.2. 1232.3. 1232.10 1232.12 1232.14(a) 1232.14(b) 1232.14(c) 1232.14(d) 1232.16 1232.18	1228.150. 1228.152. 1228.154(a). 1228.154(b). 1228.154(c) introductory paragraph. 1228.154(d) introductory paragraph. 1228.154(c)(1)–(c)(2) and (d)(1)–(d)(2). 1228.154(e)–(f) and 1228.156.	
Part 1232	Part 1228, Subpart J	
1233.1. 1233.2. 1233.3. 1233.10 1233.12 1233.14 1233.16 1233.18 1233.20	1228.160(a), (d), (e). 1228.162. 1228.164 1228.166 1228.168 1228.170.	Added military medical treatment files. Added military medical treatment files. Significant updates.
Part 1234	Part 1228, Subpart K	Note: The only changes between the old and new sections are the section numbers and revised IBR language for § 1234.3.
1234.1 1234.2 1234.3 1234.4 1234.10 1234.12 1234.14 1234.20 1234.22 1234.24	1228.220. 1228.222. 1228.224. 1228.226. 1228.228. 1228.230. 1228.232. 1228.234. 1228.236. 1228.238.	

New section	Old section	Notes on significant policy changes
1234.30 1234.32 1234.34 Appendix A to Part 1234 Appendix B to Part 1234	1228.240. 1228.242. 1228.244. Appendix A to Part 1228. Appendix B to Part 1228.	
Part 1235	Part 1228. Subpart L	
1235.1 1235.2 1235.3 1235.4 1235.10 1235.12 1235.14 1235.16 1235.18 1235.20 1235.22 1235.30 1235.32 1235.34 1235.40 1235.42 1235.44 1235.46 1235.48 1235.50	1228.260. 1228.262(a) introductory text. 1228.262 (a)(1)–(a)(2). 1228.264(a) and(c)(1)–(c)(6) 1228.264(d) 1228.272(a). 1228.274(a). 1228.272(c). 1228.280(a). Tracks current 1228.274(b) and (c). 1228.282. 1228.266 and 1228.268 1228.270(b). 1228.270(c). 1228.270(e). 1228.270(d)	NARA approval requirement added. NARA approval requirement added. Added digital photographic and geospatial data records. Significant updates.
Part 1236	Part 1234	
1236.1 1236.2 1236.6 1236.10 1236.12 1236.14 1236.20 1236.22 1236.24 1236.20(a) 1236.26(b) 1236.28 .....	..... ..... 1234.10. 1234.24. 1234.10(m). 1234.20(b). 1234.30	Added definitions <i>Unstructured electronic records, metadata</i> . Significant updates.
Part 1237	Part 1232	
1237.1 1237.2 1237.3 1237.4 1237.10 1237.12 1237.14 1237.16 1237.18 1237.20 1237.22 1237.24 1237.26 1237.28 1237.30 .....	..... ..... ..... 1232.20(a) and (d) 1232.26(a), (c)–(e) 1232.26(b) 1232.28. 1232.30. 1232.22 and 1232.24.	Includes cartographic records management. Added definitions: <i>Aerial photographic records</i> <i>Architectural and engineering records</i> <i>Cartographic records</i> . Added cartographic records management. Reflects transfer requirements from 1228.266. Significant updates. Significant updates.
Part 1238	Part 1230	
1238.1 1238.2 1238.3 1238.4 1238.5 1238.10 1238.12 1238.14	1230.1. 1230.2. 1230.4. 1230.3. 1230.2(d). 1230.12(a)–(b). 1230.14.	

New section	Old section	Notes on significant policy changes
1238.16	1230.16.	
1238.20	1230.20.	
1238.22	1230.22.	
1238.24	1230.24.	
1238.26	1230.26.	
1238.28	1230.28.	
1238.30	1230.30.	
1238.32	1230.10.	
Part 1239	Part 138 and Part 1220, Subpart C	
1239.1	1220.50.	
1239.2.		
1239.3 .....	.....	Added definition of <i>Inspection</i> .
1239.4.		
1239.10	1238.1.	
1239.12	1238.2.	
1239.20	1220.5.	
1239.22	1220.54	Substantive change in policy and procedures for conducting inspections.
1239.24	1220.56.	
1239.26	1220.58	Substantive change in policy and procedures.

List of Subjects in 36 CFR Chapter XII, Subchapter B

Archives and records, Incorporation by reference.

■ For the reasons set forth in the preamble, NARA revises Subchapter B of chapter XII, title 36, Code of Federal Regulations, to read as follows:

Chapter XII—National Archives and Records Administration

Subchapter B—Records Management

Part

- 1220 Federal Records; General
- 1222 Creation and Maintenance of Federal Records
- 1223 Managing Vital Records
- 1224 Records Disposition Program
- 1225 Scheduling Records
- 1226 Implementing Disposition
- 1227 General Records Schedules
- 1228 Loan of Permanent and Unscheduled Records
- 1229 Emergency Authorization To Destroy Records
- 1230 Unlawful or Accidental Removal, Defacing, Alteration, or Destruction of Records
- 1231 Transfer of Records from the Custody of One Executive Agency to Another
- 1232 Transfer of Records to Records Storage Facilities
- 1233 Transfer, Use, and Disposition of Records in a NARA Federal Records Center
- 1234 Facility Standards for Records Storage Facilities
- 1235 Transfer of Records to the National Archives of the United States
- 1236 Electronic Records Management
- 1237 Audiovisual, Cartographic, and Related Records Management
- 1238 Microform Records Management
- 1239 Program Assistance and Inspections
- 1240–1249 [Reserved]

Subchapter B—Records Management

PART 1220—FEDERAL RECORDS; GENERAL

Subpart A—General Provisions of Subchapter B

Sec.

- 1220.1 What is the scope of Subchapter B?
- 1220.2 What are the authorities for Subchapter B?
- 1220.3 What standards are used as guidelines for Subchapter B?
- 1220.10 Who is responsible for records management?
- 1220.12 What are NARA’s records management responsibilities?
- 1220.14 Who must follow the regulations in Subchapter B?
- 1220.16 What recorded information must be managed in accordance with the regulations in Subchapter B?
- 1220.18 What definitions apply to the regulations in Subchapter B?
- 1220.20 What NARA acronyms are used throughout Subchapter B?

Subpart B—Agency Records Management Program Responsibilities

- 1220.30 What are an agency’s records management responsibilities?
- 1220.32 What records management principles must agencies implement?
- 1220.34 What must an agency do to carry out its records management responsibilities?

Authority: 44 U.S.C. Chapters 21, 29, 31, and 33.

§ 1220.1 What is the scope of Subchapter B?

Subchapter B specifies policies for Federal agencies’ records management programs relating to proper records creation and maintenance, adequate documentation, and records disposition.

§ 1220.2 What are the authorities for Subchapter B?

The regulations in this subchapter implement the provisions of 44 U.S.C. Chapters 21, 29, 31, and 33.

§ 1220.3 What standards are used as guidelines for Subchapter B?

These regulations are in conformance with ISO 15489–1:2001, Information and documentation—Records management. Other standards relating to specific sections of the regulations are cited where appropriate.

§ 1220.10 Who is responsible for records management?

(a) The National Archives and Records Administration (NARA) is responsible for overseeing agencies’ adequacy of documentation and records disposition programs and practices, and the General Services Administration (GSA) is responsible for overseeing economy and efficiency in records management. The Archivist of the United States and the Administrator of GSA issue regulations and provide guidance and assistance to Federal agencies on records management programs. NARA regulations are in this subchapter. GSA regulations are in 41 CFR parts 102–193.

(b) Federal agencies are responsible for establishing and maintaining a records management program that complies with NARA and GSA regulations and guidance. Subpart B of this part sets forth basic agency records management requirements.

§ 1220.12 What are NARA's records management responsibilities?

(a) The Archivist of the United States issues regulations and provides guidance and assistance to Federal agencies on ensuring adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Federal Government and ensuring proper records disposition, including standards for improving the management of records.

(b) NARA establishes standards for the retention of records having continuing value (permanent records), and assists Federal agencies in applying the standards to records in their custody.

(c) Through a records scheduling and appraisal process, the Archivist of the United States determines which Federal records have temporary value and may be destroyed and which Federal records have permanent value and must be preserved and transferred to the National Archives of the United States. The Archivist's determination constitutes mandatory authority for the final disposition of all Federal records.

(d) The Archivist of the United States issues General Records Schedules (GRS) authorizing disposition, after specified periods of time, of records common to several or all Federal agencies.

§ 1220.14 Who must follow the regulations in Subchapter B?

The regulations in Subchapter B apply to Federal agencies as defined in § 1220.18.

§ 1220.16 What recorded information must be managed in accordance with the regulations in Subchapter B?

The requirements in Subchapter B apply to documentary materials that meet the definition of Federal records. See also Part 1222 of this subchapter.

§ 1220.18 What definitions apply to the regulations in Subchapter B?

As used in subchapter B—

Adequate and proper documentation means a record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency and that is designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

Agency (see *Executive agency and Federal agency*).

Appraisal is the process by which the NARA determines the value and the final disposition of Federal records,

designating them either temporary or permanent.

Commercial records storage facility is a private sector commercial facility that offers records storage, retrieval, and disposition services.

Comprehensive schedule is an agency manual or directive containing descriptions of and disposition instructions for documentary materials in all physical forms, record and nonrecord, created by a Federal agency or major component of an Executive department. Unless taken from General Records Schedules (GRS) issued by NARA, the disposition instructions for records must be approved by NARA on one or more Standard Form(s) 115, Request for Records Disposition Authority, prior to issuance by the agency. The disposition instructions for nonrecord materials are established by the agency and do not require NARA approval. See also *records schedule*.

Contingent records are records whose final disposition is dependent on an action or event, such as sale of property or destruction of a facility, which will take place at some unspecified time in the future.

Disposition means those actions taken regarding records no longer needed for the conduct of the regular current business of the agency.

Disposition authority means the legal authorization for the retention and disposal of records. For Federal records it is found on SF 115s, Request for Records Disposition Authority, which have been approved by the Archivist of the United States. For nonrecord materials, the disposition is established by the creating or custodial agency. See also *records schedule*.

Documentary materials is a collective term that refers to recorded information, regardless of the medium or the method or circumstances of recording.

Electronic record means any information that is recorded in a form that only a computer can process and that satisfies the definition of a Federal record under the Federal Records Act. The term includes both record content and associated metadata that the agency determines is required to meet agency business needs.

Evaluation means the selective or comprehensive inspection, audit, or review of one or more Federal agency records management programs for effectiveness and for compliance with applicable laws and regulations. It includes recommendations for correcting or improving records management policies and procedures, and follow-up activities, including reporting on and implementing the recommendations.

Executive agency means any executive department or independent establishment in the Executive branch of the U.S. Government, including any wholly owned Government corporation.

Federal agency means any executive agency or any establishment in the Legislative or Judicial branches of the Government (except the Supreme Court, Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction). (44 U.S.C. 2901(14)).

Federal records (see *records*).

File means an arrangement of records. The term denotes papers, photographs, maps, electronic information, or other recorded information regardless of physical form or characteristics, accumulated or maintained in filing equipment, boxes, on electronic media, or on shelves, and occupying office or storage space.

Information system means the organized collection, processing, transmission, and dissemination of information in accordance with defined procedures, whether automated or manual.

Metadata consists of preserved contextual information describing the history, tracking, and/or management of an electronic document.

National Archives of the United States is the collection of all records selected by the Archivist of the United States because they have sufficient historical or other value to warrant their continued preservation by the Federal Government and that have been transferred to the legal custody of the Archivist of the United States, currently through execution of a Standard Form (SF) 258 (Agreement to Transfer Records to the National Archives of the United States). See also *permanent record*.

Nonrecord materials are those Federally owned informational materials that do not meet the statutory definition of records (44 U.S.C. 3301) or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit.

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States, even while it remains in agency custody. Permanent records are those for which the disposition is permanent on SF 115, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973. The term also includes all records accessioned by

NARA into the National Archives of the United States.

Personal files (also called *personal papers*) are documentary materials belonging to an individual that are not used to conduct agency business. Personal files are excluded from the definition of Federal records and are not owned by the Government.

Recordkeeping requirements means all statements in statutes, regulations, and agency directives or other authoritative issuances, that provide general or specific requirements for Federal agency personnel on particular records to be created and maintained by the agency.

Recordkeeping system is a manual or electronic system that captures, organizes, and categorizes records to facilitate their preservation, retrieval, use, and disposition.

Records or Federal records is defined in 44 U.S.C. 3301 as including "all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value of the data in them (44 U.S.C. 3301)." (See also § 1222.10 of this part for an explanation of this definition).

Records center is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist (NARA Federal Records Center) or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space. See also *records storage facility*.

Records management, as used in subchapter B, means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations.

Records schedule or schedule means any of the following:

(1) A Standard Form 115, Request for Records Disposition Authority that has

been approved by NARA to authorize the disposition of Federal records;

(2) A General Records Schedule (GRS) issued by NARA; or

(3) A published agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SF 115s or issued by NARA in the GRS. See also *comprehensive schedule*.

Records storage facility is a records center or a commercial records storage facility, as defined in this section, i.e., a facility used by a Federal agency to store Federal records, whether that facility is operated and maintained by the agency, by NARA, by another Federal agency, or by a private commercial entity.

Retention period is the length of time that records must be kept.

Series means file units or documents arranged according to a filing or classification system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, take a particular physical form, or have some other relationship arising out of their creation, receipt, or use, such as restrictions on access and use. Also called a *records series*.

Temporary record means any Federal record that has been determined by the Archivist of the United States to have insufficient value (on the basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:

(1) Records designated as disposable in an agency records disposition schedule approved by NARA (SF 115, Request for Records Disposition Authority); or

(2) Records designated as disposable in a General Records Schedule.

Unscheduled records are Federal records whose final disposition has not been approved by NARA on a SF 115, Request for Records Disposition Authority. Such records must be treated as permanent until a final disposition is approved.

§ 1220.20 What NARA acronyms are used throughout Subchapter B?

As used in Subchapter B—
NARA means the National Archives and Records Administration.

NAS means the Space and Security Management Division.

NR means the Office of Regional Record Services.

NWCS means the Special Media Archives Services Division.

NWM means Modern Records Programs, which includes NARA records management staff nationwide.

NWME means the Electronic and Special Media Records Services Division.

NWML means the Lifecycle Management Division.

NWMW means the Washington National Records Center.

NWT means Preservation Programs.

Subpart B—Agency Records Management Responsibilities

§ 1220.30 What are an agency's records management responsibilities?

(a) Under 44 U.S.C. 3101, the head of each Federal agency must make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. These records must be designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

(b) Under 44 U.S.C. 3102, the head of each Federal agency must establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

(c) Agency records management programs must provide for:

(1) Effective controls over the creation, maintenance, and use of records in the conduct of current business; and

(2) Cooperation with the Archivist and the Administrator of GSA in applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and destruction of records of temporary value.

§ 1220.32 What records management principles must agencies implement?

Agencies must create and maintain authentic, reliable, and usable records and ensure that they remain so for the length of their authorized retention period. A comprehensive records management program provides policies and procedures for ensuring that:

(a) Records documenting agency business are created or captured;

(b) Records are organized and maintained to facilitate their use and ensure integrity throughout their authorized retention periods;

(c) Records are available when needed, where needed, and in a usable format to conduct agency business;

(d) Legal and regulatory requirements, relevant standards, and agency policies are followed;

(e) Records, regardless of format, are protected in a safe and secure environment and removal or destruction is carried out only as authorized in records schedules; and

(f) Continuity of operations is supported by a vital records program (see part 1223 of this subchapter).

§ 1220.34 What must an agency do to carry out its records management responsibilities?

To carry out the responsibilities specified in 44 U.S.C. 3101 and 3102, agencies must:

(a) Assign records management responsibility to a person and office with appropriate authority within the agency to coordinate and oversee implementation of the agency comprehensive records management program principles in § 1220.32;

(b) Advise NARA and agency managers of the name(s) of the individual(s) assigned operational responsibility for the agency records management program. To notify NARA, send the name(s), e-mail and postal addresses, phone and fax numbers of the individual(s) to NARA (NWM), 8601 Adelphi Road, College Park, MD 20740–6001 or to

RM.Communications@nara.gov. The name, title, and phone number of the official or officials authorized by the head of the agency to sign records disposition schedules and requests for transfer of records to the custody of the National Archives must also be submitted to NARA (NWM) or *RM.Communications@nara.gov*;

(c) Issue a directive(s) establishing program objectives, responsibilities, and authorities for the creation, maintenance, and disposition of agency records. Copies of the directive(s) (including subsequent amendments or supplements) must be disseminated throughout the agency, as appropriate, and a copy must be sent to NARA (NWM);

(d) Assign records management responsibilities in each program (mission) and administrative area to ensure incorporation of recordkeeping requirements and records maintenance, storage, and disposition practices into agency programs, processes, systems, and procedures;

(e) Integrate records management and archival requirements into the design, development, and implementation of electronic information systems as specified in § 1236.12 of this subchapter;

(f) Provide guidance and training to all agency personnel on their records management responsibilities, including

identification of Federal records, in all formats and media;

(g) Develop records schedules for all records created and received by the agency and obtain NARA approval of the schedules prior to implementation, in accordance with 36 CFR parts 1225 and 1226 of this subchapter;

(h) Comply with applicable policies, procedures, and standards relating to records management and recordkeeping requirements issued by the Office of Management and Budget, NARA, GSA, or other agencies, as appropriate (see § 1222.22 of this subchapter);

(i) Institute controls ensuring that all records, regardless of format or medium, are properly organized, classified or indexed, and described, and made available for use by all appropriate agency staff; and

(j) Conduct formal evaluations to measure the effectiveness of records management programs and practices, and to ensure that they comply with NARA regulations in this subchapter.

PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

Subpart A—Identifying Federal Records

Sec.

1222.1 What are the authorities for Part 1222?

1222.2 What definitions apply to this part?

1222.3 What standards are used as guidance for this part?

1222.10 How should agencies apply the statutory definition of Federal records?

1222.12 What types of documentary materials are Federal records?

1222.14 What are nonrecord materials?

1222.16 How are nonrecord materials managed?

1222.18 Under what conditions may nonrecord materials be removed from government agencies?

1222.20 How are personal files defined and managed?

Subpart B—Agency Recordkeeping Requirements

1222.22 What records are required to provide for adequate documentation of agency business?

1222.24 How do agencies establish recordkeeping requirements?

1222.26 What are the general recordkeeping requirements for agency programs?

1222.28 What are the series level recordkeeping requirements?

1222.30 When must agencies comply with the recordkeeping requirements of other agencies?

1222.32 How do agencies manage data and records created or received by contractors?

1222.34 How must agencies maintain records?

Authority: 44 U.S.C. 2904, 3101, 3102, and 3301.

Subpart A—Identifying Federal Records

§ 1222.1 What are the authorities for Part 1222?

The statutory authorities for this part are 44 U.S.C. 2904, 3101, 3102, and 3301.

§ 1222.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1222.

§ 1222.3 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489–1:2001, Information and documentation—Records management. Paragraphs 7.1 (Principles of records management programmes), 7.2 (Characteristics of a record), 8.3.5 (Conversion and migration), 8.3.6 (Access, retrieval and use), and 9.6 (Storage and handling) apply to records creation and maintenance.

§ 1222.10 How should agencies apply the statutory definition of Federal records?

(a) The statutory definition of Federal records is contained in 44 U.S.C. 3301 and provided in § 1220.18 of this subchapter.

(b) Several key terms, phrases, and concepts in the statutory definition of a Federal record are further explained as follows:

(1) *Documentary materials* has the meaning provided in § 1220.18 of this subchapter.

(2) *Regardless of physical form or characteristics* means that the medium may be paper, film, disk, or other physical type or form; and that the method of recording may be manual, mechanical, photographic, electronic, or any other combination of these or other technologies.

(3) *Made* means the act of creating and recording information by agency personnel in the course of their official duties, regardless of the method(s) or the medium involved.

(4) *Received* means the acceptance or collection of documentary materials by or on behalf of an agency or agency personnel in the course of their official duties regardless of their origin (for example, other units of their agency, private citizens, public officials, other agencies, contractors, Government grantees) and regardless of how transmitted (in person or by messenger, mail, electronic means, or by any other method). In this context, the term does not refer to misdirected materials. It may or may not refer to loaned or seized materials depending on the conditions under which such materials came into

agency custody or were used by the agency. Advice of legal counsel should be sought regarding the "record" status of loaned or seized materials.

(5) *Preserved* means the filing, storing, or any other method of systematically maintaining documentary materials in any medium by the agency. This term covers materials not only actually filed or otherwise systematically maintained but also those temporarily removed from existing filing systems.

(6) *Appropriate for preservation* means documentary materials made or received which, in the judgment of the agency, should be filed, stored, or otherwise systematically maintained by an agency because of the evidence of agency activities or information they contain, even if the materials are not covered by its current filing or maintenance procedures.

§ 1222.12 What types of documentary materials are Federal records?

(a) *General*. To ensure that complete and accurate records are made and retained in the Federal Government, agencies must distinguish between records and nonrecord materials by applying the definition of records (see 44 U.S.C. 3301 and 36 CFR 1220.18 and 1222.10 of this subchapter) to agency documentary materials in all formats and media.

(b) *Record status*. Documentary materials are records when they meet the conditions specified in § 1222.10(b).

(c) *Working files and similar materials*. Working files, such as preliminary drafts and rough notes, and other similar materials, are records that must be maintained to ensure adequate and proper documentation if:

(1) They were circulated or made available to employees, other than the creator, for official purposes such as approval, comment, action, recommendation, follow-up, or to communicate with agency staff about agency business; and

(2) They contain unique information, such as substantive annotations or comments that adds to a proper understanding of the agency's formulation and execution of basic policies, decisions, actions, or responsibilities.

(d) *Record status of copies*. The determination as to whether a particular document is a record does not depend upon whether it contains unique information. Multiple copies of the same document and documents containing duplicative information may each have record status depending on how they are used in conducting agency business.

§ 1222.14 What are nonrecord materials?

Nonrecord materials are U.S. Government-owned documentary materials that do not meet the conditions of records status (see § 1222.12(b)) or that are specifically excluded from the statutory definition of records (see 44 U.S.C. 3301). An agency's records management program also needs to include managing nonrecord materials. There are three specific categories of materials excluded from the statutory definition of records:

(a) Library and museum material (but only if such material is made or acquired and preserved solely for reference or exhibition purposes), including physical exhibits, artifacts, and other material objects lacking evidential value.

(b) Extra copies of documents (but only if the sole reason such copies are preserved is for convenience of reference).

(c) Stocks of publications and of processed documents. Catalogs, trade journals, and other publications that are received from other Government agencies, commercial firms, or private institutions and that require no action and are not part of a case on which action is taken. (Stocks do not include serial or record sets of agency publications and processed documents, including annual reports, brochures, pamphlets, books, handbooks, posters and maps.)

§ 1222.16 How are nonrecord materials managed?

(a) Agencies must develop recordkeeping requirements to distinguish records from nonrecord materials.

(b) The following guidelines should be used in managing nonrecord materials:

(1) If a clear determination cannot be made, the materials should be treated as records. Agencies may consult with NARA for guidance.

(2) Nonrecord materials must be physically segregated from records or, for electronic non-record materials, readily identified and segregable from records;

(3) Nonrecord materials should be purged when no longer needed for reference. NARA's approval is not required to destroy such materials.

§ 1222.18 Under what conditions may nonrecord materials be removed from Government agencies?

(a) Nonrecord materials, including extra copies of unclassified or formally declassified agency records kept only for convenience of reference, may be removed by departing employees from

Government agency custody only with the approval of the head of the agency or the individual(s) authorized to act for the agency on records issues.

(b) National security classified information may not be removed from Government custody, except for a removal of custody taken in accordance with the requirements of the National Industrial Security Program established under Executive Order 12829, as amended, or a successor Order.

(c) Information which is restricted from release under the Privacy Act of 1974 (5 U.S.C. 552a), as amended, or other statutes may not be removed from Government custody except as permitted under those statutes.

(d) This section does not apply to use of records and nonrecord materials in the course of conducting official agency business, including telework and authorized dissemination of information.

§ 1222.20 How are personal files defined and managed?

(a) Personal files are defined in § 1220.18 of this subchapter. This section does not apply to agencies and positions that are covered by the Presidential Records Act of 1978 (44 U.S.C. 2201–2207) (see 36 CFR part 1270 of this chapter).

(b) Personal files must be clearly designated as such and must be maintained separately from the office's official records.

(1) Information about private (non-agency) matters and agency business must not be mixed in outgoing agency documents, such as correspondence and messages.

(2) If information about private matters and agency business appears in a received document, the document is a Federal record. Agencies may make a copy of the document with the personal information deleted or redacted, and treat the copy as the Federal record.

(3) Materials labeled "personal," "confidential," or "private," or similarly designated, and used in the transaction of public business, are Federal records. The use of a label such as "personal" does not affect the status of documentary materials in a Federal agency.

Subpart B—Agency Recordkeeping Requirements

§ 1222.22 What records are required to provide for adequate documentation of agency business?

To meet their obligation for adequate and proper documentation, agencies must prescribe the creation and maintenance of records that:

(a) Document the persons, places, things, or matters dealt with by the agency.

(b) Facilitate action by agency officials and their successors in office.

(c) Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Government.

(d) Protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions.

(e) Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically.

(f) Document important board, committee, or staff meetings.

§ 1222.24 How do agencies establish recordkeeping requirements?

(a) Agencies must ensure that procedures, directives and other issuances; systems planning and development documentation; and other relevant records include recordkeeping requirements for records in all media, including those records created or received on electronic mail systems. Recordkeeping requirements must:

(1) Identify and prescribe specific categories of records to be systematically created or received and maintained by agency personnel in the course of their official duties;

(2) Specify the use of materials and recording techniques that ensure the preservation of records as long as they are needed by the Government;

(3) Specify the manner in which these materials must be maintained wherever held;

(4) Propose how long records must be maintained for agency business through the scheduling process in part 1225 of this subchapter;

(5) Distinguish records from nonrecord materials and comply with the provisions in Subchapter B concerning records scheduling and disposition;

(6) Include procedures to ensure that departing officials and employees do not remove Federal records from agency custody and remove nonrecord materials only in accordance with § 1222.18;

(7) Define the special recordkeeping responsibilities of program managers, information technology staff, systems administrators, and the general recordkeeping responsibilities of all agency employees.

(b) Agencies must provide the training described in § 1220.34(f) of this

subchapter and inform all employees that they are responsible and accountable for keeping accurate and complete records of their activities.

§ 1222.26 What are the general recordkeeping requirements for agency programs?

To ensure the adequate and proper documentation of agency programs, each program must develop recordkeeping requirements that identify:

(a) The record series and systems that must be created and maintained to document program policies, procedures, functions, activities, and transactions;

(b) The office responsible for maintaining the record copies of those series and systems, and the applicable system administrator responsible for ensuring authenticity, protection, and ready retrieval of electronic records;

(c) Related records series and systems;

(d) The relationship between paper and electronic files in the same series; and

(e) Policies, procedures, and strategies for ensuring that records are retained long enough to meet programmatic, administrative, fiscal, legal, and historical needs as authorized in a NARA-approved disposition schedule.

§ 1222.28 What are the series level recordkeeping requirements?

To ensure that record series and systems adequately document agency policies, transactions, and activities, each program must develop recordkeeping requirements for records series and systems that include:

(a) Identification of information and documentation that must be included in the series and/or system;

(b) Arrangement of each series and the records within the series and/or system;

(c) Identification of the location of the records and the staff responsible for maintaining the records;

(d) Policies and procedures for maintaining the documentation of phone calls, meetings, instant messages, and electronic mail exchanges that include substantive information about agency policies and activities;

(e) Policies and procedures for identifying working files and for determining the record status of working files in paper and electronic form; and

(f) Policies and procedures for maintaining series consisting of different media.

§ 1222.30 When must agencies comply with the recordkeeping requirements of other agencies?

Agencies must comply with recordkeeping requirements that are

imposed government-wide by another agency with jurisdiction over the program or activity being conducted, e.g., requirements for records concerning hazardous waste. Affected agencies must include these requirements in appropriate directives or other official issuances prescribing the agency's organization, functions, or activities.

§ 1222.32 How do agencies manage records created or received by contractors?

(a) Agency officials responsible for administering contracts must safeguard records created, processed, or in the possession of a contractor or a non-Federal entity by taking the following steps:

(1) Agencies must ensure that contractors performing Federal government agency functions create and maintain records that document these activities. Agencies must specify in the contract Government ownership and the delivery to the Government of all records necessary for the adequate and proper documentation of contractor-operated agency activities and programs in accordance with requirements of the Federal Acquisition Regulation (FAR) (Office of Federal Procurement Policy Act of 1974 (Pub. L. 93-400), as amended by Pub. L. 96-83 41 U.S.C.), and, where applicable, the Defense Federal Acquisition Regulation Supplement (DFARS) (48 CFR parts 200-299).

(2) Records management oversight of contract records is necessary to ensure that all recordkeeping needs are met. All records created for Government use and delivered to, or under the legal control of, the Government must be managed in accordance with Federal law. In addition, electronic records and background electronic data specified for delivery to the contracting agency must be accompanied by sufficient technical documentation to permit understanding and use of the records and data.

(3) Contracts that require the creation of data for the Government's use must specify, in addition to the final product, delivery of background supporting data or other records that may have reuse value to the Government. To determine what background supporting data or other records that contractors must deliver, program and contracting officials must consult with agency records and information managers and historians and, when appropriate, with other Government agencies to ensure that all Government needs are met, especially when the data deliverables support a new agency mission or a new Government program.

(4) Deferred ordering and delivery-of-data clauses and rights-in-data clauses must be included in contracts whenever necessary to ensure adequate and proper documentation or because the data have reuse value to the Government.

(b) All data created for Government use and delivered to, or falling under the legal control of, the Government are Federal records subject to the provisions of 44 U.S.C. chapters 21, 29, 31, and 33, the Freedom of Information Act (FOIA) (5 U.S.C. 552), as amended, and the Privacy Act of 1974 (5 U.S.C. 552a), as amended, and must be managed and scheduled for disposition only as provided in Subchapter B.

(c) Agencies must ensure that appropriate authority for retention of classified materials has been granted to contractors or non-Government entities participating in the National Industrial Security Program (NISP), established under Executive order 12829, as amended, or a successor Order.

§ 1222.34 How must agencies maintain records?

Agencies must implement a records maintenance program so that complete records are filed or otherwise identified and preserved, records can be readily found when needed, and permanent and temporary records are physically segregated from each other or, for electronic records, segregable. Agency records maintenance programs must:

(a) Institute procedures for organizing and storing records;

(b) Maintain electronic, audiovisual and cartographic, and microform records in accordance with 36 CFR parts 1236, 1237, and 1238 of this subchapter, respectively;

(c) Assign responsibilities for maintenance of records in all formats within each agency component, including designation of the officials that are responsible for maintenance and disposition of electronic records and management of automated systems used for recordkeeping;

(d) Institute reference and retrieval procedures and controls that:

(1) Facilitate the finding, charging out, and refiling of records, including safeguards against loss during transit; and

(2) Ensure that access to electronic records minimizes the risk of unauthorized additions, deletions, or alterations;

(e) Issue appropriate instructions to all agency employees on handling and protecting records;

(f) Maintain records and nonrecord materials separately, in accordance with § 1222.16;

(g) Maintain personal files separately from records in accordance with § 1222.20; and

(h) Comply with 36 CFR parts 1232 and 1234 of this subchapter when storing records in a records facility.

PART 1223—MANAGING VITAL RECORDS

Sec.

1223.1 What are the authorities for Part 1223?

1223.2 What definitions apply to this part?

1223.3 What standards are used as guidance for Part 1223?

1223.4 What publications are incorporated by reference in this part?

1223.10 What is the purpose of Part 1223?

1223.12 What are the objectives of a vital records program?

1223.14 What elements must a vital records program include?

1223.16 How are vital records identified?

1223.18 Must vital records be in a particular form or format?

1223.20 What are the requirements for accessing vital records during an emergency?

1223.22 How must agencies protect vital records?

1223.24 When can vital records be destroyed?

Authority: 44 U.S.C. 3101; E.O. 12656, 53 FR 47491; E.O. 13231, 66 FR 53063.

§ 1223.1 What are the authorities for Part 1223?

(a) The authorities for this part are 44 U.S.C. 3101; Executive Orders 12656, Assignment of Emergency Preparedness Responsibilities, and 13231, Critical Infrastructure Protection in the Information Age; and National Security Presidential Directive (NSPD 51)/Homeland Security Presidential Directive (HSPD-20) or applicable successor directives. These authorities require the head of each agency to make and preserve records that contain adequate and proper documentation of the organization and to perform national security emergency preparedness functions.

(b) These regulations are in conformance with guidance provided in Federal Continuity Directive (FCD) 1, Federal Executive Branch National Continuity Program and Requirements, and FCD 2, Federal Executive Branch Mission Essential Function and Primary Mission Essential Function Identification and Submission Process.

§ 1223.2 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1223.

(b) As used in part 1223—

Cycle means the periodic removal of obsolete copies of vital records and their

replacement with copies of current vital records. This may occur daily, weekly, quarterly, annually or at other designated intervals.

Disaster means an unexpected occurrence inflicting widespread destruction and distress and having long-term adverse effects on agency operations. Each agency defines what a long-term adverse effect is in relation to its most critical program activities.

Emergency means a situation or an occurrence of a serious nature, developing suddenly and unexpectedly, and demanding immediate action. This is generally of short duration, for example, an interruption of normal agency operations for a week or less. It may involve electrical failure or minor flooding caused by broken pipes.

Emergency operating records are those types of vital records essential to the continued functioning or reconstitution of an organization during and after an emergency. Included are emergency plans and directive(s), orders of succession, delegations of authority, staffing assignments, selected program records needed to continue the most critical agency operations, as well as related policy or procedural records that assist agency staff in conducting operations under emergency conditions and for resuming normal operations after an emergency.

Legal and financial rights records are that type of vital records essential to protect the legal and financial rights of the Government and of the individuals directly affected by its activities.

Examples include accounts receivable records, social security records, payroll records, retirement records, and insurance records. These records were formerly defined as “rights-and-interests” records.

National security emergency means any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or threatens the national security of the United States, as defined in Executive Order 12656.

Off-site storage means a facility other than an agency’s normal place of business where records are kept until eligible for final disposition. Vital records may be kept at off-site storage to ensure that they are not damaged or destroyed should an emergency occur in an agency’s normal place of business.

Vital records means essential agency records that are needed to meet operational responsibilities under national security emergencies or other emergency conditions (emergency operating records) or to protect the legal and financial rights of the Government and those affected by Government

activities (legal and financial rights records).

Vital records program means the policies, plans, and procedures developed and implemented and the resources needed to identify, use, and protect the essential records needed to meet operational responsibilities under national security emergencies or other emergency conditions or to protect the Government's rights or those of its citizens. This is a program element of an agency's emergency management function.

§ 1223.3 What standards are used as guidance for Part 1223?

These regulations conform with guidance provided in ISO 15489-1:2001. Paragraphs 4 (Benefits of records management), Paragraphs 7.1 (Principles of records management programmes) and 9.6 (Storage and handling) apply to vital records.

§ 1223.4 What publications are incorporated by reference in this part?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register. For information on the availability of this material at the Office of the Federal Register, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The material incorporated by reference is also available for inspection at NARA's Archives Library Information Center (NWCCA), Room 2380, 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-3415, and is available from the sources listed below.

(c) The following Web publication is available on-line at <http://www.fema.gov/pdf/about/offices/fcd1.pdf>; it is published by the Department of Homeland Security (DHS), 245 Murray Lane, Washington, DC, 20528, phone number, (202) 245-2499.

(1) Federal Continuity Directive 1 ("FCD 1"): Federal Executive Branch National Continuity Program and Requirements, February 2008, IBR approved for § 1223.14.

(2) [Reserved]

§ 1223.10 What is the purpose of Part 1223?

Part 1223 specifies policies and procedures needed to establish a program to identify, protect, and manage vital records as part of an agency's continuity of operation plan designed to meet emergency management responsibilities.

§ 1223.12 What are the objectives of a vital records program?

A vital records program has two objectives:

- (a) It provides an agency with the information it needs to conduct its business under other than normal operating conditions and to resume normal business afterward; and
- (b) It enables agency officials to identify and protect the most important records dealing with the legal and financial rights of the agency and of persons directly affected by the agency's actions.

§ 1223.14 What elements must a vital records program include?

To achieve compliance with this section, an agency's vital records program must contain all elements listed in FCD 1, Annex I (incorporated by reference, see § 1223.4). In carrying out a vital records program, agencies must:

- (a) Specify agency staff responsibilities;
- (b) Appropriately inform all staff about vital records;
- (c) Ensure that the designation of vital records is current and complete; and
- (d) Ensure that vital records are adequately protected, accessible, and immediately usable.

§ 1223.16 How are vital records identified?

Agencies identify vital records in the context of the emergency management function. Vital records are those that are needed to perform the most critical functions of the agency and those needed to protect legal and financial rights of the Government and of the persons affected by its actions. Vital records also include emergency plans and related records that specify how an agency will respond to an emergency. The informational content of records series and electronic records systems determines which are vital records. Only the most recent and complete sources of the information are vital records.

§ 1223.18 Must vital records be in a particular form or format?

(a) Vital records can be original records or copies of records. Consult NARA records management guidance on vital records at <http://www.archives.gov/>

[records-mgmt/vital-records/index.html](http://www.archives.gov/records-mgmt/vital-records/index.html) for further information.

(b) Records may be maintained on a variety of media including paper, magnetic tape, optical disk, photographic film, and microform. In selecting the media, agencies must ensure that equipment needed to read the specific media will be available following an emergency or disaster.

§ 1223.20 What are the requirements for accessing vital records during an emergency?

Agencies must establish retrieval procedures for vital records that are easily implemented, especially since individuals unfamiliar with the records may need to use them in an emergency. For electronic records systems, agencies must also ensure that appropriate hardware, software, and system documentation adequate to operate the system and access the records will be available in case of an emergency.

§ 1223.22 How must agencies protect vital records?

Agencies must take appropriate measures to ensure the survival of the vital records or copies of vital records in case of an emergency.

(a) *Duplication*. Agencies may choose to duplicate vital records as the primary protection method. Duplication can be to the same medium as the original record or to a different medium. When agencies choose duplication as a protection method, the copy of the vital record stored off-site is normally a duplicate of the original record. The agency may store the original records off-site if their protection is necessary, or if it does not need to keep the original records at its normal place of business.

(b) *Dispersal*. Once records are duplicated, they must be dispersed to sites a sufficient distance away to avoid being subject to the same emergency. Dispersal sites may be other office locations of the same agency or some other site.

(c) *Storage considerations*. Copies of emergency operating vital records must be accessible in a very short period of time for use in the event of an emergency. Copies of legal and financial rights records may not be needed as quickly. In deciding where to store vital record copies, agencies must treat records that have the properties of both categories, that is, emergency operating and legal and financial rights records, as emergency operating records.

(1) The off-site copy of legal and financial rights vital records may be stored at an off-site agency location or, in accordance with § 1233.12 of this subchapter, at a records storage facility.

(2) When using a NARA records storage facility for storing vital records that are duplicate copies of original records, the agency must specify on the SF 135, Records Transmittal and Receipt, that they are vital records (duplicate copies) and the medium on which they are maintained. The agency must also periodically cycle (update) them by removing obsolete items and replacing them with the most recent version.

§ 1223.24 When can vital records be destroyed?

The disposition of vital records that are original records is governed by records schedules approved by NARA (see part 1225, Scheduling Records, of this subchapter). Agencies must not destroy original records that are not scheduled. Duplicate copies created and maintained for vital records purposes only may be destroyed when superseded or obsolete during the routine vital records cycle process.

PART 1224—RECORDS DISPOSITION PROGRAMS

Sec.

1224.1 What are the authorities for Part 1224?

1224.2 What definitions apply to this part?

1224.3 What standards are used as guidance for this part?

1224.10 What must agencies do to implement an effective records disposition program?

Authority: 44 U.S.C. 2111, 2904, 3102, and 3301.

§ 1224.1 What are the authorities for Part 1224?

The statutory authorities for this part are 44 U.S.C. 2111, 2904, 3102, and 3301.

§ 1224.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1224.

§ 1224.3 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489–1:2001, Information and documentation—Records management. Paragraphs 7.1 (Principles of records management programmes), 8.3.7 (Retention and disposition), 8.5 (Discontinuing records systems), and 9.9 (Implementing disposition) apply to records disposition.

§ 1224.10 What must agencies do to implement an effective records disposition program?

In order to properly implement the provisions of §§ 1220.30(c)(2),

1220.32(e), and 1220.34(c), (f), and (g) of this subchapter agencies must:

(a) Ensure that all records are scheduled in accordance with part 1225 of this subchapter, schedules are implemented in accordance with part 1226 of this subchapter, and permanent records are transferred to the National Archives of the United States.

(b) Promptly disseminate and implement NARA-approved agency schedules and additions and changes to the General Records Schedules (GRS) in accordance with § 1226.12(a) of this subchapter.

(c) Regularly review agency-generated schedules, and, if necessary, update them.

(d) Incorporate records retention and disposition functionality during the design, development, and implementation of new or revised recordkeeping systems (whether paper or electronic). See § 1236.6 of this subchapter.

(e) Provide training and guidance to all employees on agency records disposition requirements and procedures and other significant aspects of the records disposition program. When a new or revised records schedule is issued, provide specific guidance to employees responsible for applying the schedule.

PART 1225—SCHEDULING RECORDS

Sec.

1225.1 What are the authorities for this part?

1225.2 What definitions apply to this part?

1225.3 What standards are used as guidance for this part?

1225.10 What Federal records must be scheduled?

1225.12 How are records schedules developed?

1225.14 How do agencies schedule permanent records?

1225.16 How do agencies schedule temporary records?

1225.18 How do agencies request records disposition authority?

1225.20 When do agencies have to get GAO approval for schedules?

1225.22 When must scheduled records be rescheduled?

1225.24 When can an agency apply previously approved schedules to electronic records?

1225.26 How do agencies change a disposition authority?

Authority: 44 U.S.C. 2111, 2904, 2905, 3102, and Chapter 33.

§ 1225.1 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 2111, 2904, 2905, 3102, and Chapter 33.

§ 1225.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1225.

§ 1225.3 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489–1:2001, Information and documentation—Records management. Paragraphs 4 (Benefits of records management), 6.3 (Responsibilities), 7.1 (Principles of records management programmes), 8.3.7 (Retention and disposition), 9.2 (Determining how long to retain records), 9.10 (Documenting records management processes), 10 (Records management processes and controls), and 11 (Monitoring and auditing) apply to records scheduling.

§ 1225.10 What Federal records must be scheduled?

All Federal records, including those created or maintained for the Government by a contractor, must be covered by a NARA-approved agency disposition authority, SF 115, Request for Records Disposition Authority, or the NARA General Records Schedules.

§ 1225.12 How are records schedules developed?

The principal steps in developing agency records schedules are listed below. Additional details that may be helpful are provided in the NARA records management handbook, *Disposition of Federal Records* at <http://www.archives.gov/records-mgmt/publications/disposition-of-federal-records/index.html>.

(a) Conduct a functional or work process analysis to identify the functions or activities performed by each organization or unit. Identify the recordkeeping requirements for each.

(b) Prepare an inventory for each function or activity to identify records series, systems, and nonrecord materials.

(c) Determine the appropriate scope of the records schedule items, e.g., individual series/system component, work process, group of related work processes, or broad program area.

(d) Evaluate the period of time the agency needs each records series or system based on use, value to agency operations and oversight agencies, and legal obligations. Determine whether a fixed or flexible retention period is more appropriate. For records proposed as temporary, specify a retention period that meets agency business needs and legal requirements. For records proposed as permanent records, identify how long the records are needed by the

agency before they are transferred to NARA.

(e) Determine whether the proposed disposition should be limited to records in a specific medium. Records schedules submitted to NARA for approval on or after December 17, 2007, are media neutral, *i.e.*, the disposition instructions apply to the described records in any medium, unless the schedule identifies a specific medium for a specific series.

(f) Compile a schedule for records, including descriptions and disposition instructions for each item, using an SF 115.

(g) Obtain internal clearances, as appropriate, from program offices and other stakeholders such as the legal counsel, chief information officer, electronic systems manager, and agency historian, as appropriate.

(h) Obtain approval from the Government Accountability Office (GAO), when required (see § 1225.20(a) for the categories that require GAO approval).

(i) Submit an SF 115 covering only new or revised record items to NARA for approval (see § 1225.18(d)).

(j) The disposition instructions on SF 115s approved by the Archivist of the United States are mandatory (44 U.S.C. 3314).

§ 1225.14 How do agencies schedule permanent records?

(a) *Identification.* Identify potentially permanent records. Useful guidelines in the identification of permanent Federal records may be found in the NARA records management handbook, *Disposition of Federal Records* (see § 1225.12 for the Web site address of this publication).

(b) *Requirements.* Each item proposed for permanent retention on an SF 115 must include the following:

(1) Descriptive title of the records series, component of an information system, or appropriate aggregation of series and/or information system components. The descriptive title must be meaningful to agency personnel;

(2) Complete description of the records including:

- (i) Agency function;
- (ii) Physical type, if appropriate;
- (iii) Inclusive dates;

(iv) Statement of how records are arranged;

(v) Statement of restrictions on access under the FOIA if the records are proposed for immediate transfer;

(3) Disposition instructions developed using the following guidelines:

(i) If the records series or system is current and continuing, the SF 115 must specify the period of time after which

the records will be transferred to the National Archives of the United States, and if appropriate, the time period for returning inactive records to an approved records storage facility.

(ii) If the records series or system is nonrecurring, *i.e.*, no additional records will be created or acquired, the agency must propose either that the records be transferred to the National Archives of the United States immediately or set transfer for a fixed date in the future.

(c) *Determination.* NARA will appraise the records to determine if they have sufficient value to warrant archival permanent preservation. If NARA determines either that records are not permanent or that the transfer instructions are not appropriate:

(1) NARA will notify the agency and negotiate an appropriate disposition. The disposition instruction on the SF 115 will be modified prior to NARA approval; or

(2) If NARA and the agency cannot agree on the disposition instruction for an item(s), the item(s) will be withdrawn. In these cases, the agency must submit an SF 115 with a revised proposal for disposition; unscheduled records must be treated as permanent until a new schedule is approved.

§ 1225.16 How do agencies schedule temporary records?

(a) *Identification.* Federal agencies request authority to dispose of records, either immediately or on a recurring basis. Requests for immediate disposal are limited to existing records that no longer accumulate. For recurring records, approved schedules provide continuing authority to destroy the records. The retention periods approved by NARA are mandatory, and the agency must dispose of the records after expiration of the retention period, except as provided in §§ 1226.18 and 1226.20 of this subchapter.

(b) *Requirements.* Each item on an SF 115 proposed for eventual destruction must include the following:

(1) Descriptive title familiar to agency personnel;

(2) Description of the records including agency function, physical type(s) and informational content;

(3) Disposition instructions developed using the following guidelines:

(i) If the record series, component of an electronic information system, or appropriate aggregation of series and/or automated system components is current and continuing, the SF 115 must include file breaks, retention period or event after which the records will be destroyed, and, if appropriate, transfer period for retiring inactive records to an approved records storage facility.

(ii) If the records series, system, or other aggregation is nonrecurring, *i.e.*, no additional records will be created or acquired, the SF 115 must specify either immediate destruction or destruction on a future date.

(c) *Determination.* If NARA determines that the proposed disposition is not consistent with the value of the records, it will request that the agency make appropriate changes.

(1) If NARA determines that records proposed as temporary merit permanent retention and transfer to the National Archives of the United States, the agency must change the disposition instruction prior to approval of the SF 115.

(2) If NARA and the agency cannot agree on the retention period for an item(s), the item(s) will be withdrawn. In these cases, the agency must submit an SF 115 with a revised proposal for disposition; unscheduled records must be treated as permanent until a new schedule is approved.

§ 1225.18 How do agencies request records disposition authority?

(a) Federal agencies submit an SF 115 to NARA to request authority to schedule (establish the disposition for) permanent and temporary records, either on a recurring or one-time basis.

(b) SF 115s include only records not covered by the General Records Schedules (GRS) (see part 1227 of this subchapter), deviations from the GRS (see § 1227.12 of this subchapter), or previously scheduled records requiring changes in retention periods or substantive changes in description.

(c) SF 115s do not include nonrecord material. The disposition of nonrecord materials is determined by agencies and does not require NARA approval.

(d) The following elements are required on a SF 115:

(1) Title and description of the records covered by each item.

(2) Disposition instructions that can be readily applied. Records schedules must provide for:

(i) The destruction of records that no longer have sufficient value to justify further retention (see § 1224.10(b) of this subchapter); and

(ii) The identification of potentially permanent records and provisions for their transfer to the legal custody of NARA.

(3) Certification that the records proposed for disposition are not now needed for the business of the agency or will not be needed after the specified retention periods. The signature of the authorized agency representative on the SF 115 provides certification.

(e) NARA will return SF 115s that are improperly prepared. The agency must

make the necessary corrections and resubmit the form to NARA.

§ 1225.20 When do agencies have to get GAO approval for schedules?

(a), Federal agencies must obtain the approval of the Comptroller General for the disposal of the following types of records:

(1) Program records less than 3 years old,

(2) Deviations from General Records Schedule 2–10 (see § 1227.10 of this subchapter for a definition of general records schedules), and

(b) This approval must be obtained before NARA will approve the disposition request.

§ 1225.22 When must scheduled records be rescheduled?

Agencies must submit an SF 115, Request for Records Disposition Authority, to NARA in the following situations:

(a) If an interagency reorganization reassigns functions to an existing department or agency, the gaining organization must submit an SF 115 to NARA within one year of the reorganization. Schedules approved for one department or independent agency do not apply to records of other departments or agencies.

(b) If a new department or agency assumes functions from an existing one, the new agency must schedule records documenting the acquired functions and all other records not covered by the GRS within two years.

(c) If an agency needs to deviate from retention periods in the GRS.

(d) If an agency needs to change retention periods for records previously appraised as temporary by NARA.

(e) If an agency needs to change the approved disposition of records from permanent to temporary or vice versa.

(f) If an agency needs to modify the description of records because the informational content of the records and/or the function documented by the records changes.

(g) If an agency decides to change the scope of the records schedule items to include a greater or lesser aggregation of records (see § 1225.12(c)), unless § 1225.24 applies.

(h) Agencies must submit a new schedule to NARA for electronic versions of previously scheduled records if:

(1) The content and function of the records have changed significantly (e.g., the electronic records contain information that is substantially different from the information included in the hard copy series or are used for different purposes).

(2) The previously approved schedule explicitly excludes electronic records.

(3) The electronic records consist of program records maintained on an agency Web site.

(4) The electronic records consist of temporary program records maintained in a format other than scanned image AND the previously approved schedule is not media neutral.

§ 1225.24 When can an agency apply previously approved schedules to electronic records?

If the conditions specified in § 1225.22(h) do not apply, the following conditions apply:

(a) *Permanent records.*

(1) The agency may apply a previously approved schedule for hard copy records to electronic versions of the permanent records when the electronic records system replaces a single series of hard copy permanent records or the electronic records consist of information drawn from multiple previously scheduled permanent series. Agencies must notify the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740–6001, phone number 301–837–1738, in writing of series of records that have been previously scheduled as permanent in hard copy form, including special media records as described in 36 CFR 1235.52 of this subchapter. An agency should send the notification to the NARA unit that processes its schedules. The notification must be submitted within 90 days of when the electronic recordkeeping system becomes operational and must contain the:

(i) Name of agency;

(ii) Name of the electronic system;

(iii) Organizational unit(s) or agency program that records support;

(iv) Current disposition authority reference; and

(v) Format of the records (e.g., database, scanned images, digital photographs, etc.).

(2) If the electronic records include information drawn from both temporary and permanent hard copy series, an agency either may apply a previously approved permanent disposition authority, after submitting the notification required by paragraph (a)(1) of this section or may submit a new schedule if the agency believes the electronic records do not warrant permanent retention.

(b) *Temporary still pictures, sound recordings, motion picture film, and video recordings.* The agency must apply the previously approved schedule to digital versions. If changes in the

approved schedule are required, follow § 1225.26.

(c) *Scanned images of temporary records, including temporary program records.* The agency must apply the previously approved schedule. If changes in the approved schedule are required, follow § 1225.26.

(d) *Other temporary records maintained in an electronic format other than scanned images.*

(1) For temporary records that are covered by an item in a General Records Schedule (other than those General Records Schedule items that exclude electronic master files and databases) or an agency-specific schedule that pertains to administrative housekeeping activities, apply the previously approved schedule. If the electronic records consist of information drawn from multiple hard copy series, apply the previously approved schedule item with the longest retention period.

(2) For temporary program records covered by a NARA-approved media neutral schedule item (i.e., the item appears on a schedule submitted to NARA for approval before December 17, 2007, that is explicitly stated to be media neutral, or it appears on a schedule submitted to NARA for approval on or after December 17, 2007, that is not explicitly limited to a specific recordkeeping medium), apply the previously approved schedule.

§ 1225.26 How do agencies change a disposition authority?

Agencies must submit an SF 115 to permanently change the approved disposition of records. Disposition authorities are automatically superseded by approval of a later SF 115 for the same records unless the later SF 115 specifies an effective date. As provided in § 1226.20(c) of this subchapter, agencies are authorized to retain records eligible for destruction until the new schedule is approved.

(a) SF 115s that revise previously approved disposition authorities must cite all of the following, if applicable:

(1) The SF 115 and item numbers to be superseded;

(2) The General Records Schedules and item numbers that cover the records, if any; and

(3) The current published records disposition manual and item numbers; or the General Records Schedules and item numbers that cover the records.

(b) Agencies must submit with the SF 115 an explanation and justification for the change.

(c) For temporary retention of records beyond their normal retention period, see § 1226.18 of this subchapter.

(d) Agencies must secure NARA approval of a change in the period of

time that permanent records will remain in agency legal custody prior to transfer to the National Archives of the United States. To request approval, agencies send written requests to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. NARA approval is documented as an annotation to the schedule item. A new SF 115 is not required to extend the time period of agency legal custody.

PART 1226—IMPLEMENTING DISPOSITION

Sec.

- 1226.1 What are the general authorities for this part?
- 1226.2 What definitions apply to this part?
- 1226.3 What standards are used as guidance for this part?
- 1226.10 Must agencies apply approved schedules to their records?
- 1226.12 How do agencies disseminate approved schedules?
- 1226.14 What are the limitations in applying approved records schedule?
- 1226.16 Does NARA ever withdraw disposition authority?
- 1226.18 When may agencies temporarily extend retention periods?
- 1226.20 How do agencies temporarily extend retention periods?
- 1226.22 When must agencies transfer permanent records?
- 1226.24 How must agencies destroy temporary records?
- 1226.26 How do agencies donate temporary records?

Authority: 44 U.S.C. 2111, 2904, 3102, and 3301.

§ 1226.1 What are the general authorities for this part?

The statutory authorities are 44 U.S.C. 2107, 2111, 2904, 3102, 3301 and 3302.

§ 1226.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1226.

§ 1226.3 What standards are used as guidance for this part?

These regulations conform with guidance in ISO 15489-1:2001, Information and documentation—Records management, sections 8.3.7 (Retention and disposition), 8.5 (Discontinuing records systems), 9.2 (Determining how long to retain records), and 9.9 (Implementing disposition).

§ 1226.10 Must agencies apply approved schedules to their records?

The application of approved schedules is mandatory except as provided in §§ 1226.16 and 1226.18. Federal records must be retained as

specified in the schedule to conduct Government business, protect rights, avoid waste, and preserve permanent records for transfer to the National Archives of the United States.

§ 1226.12 How do agencies disseminate approved schedules?

(a) Agencies must issue disposition authorities through their internal directives system within six months of approval of the SF 115 or GRS to ensure proper distribution and application of the schedule. The directive must cite the legal authority (GRS or SF 115 and item numbers) for each schedule item covering records.

(b) Agencies must send, via link or file, an electronic copy of each published agency schedule, directive, and other policy issuance relating to records disposition to NARA at *RM.Communications@nara.gov* when the directive, manual, or policy issuance is posted or distributed.

(c) The submission must include the name, title, agency, address, and phone number of the submitter. If the comprehensive records schedule or other policy issuance is posted on a publicly available Web site, the agency must provide the full Internet address (URL).

§ 1226.14 What are the limitations in applying approved records schedules?

Agencies must apply the approved records disposition schedules to their agency's records as follows

(a) Records described by items marked "disposition not approved" or "withdrawn" may not be destroyed until a specific disposition has been approved by NARA.

(b) Disposition authorities for items on approved SF 115s that specify an organizational component of the department or independent agency as the creator or custodian of the records may be applied to the same records after internal reorganization, but only if the nature, content, and functional importance of the records remain the same. Authority approved for items described in a functional format may be applied to any organizational component within the department or independent agency that is responsible for the relevant function.

(c) Disposition authorities approved for one department or independent agency may not be applied to records of another department or agency. Departments or agencies that acquire records from another department or agency, and/or continue creating the same series of records previously created by another department or agency through interagency

reorganization must promptly submit an SF 115 to NARA for disposition authorization. Until the new records schedule is approved, the records are unscheduled. See § 1225.22 of this subchapter.

(d) Unless otherwise specified, newly approved disposition authorities apply retroactively to all existing records as described in the schedule.

(e) When required by court order (*i.e.*, order for expungement or destruction), an agency may destroy temporary records before their NARA-authorized disposition date. In accordance with § 1230.14 of this subchapter, an agency must notify the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738, when permanent or unscheduled records are to be destroyed in response to a court order. If the records have significant historical value, NARA will promptly advise the agency of any concerns over their destruction.

§ 1226.16 Does NARA ever withdraw disposition authority?

(a) When required to ensure the preservation of Government records, or when required by an emergency, or to maintain efficiency of Government operations, NARA will withdraw disposal authorizations in approved schedules (44 U.S.C. 2909). This withdrawal may apply to particular items on agency schedules or may apply to all existing authorizations for a specified type of record in any or all agencies.

(b) To both impose and rescind the withdrawal, NARA will notify the affected agency or agencies in writing, either by letter or NARA bulletin.

§ 1226.18 When may agencies temporarily extend retention periods?

(a) Agencies may temporarily retain records approved for destruction beyond their NARA-approved retention period if special circumstances alter the normal administrative, legal, or fiscal value of the records.

(1) Agencies must not retain records whose disposal after a specified period is required by statute, unless retention is ordered by a Court.

(2) In determining whether or not to temporarily extend the retention period of records, agencies must ensure that the extension of retention is consistent with the requirement contained in 5 U.S.C. 552a (Privacy Act of 1974, as amended) that records concerning individuals are maintained only if relevant and necessary to accomplish a purpose of

the agency that is required by law or Executive order.

(b) If the records that are to be temporarily retained beyond their approved destruction date have been transferred to records storage facilities, agencies must notify the facility.

(c) Once the special circumstances that require extended retention of records have elapsed, agencies must destroy the records in accordance with the NARA-approved disposition instructions.

(d) Agencies must submit an SF 115 to NARA to change schedule provisions on a continuing basis in accordance with § 1225.26 of this subchapter. Agencies may retain records eligible for destruction until the new schedule is approved.

§ 1226.20 How do agencies temporarily extend retention periods?

(a) Agencies must secure NARA written approval to retain records series or systems that are eligible for destruction under NARA-approved schedules except when:

(1) The agency has requested a change in the records schedule in accordance with § 1225.26 of this subchapter, in which case the agency is authorized to retain records eligible for destruction until the new SF 115 is approved;

(2) The records will be needed for less than one year; or

(3) A court order requires retention of the records.

(b) To request an extension, agencies must send a letter to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. Along with a justification, the request must include:

(1) A concise description of the records series for which the extension is requested.

(2) A citation to the agency records schedule or the GRS currently governing disposition of the records;

(3) A statement of the estimated period of time that the records will be required; and

(4) For records in the agency's custody, a statement of the current and proposed physical location of the records.

(c) Agencies must ensure that records in records storage facilities are retained for the duration of the extension.

§ 1226.22 When must agencies transfer permanent records?

All records scheduled as permanent must be transferred to the National Archives of the United States after the period specified on the SF 115 in

accordance with procedures specified under § 1235.12 of this subchapter.

§ 1226.24 How must agencies destroy temporary records?

(a) *Sale or salvage of unrestricted records*—(1) *Paper records*. Paper records to be destroyed normally must be sold as wastepaper, or otherwise salvaged. All sales must follow the established procedures for the sale of surplus personal property. (See 41 CFR part 101-45, Sale, Abandonment, or Destruction of Personal Property.) The contract for sale must prohibit the resale of all records for use as records or documents.

(2) *Records on electronic and other media*. Records other than paper records (audio, visual, and electronic records on physical media data tapes, disks, and diskettes) may be salvaged and sold in the same manner and under the same conditions as paper records.

(b) *Destruction of unrestricted records*. Unrestricted records that agencies cannot sell or otherwise salvage must be destroyed by burning, pulping, shredding, macerating, or other suitable means authorized by implementing regulations issued under E.O. 12958, as amended or its successor.

(c) *Destruction of classified or otherwise restricted records*. If the records are restricted because they are national security classified or exempted from disclosure by statute, including the Privacy Act, or regulation:

(1) *Paper records*. For paper records, the agency or its wastepaper contractor must definitively destroy the information contained in the records by one of the means specified in paragraph (b) of this section and their destruction must be witnessed either by a Federal employee or, if authorized by the agency, by a contractor employee.

(2) *Electronic records*. Electronic records scheduled for destruction must be disposed of in a manner that ensures protection of any sensitive, proprietary, or national security information. Magnetic recording media previously used for electronic records containing sensitive, proprietary, or national security information must not be reused if the previously recorded information can be compromised in any way by reuse of the media.

§ 1226.26 How do agencies donate temporary records?

(a) Agencies must obtain written approval from NARA before donating records eligible for disposal to an appropriate person, organization, institution, corporation, or government (including a foreign government) that

has requested them. Records that are not eligible for disposal cannot be donated.

(b) Agencies request the approval of such a donation by sending a letter to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. The request must include:

(1) The name of the department or agency, and relevant subdivisions, having custody of the records;

(2) The name and address of the proposed recipient of the records;

(3) A list containing:

(i) Description of the records to be transferred,

(ii) The inclusive dates of the records,

(iii) The SF 115 or GRS and item numbers that authorize destruction of the records;

(4) A statement providing evidence:

(i) That the proposed donation is in the best interests of the Government,

(ii) That the proposed recipient agrees not to sell the records as records or documents, and

(iii) That the donation will be made without cost to the U.S. Government;

(5) A certification that:

(i) The records contain no information the disclosure of which is prohibited by law or contrary to the public interest, and/or

(ii) The records proposed for transfer to a person or commercial business are directly pertinent to the custody or operations of properties acquired from the Government, and/or

(iii) A foreign government desiring the records has an official interest in them.

(c) NARA will determine whether the donation is in the public interest and notify the requesting agency of its decision in writing. If NARA determines such a proposed donation is contrary to the public interest, the agency must destroy the records in accordance with the appropriate disposition authority.

PART 1227—GENERAL RECORDS SCHEDULES

Sec.

1227.1 What are the authorities for Part 1227?

1227.2 What definitions apply to this part?

1227.3 What standards are used as guidance for this part?

1227.10 What are General Records Schedules (GRS)?

1227.12 When must agencies apply the GRS?

1227.14 How do I obtain copies of the GRS?

Authority: 44 U.S.C. 3303a(d).

§ 1227.1 What are the authorities for Part 1227?

The statutory authority for this part is 44 U.S.C. 3303a(d).

§ 1227.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1227.

§ 1227.3 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489—

1:2001, Information and documentation—Records management, paragraphs 9.2 (Determining how long to retain records) and 9.9 (Implementing disposition).

§ 1227.10 What are General Records Schedules (GRS)?

General Records Schedules (GRS) are schedules issued by the Archivist of the United States that authorize, after specified periods of time, the destruction of temporary records or the

transfer to the National Archives of the United States of permanent records that are common to several or all agencies.

§ 1227.12 When must agencies apply the GRS?

(a) Agencies apply the disposition instructions of the GRS, as provided in the following table.

When NARA issues a new or revised GRS, and . . .	Then . . .
(1) The new or revised GRS states that the provisions must be followed without exception.	All agencies must follow the disposition instructions of the GRS, regardless of whether or not they have existing schedules.
(2) Your agency does not have an existing schedule for these records.	Your agency must follow the disposition instructions of the GRS. If your agency's needs require a different retention period, then your agency must submit an SF 115 in accordance with 36 CFR part 1225 of this subchapter, and a justification for the deviation.
(3) When your agency has an existing schedule and the new or revised GRS permits use of existing agency-specific schedules.	Your agency may follow the disposition instructions in either the GRS or the existing agency schedule, but it must follow the same instructions throughout the agency and instruct its staff to do so. If your agency chooses to follow its own schedule, then it must notify NARA within 120 days of the issuance of the new or revised GRS.
(4) Your agency does not create or maintain any of the records addressed by that GRS.	No action is required.

(b) Except as provided in the table in paragraph (a), agencies must incorporate in their disposition manual or otherwise disseminate new and revised GRS within 6 months after NARA has issued the GRS Transmittal.

(c) NARA may, at its discretion, apply the provisions of the GRS to records in its legal custody, subject to the provisions of § 1235.34 of this subchapter.

§ 1227.14 How do I obtain copies of the GRS?

(a) The GRS and instructions for their use are available online at <http://www.archives.gov/records-mgmt/ardor/records-schedules.html>. They are also available by writing to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738.

(b) NARA distributes new and revised GRS to Federal agencies under sequentially numbered GRS transmittals.

PART 1228—LOAN OF PERMANENT AND UNSCHEDULED RECORDS

Sec.

1228.1 What are the authorities for this part?

1228.2 What definitions apply to this part?

1228.8 Do loans of temporary records require NARA approval?

1228.10 When do loans of permanent and unscheduled records require NARA approval?

1228.12 How do agencies obtain approval to loan permanent or unscheduled records?

1228.14 How will NARA handle a loan request?

1228.16 When must agencies retrieve records that have been loaned?

Authority: 44 U.S.C. 2904.

§ 1228.1 What are the authorities for this part?

The statutory authority for this part is 44 U.S.C. 2904.

§ 1228.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1228.

§ 1228.8 Do loans of temporary records require NARA approval?

Loans of temporary records between Federal agencies or to non-Federal recipients do not require approval from NARA. The lending agency is responsible for documenting the loan and return of the records.

§ 1228.10 When do loans of permanent and unscheduled records require NARA approval?

Loans of permanent or unscheduled records between Federal agencies or to non-Federal recipients require prior written approval from NARA. The loan of permanent or unscheduled records increases the likelihood of the records becoming lost, misplaced, or incorporated into other files. Agencies should consider reproducing or

scanning the records in response to a loan request.

§ 1228.12 How do agencies obtain approval to loan permanent or unscheduled records?

(a) An agency proposing to loan permanent or unscheduled records must prepare a written loan agreement with the proposed recipient. The agreement must include:

- (1) The name of the department or agency and subdivisions having custody of the records;
- (2) The name and address of the proposed recipient of the records;
- (3) A list containing:
 - (i) Identification of the records to be loaned, by series or system;
 - (ii) The inclusive dates for each series or system;
 - (iii) The volume and media of the records to be loaned; and
 - (iv) The NARA disposition job (SF 115) and item numbers covering the records, if any.
- (4) A statement of the purpose and duration of the loan;
- (5) A statement specifying any restrictions on the use of the records and how these restrictions will be imposed by the recipient;
- (6) A certification that the records will be stored in areas with security and environmental controls equal to those specified in part 1234 of this subchapter; and
- (7) A signature block for the Archivist of the United States. The loan must not

take place until the Archivist has signed the agreement.

(b) On request, NARA may allow an agency to prepare an annual loan agreement covering multiple transfers from the same series of records to another single Federal agency.

(c) The agency must send a written request to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738, transmitting the proposed loan agreement, citing the rationale for not providing copies in place of the original records, and specifying the name, title, and phone number of an agency contact. The request must be submitted or approved by the individual authorized to sign records schedules as described in § 1220.34(b) of this subchapter.

§ 1228.14 How will NARA handle a loan request?

(a) NARA will review the request and, if it is approved, return the signed agreement to the agency within 30 days.

(b) NARA will deny the request within 30 days if the records are due or past due to be transferred to the National Archives of the United States in accordance with part 1235 of this subchapter, if the loan would endanger the records, or if the loan would otherwise violate the regulations in 36 CFR chapter XII, subchapter B. NARA will notify the agency in writing if it disapproves the loan and the reasons for the disapproval of the loan.

§ 1228.16 When must agencies retrieve records that have been loaned?

An agency must contact the recipient of loaned permanent or unscheduled records 30 days prior to the expiration of the loan period (as stated in the loan agreement) to arrange for the return of the records. If the agency extends the duration of the loan, it must notify NARA (see § 1228.12(b)) in writing, specifying the reason for the extension and providing the new expiration date of the loan.

PART 1229—EMERGENCY AUTHORIZATION TO DESTROY RECORDS

Sec.

1229.1 What is the scope of this part?

1229.2 What are the authorities for this part?

1229.3 What definitions apply to this part?

1229.10 What steps must be taken when records are a continuing menace to health or life, or to property?

1229.12 What are the requirements during a state of war or threatened war?

Authority: 44 U.S.C. 3310 and 3311.

§ 1229.1 What is the scope of this part?

This part describes certain conditions under which records may be destroyed without regard to the provisions of part 1226 of this subchapter.

§ 1229.2 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 3310 and 3311.

§ 1229.3 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1229.

§ 1229.10 What steps must be taken when records are a continuing menace to health or life, or to property?

When NARA and the agency that has custody of them jointly determine that records in the custody of an agency of the U.S. Government are a continuing menace to human health or life, or to property, NARA will authorize the agency to eliminate the menace immediately by any method necessary:

(a) When an agency identifies records that pose a continuing menace to human health or life, or to property, the records officer or other designee must immediately notify the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. The notice must specify the description of the records, their location and quantity, and the nature of the menace. Notice may be given via e-mail to *RM.Communications@nara.gov*, or via phone, (301) 837-1738, or fax, (301) 837-3698, to NWM or the NARA Regional Administrator.

(b) If NARA concurs in a determination that the records must be destroyed, NARA will notify the agency to immediately destroy the records.

(c) If NARA does not concur that the menace must be eliminated by destruction of the records, NARA will advise the agency on remedial action to address the menace.

§ 1229.12 What are the requirements during a 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 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, fiscal, legal,

historical, or other value to warrant their continued preservation.

(b) Within six months after the destruction of any records under this authorization, the agency official who directed the destruction must submit to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738, a written statement explaining the reasons for the destruction and a description of the records and how, when, and where the destruction was accomplished.

PART 1230—UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

Sec.

1230.1 What are the authorities for part 1230?

1230.2 What standards are used as guidance for this part?

1230.3 What definitions apply to this part?

1230.10 Who is responsible for preventing the unlawful or accidental removal, defacing, alteration, or destruction of records?

1230.12 What are the penalties for unlawful or accidental removal, defacing, alteration, or destruction of records?

1230.14 How do agencies report incidents?

1230.16 How does NARA handle allegations of damage, alienation, or unauthorized destruction of records?

1230.18 What assistance is available to agencies to recover unlawfully removed records?

Authority: 44 U.S.C. 3105 and 3106.

§ 1230.1 What are the authorities for part 1230?

The statutory authorities for this part are 44 U.S.C. 3105 and 3106.

§ 1230.2 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489-1:2001, par. 6.3 (Responsibilities), 7.2 (Characteristics of a record), 8.2 (Records systems characteristics), and 8.3 (Designing and implementing records systems).

§ 1230.3 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1230.

(b) As used in part 1230—

Alteration means the unauthorized annotation, addition, or deletion to a record.

Deface means to obliterate, mar, or spoil the appearance or surface of a record that impairs the usefulness or value of the record.

Removal means selling, donating, loaning, transferring, stealing, or otherwise allowing a record to leave the custody of a Federal agency without the permission of the Archivist of the United States.

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records.

§ 1230.10 Who is responsible for preventing the unlawful or accidental removal, defacing, alteration, or destruction of records?

The heads of Federal agencies must:

(a) Prevent the unlawful or accidental removal, defacing, alteration, or destruction of records. Section 1222.24(a)(6) of this subchapter prohibits removing records from the legal custody of the agency. Records must not be destroyed except under the provisions of NARA-approved agency records schedules or the General Records Schedules issued by NARA;

(b) Take adequate measures to inform all employees and contractors of the provisions of the law relating to unauthorized destruction, removal, alteration or defacement of records;

(c) Implement and disseminate policies and procedures to ensure that records are protected against unlawful or accidental removal, defacing, alteration and destruction; and

(d) Direct that any unauthorized removal, defacing, alteration or destruction be reported to NARA.

§ 1230.12 What are the penalties for unlawful or accidental removal, defacing, alteration, or destruction of records?

The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

§ 1230.14 How do agencies report incidents?

The agency must report promptly any unlawful or accidental removal, defacing, alteration, or destruction of records in the custody of that agency to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number 301-837-1738.

(a) The report must include:

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

(2) The office maintaining the records;

(3) A statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of 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) The report must be submitted or approved by the individual authorized to sign records schedules as described in § 1220.34(b) of this subchapter.

§ 1230.16 How does NARA handle allegations of unlawful or accidental removal, defacing, alteration, or destruction?

Upon receiving any credible information that records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, NARA will contact the agency as follows:

(a) If the threat has not yet resulted in damage, removal, or destruction, NARA will contact the agency by phone promptly and follow up in writing within five business days.

(b) If records have allegedly been damaged, removed, or destroyed, NARA will notify the agency in writing promptly with a request for a response within 30 days.

§ 1230.18 What assistance is available to agencies to recover unlawfully removed records?

NARA will assist the head of the agency in the recovery of any unlawfully removed records, including contacting the Attorney General, if appropriate.

PART 1231—TRANSFER OF RECORDS FROM THE CUSTODY OF ONE EXECUTIVE AGENCY TO ANOTHER

Sec.

1231.1 What is the authority for part 1231?

1231.2 What definitions apply to this part?

1231.10 Who has the authority to approve the transfer of records from the custody of one executive agency to another?

1231.12 How do executive agencies request to transfer records to another executive agency?

1231.14 May the records of terminated agencies be transferred to another agency?

1231.16 What restrictions are there on use of transferred records?

1231.18 When are records transferred between executive agencies without NARA approval?

Authority: 44 U.S.C. 2908.

§ 1231.1 What is the authority for part 1231?

The authority for this part is 44 U.S.C. 2908.

§ 1231.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including this part.

§ 1231.10 Who has the authority to approve the transfer of records from the custody of one executive agency to another?

NARA must approve in writing the transfer of records from the custody of one executive agency to another, except as provided in § 1231.18(a).

§ 1231.12 How do executive agencies request to transfer records to another executive agency?

An executive agency that proposes to transfer records to another agency must request approval of the transfer of records in writing from the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. The request must include:

(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;

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

(f) Copies of the concurrence in the transfer by the heads of all agencies involved in the proposed transfer.

§ 1231.14 May the records of terminated agencies be transferred to another agency?

The records of executive agencies whose functions are terminated or are in process of liquidation may be transferred to another executive agency that inherits the function. All such transfers must be made in accordance with the provisions of this part.

§ 1231.16 What restrictions are there on use of transferred records?

Restrictions imposed under a statute or Executive order must continue to be imposed after the transfer. Restrictions imposed by agency determination must also continue, unless the restrictions are removed by agreement between the agencies concerned.

§ 1231.18 When are records transferred between executive agencies without NARA approval?

Records are transferred between executive agencies without NARA approval when:

(a) Records are transferred to a NARA or agency-operated records center or to the National Archives of the United States in accordance with Parts 1232, 1233, and 1235 of this subchapter;

(b) Temporary records are loaned for official use;

(c) The transfer of records or functions or both is required by statute, Executive Order, Presidential reorganization plan, or Treaty, or by specific determinations made thereunder;

(d) The records are transferred between two components of the same executive department; or

(e) Records accessioned into the National Archives of the United States are later found to lack sufficient value for continued retention in the National Archives. The disposition of such records is governed by § 1235.34 of this subchapter.

PART 1232—TRANSFER OF RECORDS TO RECORDS STORAGE FACILITIES

Sec.

1232.1 What are the authorities for part 1232?

1232.2 What definitions apply to this part?

1232.3 What standards are used as guidance for this part?

1232.10 Where can a Federal agency transfer records for storage?

1232.12 Under what conditions may Federal records be stored in records storage facilities?

1232.14 What requirements must an agency meet before it transfers records to a records storage facility?

1232.16 What documentation must an agency create before it transfers records to a records storage facility?

1232.18 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Authority: 44 U.S.C. 2907 and 3103.

§ 1232.1 What are the authorities for part 1232?

The statutory authorities for this part are 44 U.S.C. 2907 and 3103.

§ 1232.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1232.

§ 1232.3 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489-1:2001 Paragraphs 7.1 (Principles of records management programmes), 8.3.3 (Physical storage medium and protection), 8.3.6 (Access, retrieval and use), 8.3.7 (Retention and disposition), 9.6 (Storage and handling), and 9.8.3 (Location and tracking) apply to records creation and maintenance.

1232.10 Where can a Federal agency transfer records for storage?

Federal agencies may store records in the following types of records storage facilities, so long as the facilities meet the facility standards in 36 CFR part 1234. Records transferred to a records

storage facility remain in the legal custody of the agency.

(a) NARA Federal Records Centers. NARA owns or operates records centers for the storage, processing, and servicing of records for Federal agencies under the authority of 44 U.S.C. 2907. These NARA records centers include a National Personnel Records Center that contains designated records of the Department of Defense and the Office of Personnel Management and other designated records pertaining to former Federal civilian employees. A list of NARA Federal Records Centers is available from the NARA Web site at <http://www.archives.gov/locations/index.html> and also in the U.S. Government Manual, which is for sale from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402-9328, and is available on the Internet from <http://www.access.gpo.gov/nara/index.html>.

(b) Records centers operated by or on behalf of one or more Federal agencies other than NARA.

(c) Commercial records storage facilities operated by private entities.

§ 1232.12 Under what conditions may Federal records be stored in records storage facilities?

The following chart shows what records can be stored in a records storage facility and the conditions that apply:

Type of record	Conditions
(a) Permanent records	Any storage facility that meets the provisions of 36 CFR part 1234.
(b) Unscheduled records	(1) Any storage facility that meets the provisions of 36 CFR part 1234. (2) Also requires prior notification to NARA (see § 1232.14(b)).
(c) Temporary records (excluding Civilian Personnel Records).	Any storage facility that meets the provisions of 36 CFR part 1234.
(d) Vital records	Storage facility must meet the provisions of 36 CFR parts 1223 and 1234.
(e) Civilian Personnel Records	May only be transferred to the National Personnel Records Center (NPRC), St. Louis, MO (see part 1233 of this subchapter).

§ 1232.14 What requirements must an agency meet before it transfers records to a records storage facility?

An agency must meet the following requirements before it transfers records to a records storage facility:

(a) Ensure that the requirements of 36 CFR part 1234 are met. Special attention must be paid to ensuring appropriate storage conditions for records on non-paper based media (e.g., film, audio tape, magnetic tape), especially those that are scheduled for long-term or permanent retention, as those records typically require more stringent

environmental controls (see 36 CFR parts 1236 and 1237).

(b) To transfer unscheduled records, notify the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738, in writing prior to the transfer. The notification must identify the records storage facility and include a copy of the information required by § 1232.16(a).

(c) For all records being transferred, create documentation sufficient to identify and locate files. (See § 1232.16.)

(d) Ensure that NARA-approved retention periods are implemented properly and that records documenting final disposition actions (destruction or transfer to the National Archives of the United States) are created and maintained.

§ 1232.16 What documentation must an agency create before it transfers records to a records storage facility?

(a) Documentation must include for each individual records series spanning one or more consecutive years transferred to storage:

- (1) Creating office;

- (2) Series title;
- (3) Description (in the case of permanent or unscheduled records, the description must include a folder title list of the box contents or equivalent detailed records description);
- (4) Date span;
- (5) Physical form and medium of records (e.g., paper, motion picture film, sound recordings, photographs, or digital images);
- (6) Volume;
- (7) Citation to NARA-approved records schedule or agency records disposition manual (unscheduled records must cite the date the agency notified NARA or, if available, the date the SF 115 was submitted to NARA);
- (8) Restrictions on access if applicable;
- (9) Disposition (“permanent,” “temporary,” or “unscheduled; SF 115 pending”);
- (10) Date of disposition action (transfer to the National Archives of the United States or destruction);
- (11) Physical location, including name and address of facility; and
- (12) Control number or identifier used to track records.

(b) In the case of permanent and unscheduled records, provide copies of such documentation to NARA and advise NARA in writing of the new location whenever the records are moved to a new storage facility. For permanent records, the agency must transmit this documentation to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–1738, no later than 30 days after records are transferred to the agency records center or commercial records storage facility.

(1) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1226.18 of this subchapter.

(2) Transfer permanent records to the National Archives of the United States in accordance with 36 CFR part 1235.

§ 1232.18 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Federal agencies must use the following procedures to transfer records to an agency records center or commercial records storage facility:

- (a) Agreements with agency records centers or contracts with commercial records storage facilities must incorporate the standards in 36 CFR part 1234 and allow for inspections by the agency and NARA to ensure

compliance. An agency must remove records promptly from a facility if deficiencies identified during an inspection are not corrected within six months of issuance of the report.

(b) For temporary records, the agency must make available to NARA on request the documentation specified in § 1232.16.

(c) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1226.18 of this subchapter.

(d) Ensure that NARA-approved retention periods are implemented properly and that records documenting final disposition actions (destruction or transfer to the National Archives of the United States) are created and maintained as required by 36 CFR 1232.14.

(1) Agencies must establish procedures that ensure that temporary records are destroyed in accordance with NARA-approved records schedules and that NARA-approved changes to schedules, including the General Records Schedules, are applied to records in agency records centers or commercial records storage facilities in a timely fashion. Procedures must include a requirement that the agency records center or commercial records storage facility notify agency records managers or the creating office before the disposal of temporary records unless disposal of temporary records is initiated by the agency.

(2) Move temporary records that are subsequently reappraised as permanent to a facility that meets the environmental control requirements for permanent records in § 1234.14 of this subchapter within one year of their reappraisal, if not already in such a facility. (Paper-based permanent records in an existing records storage facility that does not meet the environmental control requirements in § 1234.14 of this subchapter on October 1, 2009, must be moved from that facility no later than February 28, 2010.)

(3) Agencies must establish procedures to ensure that the agency records centers or commercial records storage facilities transfer permanent records to the National Archives of the United States as individual series spanning one or more years and in accordance with the provisions of part 1235 of this subchapter.

(e) Agencies must ensure that records that are restricted because they are security classified or exempt from disclosure by statute, including the Privacy Act of 1974 (5 U.S.C. 552a, as amended), or regulation are stored and maintained in accordance with

applicable laws, Executive orders, or regulations.

(f) Agencies must ensure that temporary records, including restricted records (security classified or exempted from disclosure by statute, including the Privacy Act of 1974, or regulation), are destroyed in accordance with the requirements specified in § 1226.24 of this subchapter.

(g) Agencies must ensure that emergency operating vital records, as defined in 36 CFR part 1223, that are transferred to an agency records center or commercial records storage facility are available in accordance with 36 CFR 1223.24.

(h) Provide access to appropriate NARA staff to records wherever they are located in order to conduct an inspection in accordance with 36 CFR part 1239 or to process a request for records disposition authority.

PART 1233—TRANSFER, USE, AND DISPOSITION OF RECORDS IN A NARA FEDERAL RECORDS CENTER

Sec.

- 1233.1 What are the authorities for part 1233?
- 1233.2 What definitions apply to this part?
- 1233.3 What standards are used as guidance for this part?
- 1233.10 How does an agency transfer records to a NARA Federal Records Center?
- 1233.12 How does an agency transfer vital records to a NARA Federal Records Center?
- 1233.14 What personnel records must be transferred to the National Personnel Records (NPRC)?
- 1233.16 How does an agency transfer records to the National Personnel Records Center (NPRC)?
- 1233.18 What reference procedures are used in NARA Federal Records Centers?
- 1233.20 How are disposal clearances managed for records in NARA Federal Records Centers?

Authority: 44 U.S.C. 2907 and 3103.

§ 1233.1 What are the authorities for part 1233?

The statutory authorities for this part are 44 U.S.C. 2907 and 3103.

§ 1233.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1233.

§ 1233.3 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489–1:2001. Paragraphs 7.1 (Principles of records management programmes), 8.3.3 (Physical storage medium and protection), 8.3.6 (Access, retrieval and

use), 8.3.7 (Retention and disposition), 9.6 (Storage and handling), and 9.8.3 (Location and tracking) apply to records creation and maintenance.

§ 1233.10 How does an agency transfer records to a NARA Federal Records Center?

An agency transfers records to a NARA Federal Records Center using the following procedures:

(a) General. NARA will ensure that its records centers meet the facilities standards in 36 CFR part 1234, which meets the agency's obligation in § 1232.14(a) of this subchapter.

(b) Agencies must use their designated NARA Federal Records Center(s) as specified in their agency agreement with NARA (Federal Records Center Program (FRCP)) for the storage of records.

(c) Transfers to NARA Federal Records Centers must be preceded by the submission of a Standard Form (SF) 135, Records Transmittal and Receipt, or an electronic equivalent. Preparation and submission of this form will meet the requirements for records description provided in § 1232.14(c) of this subchapter, except the folder title list required for permanent and unscheduled records. A folder title list is also required for records that are scheduled for sampling or selection after transfer.

(d) A separate SF 135 or electronic equivalent is required for each individual records series having the same disposition authority and disposition date.

(e) For further guidance on transfer of records to a NARA Federal Records Center, consult the NARA Federal Records Centers Program Web site (<http://www.archives.gov/frc/toolkit.html#transfer>), or current NARA publications and bulletins by contacting the National Archives and Records Administration, Office of Regional Records Services (NR), 8601 Adelphi Road, College Park, MD or phone (301) 837-2950, or individual NARA Federal Records Centers <http://www.archives.gov/frc/locations.html>.

§ 1233.12 How does an agency transfer vital records to a NARA Federal Records Center?

For assistance on selecting an appropriate site among NARA facilities for storage of vital records, agencies may contact National Archives and Records Administration, Office of Regional Records Services, 8601 Adelphi Road, College Park, MD or phone (301) 837-2950. The actual transfers are governed by the general requirements and procedures in this part and 36 CFR part 1223.

§ 1233.14 What personnel records must be transferred to the National Personnel Records Center (NPRC)?

(a) Civilian personnel files:

(1) General Records Schedules 1 and 2 specify that certain Federal civilian personnel, medical, and pay records must be centrally stored at the National Personnel Records Center headquartered in St. Louis, MO.

(2) [Reserved]

(b) The following types of medical treatment records are transferred to the NPRC:

(1) Inpatient (hospitalization) records created for all categories of patients (active duty personnel, retirees, and dependents) receiving inpatient treatment and extended ambulatory procedures; and

(2) Outpatient medical treatment records for military retirees, dependents, and other civilians treated at military health care facilities (excludes active duty military personnel at time of military discharge or retirement).

§ 1233.16 How does an agency transfer records to the National Personnel Records Center (NPRC)?

Agencies must use the following procedures when transferring records to the NPRC:

(a) *Civilian personnel files.*

(1) Forward the official personnel folder (OPF) and the employee medical folder (EMF) to the NPRC at the same time.

(2) Transfer EMFs and OPFs in separate folders.

(3) Retirement of individual folders is based on the date of separation and should occur within 90 to 120 days after the employee separates from Federal service.

(4) For additional guidance, consult the Office of Personnel Management (OPM) 1900 E Street, NW., Washington, DC 20415, phone number (202) 606-1800, Web site <http://www.opm.gov/feddata/recguide2008.pdf>, for the OPM publication "The Guide to Personnel Recordkeeping" for procedures on the transfer of OPFs and EMFs.

(b) *Military medical records.* Military health care facilities should contact their facility records managers for guidance on transferring medical records to NPRC. For additional guidance, consult the "Transactions with the National Personnel Records Center (NPRC), St. Louis, MO" section of the NARA Federal Records Centers Program Web site (<http://www.archives.gov/frc/toolkit.html#transactions>).

(c) *Other guidance assistance.* For further guidance assistance consult the

NPRC Web site (http://www.archives.gov/facilities/mo/st_louis.html).

§ 1233.18 What reference procedures are used in NARA Federal Records Centers?

(a) Agency records transferred to a NARA Federal Records Center remain in the legal custody of the agency. NARA acts as the agency's agent in maintaining the records. NARA will not disclose the record except to the agency that maintains the record, or under rules established by that agency which are consistent with existing laws.

(b) For general reference requests agencies may use an FRCP electronic system or, the Optional Form (OF) 11, Reference Request—Federal Records Centers, a form jointly designated by that agency and NARA, or their electronic equivalents.

(c) For civilian personnel records, agencies must use the following forms:

(1) Standard Form 127, Request for Official Personnel Folder (Separated Employee), to request transmission of personnel folders of separated employees stored at the National Personnel Records Center. Additional instructions on requesting OPFs are available online at <http://www.archives.gov/st-louis/civilian-personnel/federal-agencies.html>.

(2) Standard Form 184, Request for Employee Medical Folder (Separated Employee), to request medical folders stored at the National Personnel Records Center. Additional instructions on requesting EMFs are available online at <http://www.archives.gov/st-louis/civilian-personnel/federal-agencies.html>.

(3) Optional Form 11, Reference Request—Federal Records Center to request medical records transferred to other NARA Federal Records Centers prior to September 1, 1984. The request must include the name and address of the agency's designated medical records manager

(d) For military personnel records reference requests, the following forms must be used:

(1) Federal agencies must use Standard Form (SF) 180, Request Pertaining to Military Records, to obtain information from military service records in the National Personnel Records Center (Military Personnel Records); authorized agencies requesting the loan of a military personnel record may order records using eMilrecs (electronic equivalent of the SF 180). Access to eMilrecs and additional information is available online at: <http://www.archives.gov/st-louis/military-personnel/agencies/ompf-fed-agency.html>.

(2) A military veteran or the next of kin of a deceased, former member of the military may order military personnel records through the submission of an SF 180 or an online records request system. Additional information is available on line at: <http://www.archives.gov/veterans/evetrecs>.

(3) Members of the public and non-governmental organizations also may obtain copies of SF 180 by submitting a written request to the National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132. OMB Control Number 3095-0029 has been assigned to the SF 180.

(4) Agencies may furnish copies of the SF 180 to the public to aid in inquiries. Copies of SF 180 are available at: <http://www.archives.gov/st-louis/military-personnel/standard-form-180.html#sf>.

(5) For guidance on requesting original medical treatment records, military hospitals and clinics should consult the "Transactions with the National Personnel Records Center (NPRC), St. Louis, MO" section of the NARA Federal Records Centers Program Web site (<http://www.archives.gov/frc/toolkit.html#transactions>).

(e) For further guidance on requesting records from a NARA Federal Records Center, consult the NARA Federal Records Centers Program Web site (<http://www.archives.gov/frc/toolkit.html#retrieval>), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), or individual NARA Federal Records Centers (<http://www.archives.gov/frc/locations.html>), or the Washington National Records Center (NWMW).

§ 1233.20 How are disposal clearances managed for records in NARA Federal Records Centers?

(a) The National Personnel Records Center will destroy records covered by General Records Schedules 1 and 2 in accordance with those schedules without further agency clearance.

(b) NARA Federal Records Centers will destroy other eligible Federal records only with the written concurrence of the agency having legal custody of the records.

(c) NARA Federal Records Centers will maintain documentation on the final disposition of records, as required in 36 CFR 1232.14(d).

(d) When NARA approves an extension of retention period beyond the time authorized in the records schedule for records stored in NARA Federal Records Centers, NARA will notify those affected records centers to

suspend disposal of the records (see § 1226.18 of this subchapter).

(e) For further guidance on records disposition, consult the NARA Federal Records Centers Program Web site (<http://www.archives.gov/frc/toolkit.html#disposition>), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR) or individual NARA Federal Records Centers (<http://www.archives.gov/frc/locations.html>), individual NARA regional facilities, or the Washington National Records Center (NWMW).

PART 1234—FACILITY STANDARDS FOR RECORDS STORAGE FACILITIES

Subpart A—General

Sec.

1234.1 What authorities apply to part 1234?

1234.2 What does this part cover?

1234.3 What publications are incorporated by reference?

1234.4 What definitions are used in this part?

Subpart B—Facility Standards

1234.10 What are the facility requirements for all records storage facilities?

1234.12 What are the fire safety requirements that apply to records storage facilities?

1234.14 What are the requirements for environmental controls for records storage facilities?

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?

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

1234.24 How does NARA process a waiver request?

Subpart D—Facility Approval and Inspection Requirements

1234.30 How does an agency request authority to establish or relocate records storage facilities?

1234.32 What does an agency have to do to certify a fire-safety detection and suppression system?

1234.34 When may NARA conduct an inspection of a records storage facility? Appendix A to Part 1234—Minimum Security Standards for Level III Federal Facilities

Appendix B to Part 1234—Alternative Certified Fire-Safety Detection and Suppression System(s)

Authority: 44 U.S.C. 2104(a), 2904, 2907, 3102, and 3103.

Subpart A—General

§ 1234.1 What authorities apply to part 1234?

NARA is authorized to establish, maintain and operate records centers for Federal agencies under 44 U.S.C. 2907. NARA is authorized, under 44 U.S.C. 3103, to approve a records center that is maintained and operated by an agency. NARA is also authorized to promulgate standards, procedures, and guidelines to Federal agencies with respect to the storage of their records in commercial records storage facilities. See 44 U.S.C. 2104(a), 2904, and 3102. The regulations in this subpart apply to all records storage facilities Federal agencies use to store, service, and dispose of their records.

§ 1234.2 What does this part cover?

(a) This part covers the establishment, maintenance, and operation of records centers, whether Federally-owned and operated by NARA or another Federal agency, or Federally-owned and contractor operated. This part also covers an agency's use of commercial records storage facilities. Records centers and commercial records storage facilities are referred to collectively as records storage facilities. This part specifies the minimum structural, environmental, property, and life-safety standards that a records storage facility must meet when the facility is used for the storage of Federal records.

(b) Except where specifically noted, this part applies to all records storage facilities. Certain noted provisions apply only to new records storage facilities established or placed in service on or after September 28, 2005.

§ 1234.3 What publications are incorporated by reference in this part?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register. For information on the availability of this material at the Office of the Federal Register, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The material incorporated by reference is also available for inspection at NARA's Archives Library Information Center (NWCCA), Room 2380, 8601

Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–3415, and is available for purchase from the sources listed below. If you experience difficulty obtaining the standards referenced below, contact NARA's Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–1867.

(c) *American National Standards Institute (ANSI)*. The following standards are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036, phone number (212) 642–4900, or online at <http://webstore.ansi.org>.

(1) IAPMO/ANSI UMC 1–2003 (“IAPMO/ANSI UMC 1”), Uniform Mechanical Code, 2003, IBR approved for § 1234.12.

(2) NFPA 40 (“NFPA 40–1997”), Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film, 1997 Edition, IBR approved for § 1234.12.

(3) NFPA 42 (“NFPA 42”), Code for the Storage of Pyroxylin Plastic, 1997 Edition, IBR approved for § 1234.12.

(4) NFPA 54 (“NFPA 54”), National Fuel Gas Code, 2002 Edition, IBR approved for § 1234.12.

(5) NFPA 101 (“NFPA 101”), Life Safety Code, 1997 Edition, IBR approved for § 1234.12.

(d) *Document Center Inc.* The following standards are available from the standards reseller the Document Center Inc., 111 Industrial Road, Suite 9, Belmont, CA, 94002, phone number (650) 591–7600, or online at <http://www.document-center.com>.

(1) ANSI/NAPM IT9.18–1996 (“ANSI/NAPM IT9.18”), Imaging Materials—Processed Photographic Plates—Storage Practices, September 8, 1996, IBR approved for § 1234.14.

(2) ANSI/NAPM IT9.23–1996 (“ANSI/NAPM IT9.23”), Imaging Materials—Polyester Base Magnetic Tape—Storage, September 6, 1996, IBR approved for § 1234.14.

(e) *Document Engineering Co., Inc. (DECO)*. The following standards are available from the standards reseller DECO—Document Engineering Co., Inc., 15210 Stagg Street, Van Nuys, CA, phone number (818) 782–1010, or online at <http://www.doceng.com>.

(1) ANSI/NAPM IT9.20–1996 (“ANSI/NAPM IT9.20”), Imaging Materials—Reflection Prints—Storage Practices, September 8, 1996, IBR approved for § 1234.14.

(2) NFPA 221 (“NFPA 221”), Standard for Fire Walls and Fire Barrier

Walls, 1994 Edition, November 1, 1994, IBR approved for § 1234.4.

(3) ASTM E 119–98 (“ASTM E 119–98”), Standard Test Methods for Fire Tests of Building Construction and Materials, 1998, IBR approved for § 1234.12.

(4) NFPA 10 (“NFPA 10”), Portable Fire Extinguishers, 1994 Edition, November 1, 1994, IBR approved for Appendix B to part 1234.

(5) NFPA 13 (“NFPA 13”), Standard for Installation of Sprinkler Systems, 2002 Edition, October 1, 2002, IBR approved for §§ 1234.10 and 1234.12, and Appendix B to part 1234.

(6) NFPA 20 (“NFPA 20”), Standard for the Installation of Centrifugal Fire Pumps, 1996 Edition, January 1, 1996, IBR approved for Appendix B to part 1234.

(f) *Global Engineering Documents*. The following standards are available from the standards reseller Global Engineering Documents, 15 Inverness Way, East Englewood, CO 80112, phone number (800) 854–7179, or online at <http://www.global.ihs.com>.

(1) ANSI/PIMA IT9.25–1998 (“ANSI/PIMA IT9.25”), Imaging Materials—Optical Disc Media—Storage, 1998, IBR approved for § 1234.14.

(2) Reserved.

(g) *Techstreet*. The following standards are available from the standards reseller Techstreet, 3916 Rancho Drive, Ann Arbor, MI 48108, phone number (800) 699–9277, or online at <http://www.Techstreet.com>.

(1) ANSI/PIMA IT9.11–1998 (“ANSI/PIMA IT9.11”), Imaging Materials—Processed Safety Photographic Films—Storage, January 1, 1998, IBR approved for § 1234.14.

(2) UL 827 (“UL 827”), Central-Station Alarm Services, Sixth Edition, April 23, 1999, IBR approved for Appendix B to part 1234.

(3) UL 1076 (“UL 1076”), Proprietary Burglar Alarm Units and Systems, Fifth Edition, February 1, 1999, IBR approved for § 1234.10.

(h) The following standards are not available from the original publisher or a standards reseller. As indicated in paragraph (b) of this section, the standards are available for inspection at the NWCCA. In order to inspect the standards at a NARA location other than the NARA facility in College Park, MD, please contact the NWCCA, Room 2380, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–3415 or e-mail your request to alic@nara.gov.

(1) ANSI/ASHRAE 55–1992 (“ANSI/ASHRAE 55”), Thermal Environmental Conditions for Human Occupancy, 1992, IBR approved for § 1234.14.

(2) ANSI/ASHRAE 62–1989 (“ANSI/ASHRAE 62”), Ventilation for Acceptable Indoor Air Quality, 1989, IBR approved for § 1234.14.

(3) UL 611 (“UL 611”), Central-Station Burglar-Alarm Systems, February 22, 1996, IBR approved for § 1234.10.

§ 1234.4 What definitions are used in this part?

The following definitions apply to this part:

Auxiliary spaces mean non-records storage areas such as offices, research rooms, other work and general storage areas but excluding boiler rooms or rooms containing equipment operating with a fuel supply such as generator rooms.

Commercial records storage facility has the meaning specified in § 1220.18 of this chapter.

Existing records storage facility means any records center or commercial records storage facility used to store records on September 27, 2005, and that has stored records continuously since that date.

Fire barrier wall means a wall, other than a fire wall, having a fire resistance rating, constructed in accordance with NFPA 221 (incorporated by reference, see § 1234.3).

Licensed fire protection engineer means a licensed or registered professional engineer with a recognized specialization in fire protection engineering. For those States that do not separately license or register fire protection engineers, a licensed or registered professional engineer with training and experience in fire protection engineering, operating within the scope of that licensing or registration, who is also a professional member of the Society of Fire Protection Engineers.

Must and provide means that a provision is mandatory.

New records storage facility means any records center or commercial records storage facility established or converted for use as a records center or commercial records storage facility on or after September 28, 2005.

Permanent record has the meaning specified in § 1220.18 of this subchapter.

Records center has the meaning specified in § 1220.18 of this subchapter.

Records storage area means the area intended for long-term storage of records that is enclosed by four fire barrier walls, the floor, and the ceiling.

Records storage facility has the meaning specified in § 1220.18 of this subchapter.

Sample/Select records means records whose final disposition requires an analytical or statistical sampling prior to final disposition authorization, in which some percentage of the original accession will be retained as permanent records.

Should or may means that a provision is recommended or advised but not required.

Temporary record has the meaning specified in § 1220.18 of this subchapter.

Unscheduled records has the meaning specified in § 1220.18 of this subchapter.

Subpart B—Facility Standards

§ 1234.10 What are the facility requirements for all records storage facilities?

(a) The facility must be constructed with non-combustible materials and building elements, including walls, columns and floors. There are two exceptions to this requirement:

(1) Roof elements may be constructed with combustible materials if installed in accordance with local building codes and if roof elements are protected by a properly installed, properly maintained wet-pipe automatic sprinkler system, as specified in NFPA 13 (incorporated by reference, see § 1234.3).

(2) An agency may request a waiver of the requirement specified in paragraph (a) from NARA for an existing records storage facility with combustible building elements to continue to operate until October 1, 2009. In its request for a waiver, the agency must provide documentation that the facility has a fire suppression system specifically designed to mitigate this hazard and that the system meets the requirements of § 1234.12(s). Requests must be submitted to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–1867.

(b) A facility with two or more stories must be designed or reviewed by a licensed fire protection engineer and civil/structural engineer to avoid catastrophic failure of the structure due to an uncontrolled fire on one of the intermediate floor levels. For new buildings the seals on the construction drawings serve as proof of this review. For existing buildings, this requirement may be demonstrated by a professional letter of opinion under seal by a licensed fire protection engineer that the fire resistance of the separating floor(s) is/(are) at least four hours, and a professional letter of opinion under seal

by a licensed civil/structural engineer that there are no obvious structural weaknesses that would indicate a high potential for structural catastrophic collapse under fire conditions.

(c) The building must be sited a minimum of five feet above and 100 feet from any 100 year flood plain areas, or be protected by an appropriate flood wall that conforms to local or regional building codes.

(d) The facility must be designed in accordance with the applicable national, regional, state, or local building codes (whichever is most stringent) to provide protection from building collapse or failure of essential equipment from earthquake hazards, tornadoes, hurricanes and other potential natural disasters.

(e) Roads, fire lanes and parking areas must permit unrestricted access for emergency vehicles.

(f) A floor load limit must be established for the records storage area by a licensed structural engineer. The limit must take into consideration the height and type of the shelving or storage equipment, the width of the aisles, the configuration of the space, etc. The allowable load limit must be posted in a conspicuous place and must not be exceeded.

(g) The facility must ensure that the roof membrane does not permit water to penetrate the roof. NARA strongly recommends that this requirement be met by not mounting equipment on the roof and placing nothing else on the roof that may cause damage to the roof membrane. Alternatively, a facility may meet this requirement with stringent design specifications for roof-mounted equipment in conjunction with a periodic roof inspection program performed by appropriately certified professionals.

(1) New records storage facilities must meet the requirements in this paragraph (g) beginning on September 28, 2005.

(2) Existing facilities must meet the requirements in this paragraph (g) no later than October 1, 2009.

(h) Piping (with the exception of fire protection sprinkler piping and storm water roof drainage piping) must not be run through records storage areas unless supplemental measures such as gutters or shields are used to prevent water leaks and the piping assembly is inspected for potential leaks regularly. If drainage piping from roof drains must be run through records storage areas, the piping must be run to the nearest vertical riser and must include a continuous gutter sized and installed beneath the lateral runs to prevent leakage into the storage area. Vertical pipe risers required to be installed in

records storage areas must be fully enclosed by shaft construction with appropriate maintenance access panels.

(1) New records storage facilities must meet the requirements in this paragraph (h) beginning on September 28, 2005.

(2) Existing facilities must meet the requirements in this paragraph (h) no later than October 1, 2009.

(i) The following standards apply to records storage shelving and racking systems:

(1) All storage shelving and racking systems must be designed and installed to provide seismic bracing that meets the requirements of the applicable state, regional, and local building code (whichever is most stringent);

(2) Racking systems, steel shelving, or other open-shelf records storage equipment must be braced to prevent collapse under full load. Each racking system or shelving unit must be industrial style shelving rated at least 50 pounds per cubic foot supported by the shelf;

(3) Compact mobile shelving systems (if used) must be designed to permit proper air circulation and fire protection (detailed specifications that meet this requirement can be provided by NARA by writing to Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.), phone number (301) 837–1867.

(j) The area occupied by the records storage facility must be equipped with an anti-intrusion alarm system, or equivalent, meeting the requirements of UL 1076 (incorporated by reference, see § 1234.3), level AA, to protect against unlawful entry after hours and to monitor designated interior storage spaces. This intrusion alarm system must be monitored in accordance with UL 611, (incorporated by reference, see § 1234.3).

(k) The facility must comply with the requirements for a Level III facility as defined in the Department of Justice, U. S. Marshals Service report Vulnerability Assessment of Federal Facilities dated June 28, 1995. These requirements are provided in Appendix A to this part 1234. Agencies may require compliance with Level IV or Level V facility security requirements if the facility is classified at the higher level.

(l) Records contaminated by hazardous materials, such as radioactive isotopes or toxins, infiltrated by insects, or exhibiting active mold growth must be stored in separate areas having separate air handling systems from other records.

(m) To eliminate damage to records and/or loss of information due to

insects, rodents, mold and other pests that are attracted to organic materials under specific environmental conditions, the facility must have an Integrated Pest Management program as defined in the Food Protection Act of 1996 (Section 303, Pub. L. 104-170, 110 Stat. 1512). This states in part that Integrated Pest Management is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. The IPM program emphasizes three fundamental elements:

(1) *Prevention.* IPM is a preventive maintenance process that seeks to identify and eliminate potential pest access, shelter, and nourishment. It also continually monitors for pests themselves, so that small infestations do not become large ones;

(2) *Least-toxic methods.* IPM aims to minimize both pesticide use and risk through alternate control techniques and by favoring compounds, formulations, and application methods that present the lowest potential hazard to humans and the environment; and

(3) *Systems approach.* The IPM pest control contract must be effectively coordinated with all other relevant programs that operate in and around a building, including plans and procedures involving design and construction, repairs and alterations, cleaning, waste management, food service, and other activities.

(n) For new records storage facilities only, the additional requirements in this paragraph (n) must be met:

(1) Do not install mechanical equipment, excluding material handling and conveyance equipment that have operating thermal breakers on the motor, containing motors rated in excess of 1 HP within records storage areas (either floor mounted or suspended from roof support structures).

(2) Do not install high-voltage electrical distribution equipment (*i.e.*, 13.2kv or higher switchgear and transformers) within records storage areas (either floor mounted or suspended from roof support structures).

(3) A redundant source of primary electric service such as a second primary service feeder should be provided to ensure continuous, dependable service to the facility especially to the HVAC systems, fire alarm and fire protection systems. Manual switching between sources of service is acceptable.

(4) A facility storing permanent records must be kept under positive air pressure, especially in the area of the

loading dock. In addition, to prevent fumes from vehicle exhausts from entering the facility, air intake louvers must not be located in the area of the loading dock, adjacent to parking areas, or in any location where a vehicle engine may be running for any period of time. Loading docks must have an air supply and exhaust system that is separate from the remainder of the facility.

§ 1234.12 What are the fire safety requirements that apply to records storage facilities?

(a) The fire detection and protection systems must be designed or reviewed by a licensed fire protection engineer. If the system was not designed by a licensed fire protection engineer, the review requirement is met by furnishing a report under the seal of a licensed fire protection engineer that describes the design intent of the fire detection and suppression system, detailing the characteristics of the system, and describing the specific measures beyond the minimum features required by code that have been incorporated to minimize loss. The report should make specific reference to appropriate industry standards used in the design, such as those issued by the National Fire Protection Association, and any testing or modeling or other sources used in the design.

(b) All interior walls separating records storage areas from each other and from other storage areas in the building must be at least three-hour fire barrier walls. A records storage facility may not store more than 250,000 cubic feet total of Federal records in a single records storage area. When Federal records are combined with other records in a single records storage area, only the Federal records will apply toward this limitation.

(c) Fire barrier walls that meet the following specifications must be provided:

(1) For existing records storage facilities, at least one-hour-rated fire barrier walls must be provided between the records storage areas and other auxiliary spaces.

(2) For new records storage facilities, two-hour-rated fire barrier walls must be provided between the records storage areas and other auxiliary spaces. One exterior wall of each stack area must be designed with a maximum fire resistive rating of one hour, or, if rated more than one hour, there must be at least one knock-out panel in one exterior wall of each stack area.

(d) Penetrations in the walls must not reduce the specified fire resistance ratings. The fire resistance ratings of

structural elements and construction assemblies must be in accordance with ASTM E 119-98 (incorporated by reference, see § 1234.3).

(e) The fire resistive rating of the roof must be a minimum of ½ hour for all records storage facilities, or must be protected by an automatic sprinkler system designed, installed, and maintained in accordance with NFPA 13 (incorporated by reference, see § 1234.3).

(f) Openings in fire barrier walls separating records storage areas must be avoided to the greatest extent possible. If openings are necessary, they must be protected by self-closing or automatic Class A fire doors, or equivalent doors that maintain the same rating as the wall.

(g) Roof support structures that cross or penetrate fire barrier walls must be cut and supported independently on each side of the fire barrier wall.

(h) If fire barrier walls are erected with expansion joints, the joints must be protected to their full height.

(i) Building columns in the records storage areas must be at least 1-hour fire resistant or protected in accordance with NFPA 13 (incorporated by reference, see § 1234.3).

(j) Automatic roof vents for routine ventilation purposes must not be designed into new records storage facilities. Automatic roof vents, designed solely to vent in the case of a fire, with a temperature rating at least twice that of the sprinkler heads are acceptable.

(k) Where lightweight steel roof or floor supporting members (*e.g.*, bar joists having top chords with angles 2 by 12 inches or smaller, 1/4-inch thick or smaller, and 13/16-inch or smaller Web diameters) are present, they must be protected either by applying a 10-minute fire resistive coating to the top chords of the joists, or by retrofitting the sprinkler system with large drop sprinkler heads. If a fire resistive coating is applied, it must be a product that will not release (off gas) harmful fumes into the facility. If fire resistive coating is subject to air erosion or flaking, it must be fully enclosed in a drywall containment constructed of metal studs with fire retardant drywall. Retrofitting may require modifications to the piping system to ensure that adequate water capacity and pressure are provided in the areas to be protected with these large drop sprinkler heads.

(l) Open flame (oil or gas) unit heaters or equipment, if used in records storage areas, must be installed or used in the records storage area in accordance with NFPA 54 (incorporated by reference, see § 1234.3), and the IAPMO/ANSI UMC 1,

Uniform Mechanical Code (incorporated by reference, see § 1234.3).

(m) For existing records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 2-hour-rated fire barrier walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(n) For new records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 4-hour-rated fire barrier walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(o) For new records storage facilities, fuel supply lines must not be installed in areas containing records and must be separated from such areas with 4-hour rated construction assemblies.

(p) Equipment rows running perpendicular to the wall must comply with NFPA 101 (incorporated by reference, see § 1234.3), with respect to egress requirements.

(q) No oil-type electrical transformers, regardless of size, except thermally protected devices included in fluorescent light ballasts, may be installed in the records storage areas. All electrical wiring must be in metal conduit, except that armored cable may be used where flexible wiring connections to light fixtures are required. Battery charging areas for electric forklifts must be separated from records storage areas with at least a 2-hour rated fire barrier wall.

(r) Hazardous materials, including records on cellulose nitrate film, must not be stored in records storage areas. Nitrate motion picture film and nitrate sheet film may be stored in separate areas that meet the requirements of the appropriate NFPA standards, NFPA 40–1997 (incorporated by reference, see § 1234.3), or NFPA 42 (incorporated by reference, see § 1234.3).

(s) All record storage and adjoining areas must be protected by a professionally-designed fire-safety detection and suppression system that is designed to limit the maximum anticipated loss in any single fire event involving a single ignition and no more than 8 ounces of accelerant to a maximum of 300 cubic feet of records destroyed by fire. Section 1234.32 specifies how to document compliance with this requirement.

§ 1234.14 What are the requirements for environmental controls for records storage facilities?

(a) *Paper-based temporary records.* Paper-based temporary records must be stored under environmental conditions that prevent the active growth of mold. Exposure to moisture through leaks or condensation, relative humidities in excess of 70%, extremes of heat combined with relative humidity in excess of 55%, and poor air circulation during periods of elevated heat and relative humidity are all factors that contribute to mold growth.

(b) *Nontextual temporary records.* Nontextual temporary records, including microforms and audiovisual and electronic records, must be stored in records storage space that is designed to preserve them for their full retention period. New records storage facilities that store nontextual temporary records must meet the requirements in this paragraph (b) beginning on September 28, 2005. Existing records storage facilities that store nontextual temporary records must meet the requirements in this paragraph (b) no later than October 1, 2009. At a minimum, nontextual temporary records must be stored in records storage space that meets the requirements for medium term storage set by the appropriate standard in this paragraph (b). In general, medium term conditions as defined by these standards are those that will ensure the preservation of the materials for at least 10 years with little information degradation or loss. Records may continue to be usable for longer than 10 years when stored under these conditions, but with an increasing risk of information loss or degradation with longer times. If temporary records require retention longer than 10 years, better storage conditions (cooler and drier) than those specified for medium term storage will be needed to maintain the usability of these records. The applicable standards are:

- (1) ANSI/PIMA IT9.11 (incorporated by reference, see § 1234.3);
- (2) ANSI/NAPM IT9.23 (incorporated by reference, see § 1234.3);
- (3) ANSI/PIMA IT9.25 (incorporated by reference, see § 1234.3);
- (4) ANSI/NAPM IT9.20 (incorporated by reference, see § 1234.3); and/or
- (5) ANSI/NAPM IT9.18 (incorporated by reference, see § 1234.3).

(c) *Paper-based permanent, unclassified and sample/select records.* Paper-based permanent, unclassified, and sample/select records must be stored in records storage space that provides 24 hour/365 days per year air conditioning (temperature, humidity,

and air exchange) equivalent to that required for office space. See ANSI/ASHRAE Standard 55 (incorporated by reference, see § 1234.3), and ASHRAE Standard 62 (incorporated by reference, see § 1234.3), for specific requirements. New records storage facilities that store paper-based permanent, unclassified, and/or sample/select records must meet the requirement in this paragraph (c) beginning on September 28, 2005. Existing storage facilities that store paper-based permanent, unclassified, and/or sample/select records must meet the requirement in this paragraph (c) no later than October 1, 2009.

(d) *Nontextual permanent, unclassified, and/or sample/select records.* All records storage facilities that store microfilm, audiovisual, and/or electronic permanent, unclassified, and/or sample/select records must comply with the storage standards for permanent and unclassified 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 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 equivalent or superior to the NARA requirement, NARA will grant the waiver and notify the requesting agency within 30 calendar days.

(2) If NARA questions whether supporting documentation demonstrates that the proposed alternative offers at

least equal protection to Federal records, NARA will consult the appropriate industry standards body or other qualified expert before making a determination. NARA will notify the requesting agency within 30 calendar days of receipt of the request that consultation is necessary and will provide a final determination within 60 calendar days. If NARA does not grant the waiver, NARA will furnish a full explanation of the reasons for its decision.

(b) *Waiver of new requirement for existing agency records center.* NARA will review the agency's waiver request and plan to bring the facility into compliance.

(1) NARA will approve the request and plan within 30 calendar days if NARA judges the planned actions and time frames for bringing the facility into compliance are reasonable.

(2) If NARA questions the feasibility or reasonableness of the plan, NARA will work with the agency to develop a revised plan that NARA can approve and the agency can implement. NARA may grant a short-term temporary waiver, not to exceed 180 calendar days, while the revised plan is under development.

(c) *Waiver of roof requirements for underground storage facilities.* NARA will normally grant the waiver and notify the requesting agency within 10 work days if the agency has not also requested a waiver of a different requirement under § 1234.30. If the agency has another waiver request pending for the same facility, NARA will respond to all of the waiver requests at the same time and within the longest time limits.

Subpart D—Facility Approval and Inspection Requirements

§ 1234.30 How does an agency request authority to establish or relocate records storage facilities?

(a) *General policy.* Agencies are responsible for ensuring that records in their legal custody are stored in appropriate space as outlined in this part. Under § 1232.18(a), agencies are responsible for initiating action to remove records from space that does not meet these standards if deficiencies are not corrected within 6 months after initial discovery of the deficiencies by NARA or the agency and to complete removal of the records within 18 months after initial discovery of the deficiencies.

(1) *Agency records centers.* Agencies must obtain prior written approval from NARA before establishing or relocating an agency records center. Each separate

agency records center must be specifically approved by NARA prior to the transfer of any records to that individual facility. If an agency records center has been approved for the storage of Federal records of one agency, any other agency that proposes to store its records in that facility must still obtain NARA approval to do so.

(2) *Commercial records storage facilities.* An agency may contract for commercial records storage services. However, before any agency records are transferred to a commercial records storage facility, the transferring agency must ensure that the facility meets all of the requirements for an agency records storage facility set forth in this subpart and must submit the documentation required in paragraph (e) of this section.

(b) *Exclusions.* For purposes of this section, the term "agency records center" excludes NARA-owned and operated records centers. For purposes of this section and § 1234.34, the term "agency records center" also excludes agency records staging and/or holding areas with a capacity for containing less than 25,000 cubic feet of records.

However, such records centers and areas, including records centers operated and maintained by NARA, must comply with the facility standards in §§ 1234.10 through 1234.14.

(c) *Content of requests for agency records centers.* Requests for authority to establish or relocate an agency records center, or to use an agency records center operated by another agency, must be submitted in writing to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–1867. The request must identify the specific facility and, for requests to establish or relocate the agency's own records center, document compliance with the standards in this subpart. Documentation requirements for § 1234.12(s) are specified in § 1234.32.

(d) *Approval of requests for agency records centers.* NARA will review the submitted documentation to ensure the facility demonstrates full compliance with the standards in this subpart. NARA reserves the right to visit the facility, if necessary, to make the determination of compliance. NARA will inform the agency of its decision within 45 calendar days after the request is received, and will provide the agency information on the areas of noncompliance if the request is denied. Requests will be denied only if NARA determines that the facility does not demonstrate full compliance with the standards in this subpart. Approvals

will be valid for a period of 10 years, unless the facility is materially changed before then or an agency or NARA inspection finds that the facility does not meet the standards in this subpart. Material changes require submission of a new request for NARA approval.

(e) *Documentation requirements for storing Federal records in commercial records storage facilities.* At least 45 calendar days before an agency first transfers records to a commercial records storage facility, the agency must submit documentation to NARA that the facility complies with the standards in this subpart. The documentation may take the form of a copy of the agency's contract that incorporates this subpart in its provisions or a statement from the agency records officer that certifies that the facility meets the standards in this subpart. An agency must provide the documentation for each separate commercial records storage facility where its records will be stored. Documentation must be sent to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1867. The agency must submit updated documentation to NARA every 10 years if it continues to store records in that commercial records storage facility.

§ 1234.32 What does an agency have to do to certify a fire-safety detection and suppression system?

(a) *Content of documentation.* The agency must submit documentation to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1867, that describes the space being protected (e.g., the type and stacking height of the storage equipment used, or how the space is designed, controlled, and operated) and the characteristics of the fire-safety detection and suppression system used. The documentation must demonstrate how that system meets the requirement in § 1234.12(s) through:

(1) A statement that the facility is using a NARA certified system as described in Appendix B to this part;

(2) A report of the results of independent live fire testing (Factory

Mutual, Underwriters Laboratories or Southwest Research Institute); or

(3) A report under seal of a licensed fire protection engineer that:

(i) Describes the design intent of the fire suppression system to limit the maximum anticipated loss in any single fire event involving a single ignition and no more than 8 fluid ounces of petroleum-type hydrocarbon accelerant (such as, for example, heptanes or gasoline) to a maximum of 300 cubic feet of Federal records destroyed by fire. The report need not predict a maximum single event loss at any specific number, but rather should describe the design intent of the fire suppression system. The report may make reasonable engineering and other assumptions such as that the fire department responds within XX minutes (the local fire department's average response time) and promptly commences suppression actions. In addition, any report prepared under this paragraph should assume that the accelerant is saturated in a cotton wick that is 3 inches in diameter and 6 inches long and sealed in a plastic bag and that the fire is started in an aisle at the face of a carton at floor level. Assumptions must be noted in the report;

(ii) Details the characteristics of the system; and

(iii) Describes the specific measures beyond the minimum features required by the applicable building code that have been incorporated to limit destruction of records. The report should make specific references to industry standards used in the design, such as those issued by the National Fire Protection Association, and any testing or modeling or other sources used in the design.

(b) *NARA action.* (1) NARA will approve the fire-safety detection and suppression system within 10 work days if NARA has previously approved the system design for similarly configured space or if a report of independent testing of a new system design is furnished as documentation.

(2) If, in NARA's judgment, the supporting documentation provided in accordance with paragraph (a)(3) of this section clearly demonstrates compliance with § 1234.12(s), NARA will approve the fire-safety detection and suppression system within 30 calendar days.

(3) If NARA questions whether supporting documentation demonstrates compliance with § 1234.12(s), NARA will consult the appropriate industry standards body or other qualified expert before making a determination. Before any consultation, NARA may ask the agency for additional clarifying information. NARA will notify the requesting agency within 30 calendar days of receipt of the request that consultation is necessary and will provide a final determination within 60 calendar days. If NARA does not approve the system, NARA will furnish a full explanation of the reasons for its decision.

(4) NARA will maintain a list of approved alternative systems.

§ 1234.34 When may NARA conduct an inspection of a records storage facility?

(a) At the time an agency submits a request to establish an agency records center, pursuant to § 1234.30, NARA may conduct an inspection of the proposed facility to ensure that the facility complies fully with the standards in this subpart. NARA may also conduct periodic inspections of agency records centers so long as such facility is used as an agency records center. NARA will inspect its own records center facilities on a periodic basis to ensure that they are in compliance with the requirements of this subpart.

(b) Agencies must ensure, by contract or otherwise, that agency and NARA officials, or their delegates, have the right to inspect commercial records storage facilities to ensure that such facilities fully comply with the standards in this subpart. NARA may conduct periodic inspections of commercial records storage facilities so long as agencies use such facilities to store agency records. The using agency, not NARA, will be responsible for paying any fee or charge assessed by the commercial records storage facility for NARA's conducting an inspection.

(c) NARA will contact the agency operating the records center or the agency holding a contract with a commercial records storage facility in advance to set a date for the inspection.

Appendix A to Part 1234—Minimum Security Standards for Level III Federal Facilities

RECOMMENDED STANDARDS CHART

[Reproduced from Section 2.3 (pp. 2–6 through 2–9) of U.S. Department of Justice, United States Marshals Service report *Vulnerability Assessment of Federal Facilities*]

	Level III
Perimeter Security	
<i>Parking:</i>	
Control of facility parking	Required.
Control of adjacent parking	Desirable.
Avoid leases where parking cannot be controlled	Desirable.
Leases should provide security control for adjacent parking	Desirable.
Post signs and arrange for towing unauthorized vehicles	Required.
ID system and procedures for authorized parking (placard, decal, card key, etc.)	Required.
Adequate lighting for parking areas	Required.
<i>Closed Circuit Television (CCTV) Monitoring:</i>	
CCTV surveillance cameras with time lapse video recording	Recommended.
Post signs advising of 24 hour video surveillance	Recommended.
<i>Lighting:</i>	
Lighting with emergency power backup	Required.
<i>Physical Barriers:</i>	
Extend physical perimeter with barriers (concrete and/or steel composition)	Desirable.
Parking barriers	Desirable.
Entry Security	
<i>Receiving/Shipping:</i>	
Review receiving/shipping procedures (current)	Required.
Implement receiving/shipping procedures (modified)	Required.
<i>Access Control:</i>	
Evaluate facility for security guard requirements	Required.
Security guard patrol	Recommended.
Intrusion detection system with central monitoring capability	Required.
Upgrade to current life safety standards (fire detection, fire suppression systems, etc.)	Required.
<i>Entrances/Exits:</i>	
X-ray & magnetometer at public entrances	Recommended.
Require x-ray screening of all mail/packages	Recommended.
High security locks	Required.
Interior Security	
<i>Employee/Visitor Identification:</i>	
Agency photo ID for all personnel displayed at all times	Recommended.
Visitor control/screening system	Required.
Visitor identification accountability system	Recommended.
Establish ID issuing authority	Recommended.
<i>Utilities:</i>	
Prevent unauthorized access to utility areas	Required.
Provide emergency power to critical systems (alarm systems, radio communications, computer facilities, etc.)	Required.
<i>Occupant Emergency Plans:</i>	
Examine occupant emergency plans (OEP) and contingency procedures based on threats	Required.
OEPs in place, updated annually, periodic testing exercise	Required.
Assign & train OEP officials (assignment based on largest tenant in facility)	Required.
Annual tenant training	Required.
<i>Daycare Centers:</i>	
Evaluate whether to locate daycare facilities in buildings with high threat activities	Required.
Compare feasibility of locating daycare in outside locations	Required.
Security Planning	
<i>Intelligence Sharing:</i>	
Establish law enforcement agency/security liaisons	Required.
Review/establish procedure for intelligence receipt/dissemination	Required.
Establish uniform security/threat nomenclature	Required.
<i>Training:</i>	
Conduct annual security awareness training	Required.
Establish standardized unarmed guard qualifications/training requirements	Required.
Establish standardized armed guard qualifications/training requirements	Required.
<i>Tenant Assignment:</i>	
Co-locate agencies with similar security needs	Desirable.
Do not co-locate high/low risk agencies	Desirable.
<i>Administrative Procedures:</i>	
Establish flexible work schedule in high threat/high risk areas to minimize employee vulnerability to criminal activity	Desirable.
Arrange for employee parking in/near building after normal work hours	Recommended.
Conduct background security checks and/or establish security control procedures for service contract personnel	Required.

RECOMMENDED STANDARDS CHART—Continued

[Reproduced from Section 2.3 (pp. 2–6 through 2–9) of U.S. Department of Justice, United States Marshals Service report *Vulnerability Assessment of Federal Facilities*]

	Level III
<i>Construction/Renovation:</i>	
Install mylar film on all exterior windows (shatter protection)	Recommended.
Review current projects for blast standards	Required.
Review/establish uniform standards for construction	Required.
Review/establish new design standard for blast resistance	Required.
Establish street set-back for new construction	Recommended.

TERMS AND DEFINITIONS IN RECOMMENDED STANDARDS CHART

[Reproduced from Appendix B, Details of Recommended Security Standards, U.S. Department of Justice, United States Marshals Service report *Vulnerability Assessment of Federal Facilities*]

Term	Definition/description
------	------------------------

**B.1 Perimeter Security
Parking**

Control of Facility Parking	Access to government parking should be limited where possible to government vehicles and personnel. At a minimum, authorized parking spaces and vehicles should be assigned and identified.
Control of Adjacent Parking	Where feasible, parking areas adjacent to federal space should also be controlled to reduce the potential for threats against Federal facilities and employee exposure to criminal activity.
Avoid Leases Where Parking Cannot Be Controlled.	Avoid leasing facilities where parking cannot be controlled. If necessary, relocate offices to facilities that do provide added security through regulated parking.
Lease Should Provide Control for Adjacent Parking.	Endeavor to negotiate guard services as part of lease.
Post Signs and Arrange for Towing Unauthorized Vehicles.	Procedures should be established and implemented to alert the public to towing policies, and the removal of unauthorized vehicles.
ID System and Procedures for Authorized Parking.	Procedures should be established for identifying vehicles and corresponding parking spaces (placard, decal, card key, etc.)
Adequate Lighting for Parking Areas	Effective lighting provides added safety for employees and deters illegal or threatening activities.

Closed circuit television (CCTV) monitoring

CCTV Surveillance Cameras With Time Lapse Video Recording.	Twenty-four hour CCTV surveillance and recording is desirable at all locations as a deterrent. Requirements will depend on assessment of the security level for each facility. Time-lapse video recordings are also highly valuable as a source of evidence and investigative leads.
Post Signs Advising of 24 Hour Video Surveillance.	Warning signs advising of twenty-four hour surveillance act as a deterrent in protecting employees and facilities.

Lighting

Lighting with Emergency Power Backup	Standard safety code requirement in virtually all areas. Provides for safe evacuation of buildings in case of natural disaster, power outage, or criminal/terrorist activity.
--	---

Physical Barriers

Extend Physical Perimeter, With Barriers	This security measure will only be possible in locations where the Government controls the property and where physical constraints are not present. (barriers of concrete and/or steel composition)
Parking Barriers	Desirable to prevent unauthorized vehicle access.

**B.2 Entry Security
Receiving/Shipping**

Review Receiving/Shipping Procedures (Current).	Audit current standards for package entry and suggest ways to enhance security.
Implement Receiving/Shipping Procedures (Modified).	After auditing procedures for receiving/shipping, implement improved procedures for security enhancements.

Access Control

Evaluate Facility for Security Guard Requirements.	If security guards are required, the number of guards at any given time will depend on the size of the facility, the hours of operation, and current risk factors, etc.
Security Guard Patrol	Desirable for level I and II facilities and may be included as lease option. Level III, IV and V facilities will have security guard patrol based on facility evaluation.
Intrusion Detection System With Central Monitoring Capability.	Desirable in Level I facilities, based on evaluation for Level II facilities, and required for Levels III, IV and V.

TERMS AND DEFINITIONS IN RECOMMENDED STANDARDS CHART—Continued

[Reproduced from Appendix B, Details of Recommended Security Standards, U.S. Department of Justice, United States Marshals Service report *Vulnerability Assessment of Federal Facilities*]

Term	Definition/description
Upgrade to Current Life Safety Standards	Required for all facilities as part of GSA design requirements, (e.g. fire detection, fire suppression systems, etc.)
Entrances/Exits	
X-Ray and Magnetometer at Public Entrances ..	May be impractical for Level I and II facilities. Level III and IV evaluations would focus on tenant agencies, public interface, and feasibility. Required for Level V.
Require X-Ray Screening of all Mail/Packages High Security Locks	All packages entering building should be subject to x-ray screening and/or visual inspection. Any exterior entrance should have a high security lock as determined by GSA specifications and/or agency requirements.
B.3 Interior Security Employee/Visitor Identification	
Agency Photo ID for all Personnel Displayed At All Times.	May not be required in smaller facilities.
Visitor Control/Security System	Visitors should be readily apparent in Level I facilities. Other facilities may ask visitors to sign-in with a receptionist or guard, or require an escort, or formal identification/badge.
Visitor Id Accountability System	Stringent methods of control over visitor badges will ensure that visitors wearing badges have been screened and are authorized to be at the facility during the appropriate time frame.
Establish Id Issuing Authority	Develop procedures and establish authority for issuing employee and visitor IDs.
Utilities	
Prevent Unauthorized Access to Utility Areas ...	Smaller facilities may not have control over utility access, or locations of utility areas. Where possible, assure that utility areas are secure and that only authorized personnel can gain entry.
Provide Emergency Power To Critical Systems	Tenant agency is responsible for determining which computer and communication systems require back-up power. All alarm systems, CCTV monitoring devices, fire detection systems, entry control devices, etc. require emergency power sources. (Alarm Systems, Radio Communications, Computer Facilities, Etc.)
Occupant Emergency Plans	
Examine Occupant Emergency Plan (OEP) and Contingency Procedures Based on Threats.	Review and update current OEP procedures for thoroughness. OEPs should reflect the current security climate.
Assign and Train OEP Officials	Assignment based on GSA requirement that largest tenant in facility maintain OEP responsibility. Officials should be assigned, trained and a contingency plan established to provide for the possible absence of OEP officials in the event of emergency activation of the OEP.
Annual Tenant Training	All tenants should be aware of their individual responsibilities in an emergency situation.
Day Care Center	
Re-Evaluate Current Security and Safety Standards.	Conduct a thorough review of security and safety standards.
Assess Feasibility of Locating Day Care Within Federal Facility.	If a facility is being considered for a day care center, an evaluation should be made based on the risk factors associated with tenants and the location of the facility.
B.4 Security Planning Intelligence Sharing	
Establish Law Enforcement Agency/Security Liaisons.	Intelligence sharing between law enforcement agencies and security organizations should be established in order to facilitate the accurate flow of timely and relevant information between appropriate government agencies. Agencies involved in providing security must be part of the complete intelligence process.
Review/Establish Procedures for Intelligence Receipt/Dissemination.	Determine what procedures exist to ensure timely delivery of critical intelligence. Review and improve procedures to alert agencies and specific targets of criminal/terrorist threats. Establish standard administrative procedures for response to incoming alerts. Review flow of information for effectiveness and time critical dissemination.
Establish Uniform Security/Threat Nomenclature	To facilitate communication, standardized terminology for Alert Levels should be implemented. (Normal, Low, Moderate, and High—As recommended by Security Standards Committee)
Training	
Conduct Annual Security Awareness Training ...	Provide security awareness training for all tenants. At a minimum, self-study programs utilizing videos, and literature, etc. should be implemented. These materials should provide up-to-date information covering security practices, employee security awareness, and personal safety, etc.

TERMS AND DEFINITIONS IN RECOMMENDED STANDARDS CHART—Continued

[Reproduced from Appendix B, Details of Recommended Security Standards, U.S. Department of Justice, United States Marshals Service report *Vulnerability Assessment of Federal Facilities*]

Term	Definition/description
Establish Standardized Armed And Unarmed Guard Qualifications/Training Requirements.	Requirements for these positions should be standardized government wide.
Tenant Assignment	
Co-Locate Agencies With Similar Security Needs.	To capitalize on efficiencies and economies, agencies with like security requirements should be located in the same facility if possible.
Do Not Co-Locate High/Low Risk Agencies	Low risk agencies should not take on additional risk by being located with high risk agencies.
Administrative Procedures	
Establish Flexible Work Schedule in High Threat/High Risk Area to Minimize Employee Vulnerability to Criminal Activity.	Flexible work schedules can enhance employee safety by staggering reporting and departure times. As an example flexible schedules might enable employees to park closer to the facility by reducing the demand for parking at peak times of the day.
Arrange for Employee Parking In/Near Building After Normal Work Hours.	Minimize exposure to criminal activity by allowing employees to park at or inside the building.
Conduct Background Security Checks and/or Establish Security Control Procedures for Service Contract Personnel.	Establish procedures to ensure security where private contract personnel are concerned. Procedures may be as simple as observation or could include sign-in/escort. Frequent visitors may necessitate a background check with contractor ID issued.
Construction/Renovation	
Install Mylar Film on All Exterior Windows (Shatter Protection).	Application of shatter resistant material to protect personnel and citizens from the hazards of flying glass as a result of impact or explosion.
Review Current Projects For Blast Standards ...	Design and construction projects should be reviewed if possible, to incorporate current technology and blast standards. Immediate review of ongoing projects may generate savings in the implementation of upgrading to higher blast standards prior to completion of construction.
Review/Establish Uniform Standards For Construction.	Review, establish, and implement uniform construction standards as it relates to security considerations.
Review/Establish New Design Standard for Blast RESISTANCE.	In smaller facilities or those that lease space, control over design standards may not be possible. However, future site selections should attempt to locate in facilities that do meet standards. New construction of government controlled facilities should review, establish, and implement new design standards for blast resistance.
Establish Street Set-Back for New Construction	Every foot between a potential bomb and a building will dramatically reduce damage and increase the survival rate. Street set-back is always desirable, but should be used in conjunction with barriers in Level IV and V facilities.

(Reproduced from Appendix C, *Classification Table*, U.S. Department of Justice, United States Marshals Service report *Vulnerability Assessment of Federal Facilities*)

Level	Typical location
III	Agency Mix: Government Records.

Appendix B to Part 1234—Alternative Certified Fire-Safety Detection and Suppression System(s)

1. *General.* This Appendix B contains information on the Fire-safety Detection and Suppression System(s) tested by NARA through independent live fire testing that are certified to meet the requirement in § 1234.12(s) for storage of Federal Records. Use of a system specified in this appendix is optional. A facility may choose to have an alternate fire-safety detection and suppression system approved under § 1234.32).

2. *Specifications for NARA facilities using 15 foot high records storage.* NARA fire-safety systems that incorporate all components specified in paragraphs 2.a through n. of this appendix have been tested and certified to meet the requirements in § 1234.12(s) for an acceptable fire-safety

detection and suppression system for storage of Federal records.

a. The records storage height must not exceed the nominal 15 feet (+/- 3 inches) records storage height.

b. All records storage and adjoining areas must be protected by automatic wet-pipe sprinklers. Automatic sprinklers are specified herein because they provide the most effective fire protection for high piled storage of paper records on open type shelving.

c. The sprinkler system must be rated at no higher than 285 degrees Fahrenheit utilizing quick response (QR) fire sprinkler heads and designed by a licensed fire protection engineer to provide the specified density for the most remote 1,500 square feet of floor area at the most remote sprinkler head in accordance with NFPA 13 (incorporated by reference, see § 1234.3). For facilities with roofs rated at 15 minutes or greater, provide 1/2" QR sprinklers rated at no higher than 285 degrees Fahrenheit designed to deliver a

density of 0.30 gpm per square foot. For unrated roofs, provide 0.64" QR "large drop" sprinklers rated at no higher than 285 degrees Fahrenheit. For facilities using 7 or 8 shelf track files, use QR sprinklers rated at no higher than 285 degrees Fahrenheit. For new construction and replacement sprinklers, NARA recommends that the sprinklers be rated at 165 degrees Fahrenheit. Installation of the sprinkler system must be in accordance with NFPA 13 (incorporated by reference, see § 1234.3).

d. Maximum spacing of the sprinkler heads must be on a 10-foot grid and the positioning of the heads must provide complete, unobstructed coverage, with a clearance of not less than 18 inches from the top of the highest stored materials.

e. The sprinkler system must be equipped with a water-flow alarm connected to an audible alarm within the facility and to a continuously staffed fire department or an Underwriters Laboratory approved central

monitoring station (see UL 827 (incorporated by reference, see § 1234.3)) with responsibility for immediate response.

f. A manual fire alarm system must be provided with a Underwriters Laboratory approved (grade A) central monitoring station service or other automatic means of notifying the municipal fire department. A manual alarm pull station must be located adjacent to each exit. Supplemental manual alarm stations are permitted within the records storage areas.

g. All water cutoff valves in the sprinkler system must be equipped with automatic closure alarm (tamper alarm) connected to a continuously staffed station, with responsibility for immediate response. If the sprinkler water cutoff valve is located in an area used by the public, in addition to the tamper alarm, the valves must be provided with frangible (easily broken) padlocks.

h. A dependable water supply free of interruption must be provided including a continuous site fire loop connected to the water main and sized to support the facility with only one portion of the fire loop operational. This normally requires a backup supply system having sufficient pressure and capacity to meet both fire hose and sprinkler requirements for 2-hours. A fire pump connected to an emergency power source must be provided in accordance with NFPA 20 (incorporated by reference, see § 1234.3), when adequate water pressure is not assured. In the event that public water mains are not able to supply adequate volumes of water to the site, on-site water storage must be provided.

i. Interior fire hose stations equipped with a 1½ inch diameter hose may be provided in the records storage areas if required by the local fire department, enabling any point in the records storage area to be reached by a 50-foot hose stream from a 100-foot hose lay. If provided, these cabinets must be marked "For Fire Department Use Only."

j. Where fire hose cabinets are not required, fire department hose outlets must be provided at each floor landing in the building core or stair shaft. Hose outlets must have an easily removable adapter and cap. Threads and valves must be compatible with the local fire department's equipment. Spacing must be so that any point in the record storage area can be reached with a 50-foot hose stream from a 100-foot hose lay.

k. In addition to the designed sprinkler flow demand, 500 gpm must be provided for hose stream demand. The hose stream demand must be calculated into the system at the base of the main sprinkler riser.

l. Fire hydrants must be located within 250 feet of each exterior entrance or other access to the records storage facility that could be used by firefighters. Each required hydrant must provide a minimum flow capacity of 500 gpm at 20 psi. All hydrants must be at least 50 feet away from the building walls and adjacent to a roadway usable by fire apparatus. Fire hydrants must have at least two, 2½ inch hose outlets and a pumper connection. All threads must be compatible with local standards.

m. Portable water-type fire extinguishers (2½ gallon stored pressure type) must be provided at each fire alarm striking station.

The minimum number and locations of fire extinguishers must be as required by NFPA 10 (incorporated by reference, see § 1234.3).

n. Single level catwalks without automatic sprinklers installed underneath may be provided in the service aisles if the edges of all files in the front boxes above the catwalks are stored perpendicular to the aisle (to minimize files exfoliation in a fire). Where provided, the walking surface of the catwalks must be of expanded metal at least .09-inch thickness with a 2-inch mesh length. The surface opening ratio must be equal or greater than 0.75. The sprinkler water demand for protection over bays with catwalks where records above the catwalks are not perpendicular to the aisles must be calculated hydraulically to give .30 gpm per square foot for the most remote 2,000 square feet.

PART 1235—TRANSFER OF RECORDS TO THE NATIONAL ARCHIVES OF THE UNITED STATES

Subpart A—General Transfer Requirements

Sec.

- 1235.1 What are the authorities for part 1235?
- 1235.2 What definitions apply to this part?
- 1235.3 What standards are used as guidance for this part?
- 1235.4 What publications are incorporated by reference in this part?
- 1235.10 What records do agencies transfer to the National Archives of the United States?
- 1235.12 When must agencies transfer records to the National Archives of the United States?
- 1235.14 May agencies retain records for the conduct of regular agency business after they are eligible for transfer?
- 1235.16 How will NARA respond to an agency's request to retain records?
- 1235.18 How do agencies transfer records to the National Archives of the United States?
- 1235.20 How do agencies indicate that transferred records contain information that is restricted from public access?
- 1235.22 When does legal custody of records transfer to NARA?

Subpart B—Administration of Transferred Records

- 1235.30 How may records in the National Archives of the United States be used?
- 1235.32 How does NARA handle restrictions on transferred records?
- 1235.34 May NARA destroy transferred records?

Subpart C—Transfer Specifications and Standards

- 1235.40 What records are covered by additional transfer requirements?
- 1235.42 What specifications and standards for transfer apply to audiovisual, cartographic, and related records?
- 1235.44 What general transfer requirements apply to electronic records?
- 1235.46 What electronic media may be used for transferring records to the National Archives of the United States?
- 1235.48 What documentation must agencies transfer with electronic records?

1235.50 What specifications and standards for transfer apply to electronic records?

Authority: 44 U.S.C. 2107 and 2108.

Subpart A—General Transfer Requirements

§ 1235.1 What are the authorities for part 1235?

The statutory authorities for this part are 44 U.S.C. 2107 and 2108.

§ 1235.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1235.

§ 1235.3 What standards are used as guidance for this part?

These regulations conform to guidance provided in ISO 15489–1:2001. Paragraphs 8.3 (Designing and implementing records systems), 9.6 (Storage and handling), and 9.7 (Access) are particularly relevant to this part.

§ 1235.4 What publications are incorporated by reference in this part?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the NARA must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register. For information on the availability of this material at the Office of the Federal Register, call 202–741–6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The material incorporated by reference is also available for inspection at NARA's Archives Library Information Center (NWCCA), Room 2380, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–3415, and is available for purchase from the sources listed below. If you experience difficulty obtaining the standards referenced below, contact National Archives and Records Administration, Electronic/Special Media Records Services Division (NWME), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837–1578.

(c) *International Organization for Standards (ISO)*. The following ISO standards are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036, phone number (212) 642–4900, or online at <http://webstore.ansi.org>.

(1) ISO/IEC 15896:1999 (“ISO/IEC 15896”), Information technology—Data interchange on 12,7 mm 208-track magnetic tape cartridges—DLT 5 format, First Edition, December 15, 1999, IBR approved for § 1235.46.

(2) ISO/IEC 16382:2000 (“ISO/IEC 16382”), Information technology—Data interchange on 12,7 mm 208-track magnetic tape cartridges—DLT 6 format, First Edition, May 15, 2000, IBR approved for § 1235.46.

(d) *Document Engineering Co., Inc.* The following standards are available from the standards reseller DECO—Document Engineering Co., Inc., 15210 Stagg Street, Van Nuys, CA, phone number (818) 782–1010, or online at <http://www.doceng.com>:

(1) ANSI X3.39–1986 (“ANSI X3.39”), American National Standard: Recorded Magnetic Tape for Information Interchange (1600 CPI, PE), 1986, IBR approved for § 1235.46.

(2) [Reserved]

(e) The following standards are not available from the original publisher or a standards reseller. As indicated in paragraph (b) of this section, the standards are available for inspection at the NWCCA. In order to inspect the standards at a NARA location other than the NARA facility in College Park, MD, please contact the NWCCA, Room 2380, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–3415 or e-mail your request to alic@nara.gov.

(1) ANSI X3.54–1986 (“ANSI X3.54”), American National Standard: Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording), 1986, IBR approved for § 1235.46.

(2) ANSI X3.180–1990 (“ANSI X3.180”), American National Standard: Magnetic Tape and Cartridge for Information Interchange—18-Track, Parallel, ½ inch (12.65 mm), 37871 cpi (1491 cpmm), Group-Coded—Requirements for Recording, 1990, IBR approved for § 1235.46.

(3) ANSI/NISO/ISO 9660–1990 (“ANSI/NISO/ISO 9660”), American National Standard for Volume and File Structure of CD-ROM for Information Exchange, 1990, IBR approved for § 1235.46.

(4) ISO/IEC 15307:1997 (“ISO/IEC 15307”), Information technology—Data interchange on 12,7 mm 128-track magnetic tape cartridges—DLT 4 format, First Edition, December 1, 1997, IBR approved for § 1235.46.

§ 1235.10 What records do agencies transfer to the National Archives of the United States?

Agencies must transfer to the National Archives of the United States records that have been scheduled as permanent on an SF 115, Request for Records Disposition Authority, records that are designated as permanent in a GRS; and, when appropriate, records that are accretions to holdings (continuations of series already accessioned.)

§ 1235.12 When must agencies transfer records to the National Archives of the United States?

Permanent records must be transferred to the National Archives of the United States when:

- (a) The records are eligible for transfer based on the transfer date specified in a NARA-approved records schedule, or
- (b) The records have been in existence for more than 30 years (see also § 1235.14).

§ 1235.14 May agencies retain records for the conduct of regular agency business after they are eligible for transfer?

(a) Agencies may retain records longer than specified on a records disposition schedule only with written approval from NARA.

(b) If the agency determines that the records are needed for the conduct of regular business, the records officer must submit to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–1738, a written request certifying continuing need. This certification must:

- (1) Include a comprehensive description and location of records to be retained;
- (2) Cite the NARA-approved disposition authority;
- (3) Describe the current business for which the records are required;
- (4) Estimate the length of time the records will be needed (if no date is provided by the agency, approved certification requests will be effective for a maximum of five years);
- (5) Explain why agency needs cannot be met by NARA reference services or copies of records deposited in the National Archives of the United States; and
- (6) If records are retained to enable routine public reference by the agency rather than NARA, cite the statutory authority authorizing this agency activity.

§ 1235.16 How will NARA respond to an agency's request to retain records?

(a) *Approval.* NARA will provide written approval of the request to retain

the records for the specified period within 30 days of receipt of the request.

(b) *Disapproval.* NARA will provide written disapproval of an agency's request within 30 days. Requests will be denied if the agency is retaining the records primarily to:

- (1) Provide access services to persons outside the agency that can be provided by NARA, or
- (2) Function as an agency archives, unless specifically authorized by statute or by NARA.

§ 1235.18 How do agencies transfer records to the National Archives of the United States?

Agencies transfer records by submitting a signed SF 258, Agreement to Transfer Records to the National Archives of the United States. Each SF 258 must correlate to a specific records series or other aggregation of records, as identified in an item on the SF 115 or cited on the SF 258.

§ 1235.20 How do agencies indicate that transferred records contain information that is restricted from public access?

When completing an SF 258, agencies must indicate restrictions on the use and examination of records and attach a written justification. The justification must cite the statute or Freedom of Information Act (FOIA) exemption (5 U.S.C. 552(b) as amended), that authorizes the restrictions.

§ 1235.22 When does legal custody of records transfer to NARA?

Legal custody of records passes from the agency to NARA when the appropriate NARA official signs the SF 258 acknowledging receipt of the records.

Subpart B—Administration of Transferred Records

§ 1235.30 How may records in the National Archives of the United States be used?

(a) NARA will enforce restrictions that are consistent with FOIA (5 U.S.C. 552(b) as amended) for both official use of the records by Federal agencies and research by the public.

(b) NARA regulations in Subchapter C of this chapter apply to Federal agency personnel using transferred records for official Government purposes, and to the public at large.

§ 1235.32 How does NARA handle restrictions on transferred records?

(a) *For records less than 30 years old.* Unless required by law, NARA will remove or relax restrictions on transferred records less than 30 years old only with the written concurrence of the transferring agency or, if applicable, its successor agency. If the transferring

agency no longer exists, and there is no successor, the Archivist may relax, remove, or impose restrictions to serve the public interest.

(b) *For records more than 30 years old.*

(1) After records are more than 30 years old, most statutory and other restrictions on transferred records expire. NARA, however, after consulting with the transferring agency, may keep the restrictions in force for a longer period.

(2) See part 1256 of this chapter for restrictions on specific categories of records, including national security classified information and information that would invade the privacy of an individual that NARA restricts beyond 30 years.

§ 1235.34 May NARA destroy transferred records?

NARA will not destroy records transferred to NARA's custody except:

(a) With the written concurrence of the agency or its successor, or

(b) As authorized on an SF 258.

Subpart C—Transfer Specifications and Standards

§ 1235.40 What records are covered by additional transfer requirements?

In addition to complying with subparts A and B of this part, agencies must follow the specifications and requirements in this subpart when transferring audiovisual, cartographic, architectural, and electronic records to the National Archives of the United States. In general, such records must be transferred to the National Archives of the United States as soon as they become inactive or whenever the agency cannot provide proper care and handling of the records, including adequate storage conditions (see parts 1236 and 1237 of this subchapter).

§ 1235.42 What specifications and standards for transfer apply to audiovisual records, cartographic, and related records?

In general the physical types described below comprise the minimum record elements that are needed for future preservation, duplication, and reference for audiovisual records, cartographic records, and related records.

(a) *Motion pictures.*

(1) Agency-sponsored or produced motion picture films (e.g., public information films) whether for public or internal use:

(i) Original negative or color original plus separate optical sound track;

(ii) Intermediate master positive or duplicate negative plus optical track sound track; and,

(iii) Sound projection print and video recording, if they exist.

(2) Agency-acquired motion picture films: Two projection prints in good condition or one projection print and one videotape.

(3) Unedited footage, outtakes, and trims (the discards of film productions) that are properly arranged, labeled, and described and show unstaged, unrehearsed events of historical interest or historically significant phenomena:

(i) Original negative or color original; and

(ii) Matching print or videotape.

(b) *Video recordings.*

(1) For videotape, the original or earliest generation videotape and a copy for reference. Agencies must comply with requirements in § 1237.12(d) of this subchapter for original videotapes, although VHS copies can be transferred as reference copies.

(2) For video discs, the premaster videotape used to manufacture the video disc and two copies of the disc. Agencies must consult the National Archives and Records Administration, Special Media Archives Services Division (NWCS), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-2903, before initiating transfers of video discs that depend on interactive software and nonstandard equipment.

(c) *Still pictures.*

(1) For analog black-and-white photographs, an original negative and a captioned print. The captioning information may be maintained in another file such as a database if the file number correlation is clear. If the original negative is nitrate, unstable acetate, or glass based, the agency must also transfer a duplicate negative on a polyester base.

(2) For analog color photographs, the original color negative, color transparency, or color slide; a captioned print (or captioning information maintained in another file if the file number correlation is clear); and a duplicate negative, or slide, or transparency, if they exist.

(3) For slide sets, the original and a reference set, and the related audio recording (in accordance with paragraph (e) of this section) and script.

(4) For other pictorial records such as posters, original art work, and filmstrips, the original and a reference copy.

(d) *Digital photographic records.* See 36 CFR 1235.48(e) and 1235.50(e) for transfer requirements for digital photographic records.

(e) *Sound recordings.*

(1) Disc recordings.

(i) For electronic recordings, the origination recording regardless of form

and two compact discs (CDs) or digital video discs (DVDs).

(ii) For analog disc recordings, the master tape and two disc pressings of each recording, typically a vinyl copy for playback at 33 $\frac{1}{3}$ revolutions per minute (rpm).

(2) For analog audio recordings on magnetic tape (open reel, cassette, or cartridge), the original tape, or the earliest available generation of the recording, and a subsequent generation copy for reference. Agencies must comply with the requirements in 36 CFR 1237.12(c) of this subchapter for audio recordings.

(f) *Finding aids and production documentation.* The following records must be transferred to the National Archives of the United States with the audiovisual records to which they pertain:

(1) Existing finding aids such as data sheets, shot lists, continuities, review sheets, catalogs, indexes, list of captions, and other documentation that are needed or useful to identify or retrieve audiovisual records. Agencies must consult the National Archives and Records Administration, Special Media Archives Services Division (NWCS), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-2903, concerning transfer of finding aids that do not meet the requirements of this part for electronic records.

(2) Production case files or similar files that include copies of production contracts, scripts, transcripts, and appropriate documentation bearing on the origin, acquisition, release, and ownership of the production.

(g) *Maps and charts.*

(1) Manuscript maps; printed and processed maps on which manuscript changes, additions, or annotations have been made for record purposes or which bear manuscript signatures to indicate official approval; and single printed or processed maps that have been attached to or interfiled with other documents of a record character or in any way made an integral part of a record.

(2) Master sets of printed or processed maps issued by the agency. A master set must include one copy of each edition of a printed or processed map issued.

(3) Paper copies of computer-related and computer-plotted maps that can no longer be reproduced electronically.

(4) Index maps, card indexes, lists, catalogs, or other finding aids that may be helpful in using the maps transferred.

(5) Records related to preparing, compiling, editing, or printing maps, such as manuscript field notebooks of surveys, triangulation and other geodetic computations, and project

folders containing agency specifications for creating the maps.

(h) *Aerial photography and remote sensing imagery, including:*

(1) Vertical and oblique negative aerial film created using conventional aircraft.

(2) Annotated copy negatives, internegatives, rectified negatives, and glass plate negatives from vertical and oblique aerial film created using conventional aircraft.

(3) Annotated prints from aerial film created using conventional aircraft.

(4) Infrared, ultraviolet, multispectral (multiband), video, imagery radar, and related tapes, converted to a film base.

(5) Indexes and other finding aids in the form of photo mosaics, flight line indexes, coded grids, and coordinate grids.

(i) *Architectural and related engineering drawings, including:*

(1) Design drawings, preliminary and presentation drawings, and models that document the evolution of the design of a building or structure.

(2) Master sets of drawings that document both the initial design and construction and subsequent alterations of a building or structure. This category includes final working drawings, "as-built" drawings, shop drawings, and repair and alteration drawings.

(3) Drawings of repetitive or standard details of one or more buildings or structures.

(4) "Measured" drawings of existing buildings and original or photocopies of drawings reviewed for approval.

(5) Related finding aids and specifications to be followed.

(j) *Digital geospatial data records.* See § 1235.48(c) for transfer requirements for digital geospatial data records.

§ 1235.44 What general transfer requirements apply to electronic records?

(a) Each agency must retain a copy of permanent electronic records that it transfers to NARA until it receives official notification that NARA has assumed responsibility for continuing preservation of the records.

(b) For guidance related to the transfer of electronic records other than those covered in this subpart, the agency must consult with the National Archives and Records Administration, Electronic/Special Media Records Services Division (NWME), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-3420.

(c) When transferring digital photographs and their accompanying metadata, the agency must consult with the National Archives and Records Administration, Special Media Archives Services Division (NWCS) for digital photographs, 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-2903.

§ 1235.46 What electronic media may be used for transferring records to the National Archives of the United States?

(a) *General.* This section specifies the media or method used to transfer permanent records to the National Archives of the United States. (See 36

CFR 1236.28 for the requirements governing the selection of electronic records storage media for current agency use.) The agency must use only media that is sound and free from defects for transfers to the National Archives of the United States. When permanent electronic records may be disseminated through multiple electronic media (e.g., magnetic tape, CD-ROM) or mechanisms (e.g., FTP), the agency and NARA must agree on the most appropriate medium or method for transfer of the records into the National Archives of the United States.

(b) *Magnetic tape.* Agencies may transfer electronic records to the National Archives of the United States on magnetic tape as follows:

(1) Open-reel magnetic tape must be on 1/2-inch 9-track tape reels recorded at 1600 or 6250 bpi that meet ANSI X3.39 or ANSI X3.54 (both incorporated by reference, see § 1235.4), respectively.

(2) 18-track 3480-class cartridges must be recorded at 37,871 bpi that meet ANSI X3.180 (incorporated by reference see, § 1235.4). The data must be blocked at no more than 32,760 bytes per block.

(3) For DLT tape IV cartridges, the data must be blocked at no more than 32,760 bytes per block and must conform to the standards cited in the table as follows:

If you are copying the records on . . .	. . . then, the standard below applies.
DLTtape IV with a DLT 4000 drive . . .	ISO/IEC 15307 (incorporated by reference see, § 1235.4).
DLTtape IV with a DLT 7000 drive . . .	ISO/IEC 15896 (incorporated by reference see, § 1235.4).
DLTtape IV with a DLT 8000 drive . . .	ISO/IEC 16382 (incorporated by reference see, § 1235.4).

(c) *Compact-Disk, Read Only Memory (CD-ROM) and Digital Video Disks (DVDs).* Agencies may use CD-ROMs and DVDs to transfer permanent electronic records to the National Archives of the United States.

(1) CD-ROMs used for this purpose must conform to ANSI/NISO/ISO 9660 (incorporated by reference, see § 1235.4).

(2) Permanent electronic records must be stored in discrete files. Transferred CD-ROMs and DVDs may contain other files, such as software or temporary records, but all permanent records must be in files that contain only permanent records. Agencies must indicate at the time of transfer if a CD-ROM or DVD contains temporary records and where those records are located on the CD-ROM or DVD. The agency must also

specify whether NARA should return the CD-ROM or DVD to the agency or dispose of it after copying the permanent records to an archival medium.

(3) If permanent electronic records are stored on both CD-ROM (or DVD) and other media, such as magnetic tape, the agency and NARA must agree on the medium that will be used to transfer the records into the National Archives of the United States.

(d) *File Transfer Protocol.* Agencies may use File Transfer Protocol (FTP) to transfer permanent electronic records to the National Archives of the United States only with NARA's approval. Several important factors may limit the use of FTP as a transfer method, including the number of records, record file size, and available bandwidth.

Agencies must contact the National Archives and Records Administration, Special Media Archives Services Division (NWCS), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-2903, or the National Archives and Records Administration, Electronic/Special Media Records Services Division (NWME), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1578, to initiate the transfer discussions. Each transfer of electronic records via FTP must be preceded with a signed SF 258 sent to NWME.

(1) FTP file structure may use the 64-character Joliet extension naming convention only when letters, numbers, dashes (-), and underscores (_) are used in the file and/or directory names, with a slash (/) used to indicate

directory structures. Otherwise, FTP file structure must conform to an 8.3 file naming convention and file directory structure as cited in ANSI/NISO/ISO 9660 (incorporated by reference, see § 1235.4).

(2) Permanent electronic records must be transferred in discrete files, separate from temporary files. All permanent records must be transferred in files that contain only permanent records.

§ 1235.48 What documentation must agencies transfer with electronic records?

(a) *General.* Agencies must transfer documentation adequate to identify, service, and interpret the permanent electronic records. This documentation must include completed NARA Form 14097, Technical Description for Transfer of Electronic Records, for magnetic tape media, and a completed NARA Form 14028, Information System Description Form, or their equivalents. Agencies must submit the required documentation, if electronic, in an electronic form that conforms to the provisions of this section.

(b) *Data files.* Documentation for data files and data bases must include record layouts, data element definitions, and code translation tables (codebooks) for coded data. Data element definitions, codes used to represent data values, and interpretations of these codes must match the actual format and codes as transferred.

(c) *Digital geospatial data files.* Digital geospatial data files must include the documentation specified in paragraph (b) of this section. In addition, documentation for digital geospatial data files can include metadata that conforms to the Federal Geographic Data Committee's Content Standards for Digital Geospatial Metadata, as specified in Executive Order 12906 of April 11, 1994 (3 CFR, 1995 Comp., p. 882) (Federal geographic data standards are available at http://www.fgdc.gov/standards/standards_publications).

(d) *Documents containing SGML tags.* Documentation for electronic files containing textual documents with SGML tags must include a table for interpreting the SGML tags, when appropriate.

(e) *Electronic records in other formats.* (1) This paragraph (e) applies to the documentation for the following types of electronic records:

- (i) E-mail messages with attachments;
- (ii) Scanned images of textual records;
- (iii) Records in portable document format (PDF);
- (iv) Digital photographic records; and
- (v) Web content records.

(2) Guidance on the documentation for electronic records in these formats

are available on the NARA Electronic Records Management Initiative Web page at <http://www.archives.gov/records-mgmt/initiatives/transfer-to-nara.html> or from the National Archives and Records Administration, Special Media Archives Services Division (NWCS), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-2903 for digital photographs and metadata, or the National Archives and Records Administration, Electronic/Special Media Records Services Division (NWME), 8601 Adelphi Road, College Park, MD 20740, phone number 301-837-1578, for other electronic records.

§ 1235.50 What specifications and standards for transfer apply to electronic records?

(a) *General.*

(1) Agencies must transfer electronic records in a format that is independent of specific hardware or software. Except as specified in paragraphs (c) through (e) of this section, the records must be written in American Standard Code for Information Interchange (ASCII) or Extended Binary Coded Decimal Interchange Code (EBCDIC) with all control characters and other non-data characters removed. Agencies must consult with the National Archives and Records Administration, Electronic/Special Media Records Services Division (NWME), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1578 about electronic records in other formats.

(2) Agencies must have advance approval from NARA for compression of the records, and agencies must comply with a request from NARA to provide the software to decompress the records.

(3) Agencies interested in transferring scheduled electronic records using a Tape Archive (TAR) utility must contact the National Archives and Records Administration, Electronic/Special Media Records Services Division (NWME), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1578 to initiate transfer discussions.

(b) *Data files and databases.* Data files and databases must be transferred to the National Archives of the United States as flat files or as rectangular tables; *i.e.*, as two-dimensional arrays, lists, or tables. All "records" (within the context of the computer program, as opposed to a Federal record) or "tuples," *i.e.*, ordered collections of data items, within a file or table must have the same logical format. Each data element within a record must contain only one data value. A record must not contain nested repeating groups of data items. The file

must not contain extraneous control characters, except record length indicators for variable length records, or marks delimiting a data element, field, record, or file. If records or data elements in different files need to be linked or combined, then each record must contain one or more data elements that constitute primary and/or foreign keys enabling valid linkages between the related records in separate files.

(c) *Digital geospatial data files.* Digital spatial data files must be transferred to the National Archives of the United States in a format that complies with a non-proprietary, published open standard maintained by or for a Federal, national, or international standards organization. Acceptable transfer formats include the Geography Markup Language (GML) as defined by the Open GIS Consortium.

(d) *Textual documents.* Electronic textual documents must be transferred as plain ASCII files; however, such files may contain standard markup language such as Standard Generalized Markup Language (SGML) or XML tags.

(e) *Electronic mail, scanned images of textual records, portable document format records, digital photographic records, and Web content records.* For guidance on the transfer of these records to NARA, agencies should consult the transfer requirements available on the NARA Electronic Records Management Initiative Web page at <http://www.archives.gov/records-mgmt/initiatives/transfer-to-nara.html> or contact the National Archives and Records Administration, Special Media Archives Services Division (NWCS), 8601 Adelphi Road, College Park, MD 20740, phone number 301-837-2903 for digital photographs and metadata, or the National Archives and Records Administration, Electronic/Special Media Records Services Division (NWME), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1578, for other electronic records,

PART 1236—ELECTRONIC RECORDS MANAGEMENT

Subpart A—General

Sec.

- 1236.1 What are the authorities for part 1236?
- 1236.2 What definitions apply to this part?
- 1236.4 What standards are used as guidance for this part?
- 1236.6 What are agency responsibilities for electronic records management?

Subpart B—Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems

- 1236.10 What records management controls must agencies establish for

records in electronic information systems?

- 1236.12 What other records management and preservation considerations must be incorporated into the design, development, and implementation of electronic information systems?
- 1236.14 What must agencies do to protect records against technological obsolescence?

Subpart C—Additional Requirements for Electronic Records

- 1236.20 What are appropriate recordkeeping systems for electronic records?
- 1236.22 What are the additional requirements for managing electronic mail records?
- 1236.24 What are the additional requirements for managing unstructured electronic records?
- 1236.26 What actions must agencies take to maintain electronic information systems?
- 1236.28 What additional requirements apply to the selection and maintenance of electronic records storage media for permanent records?

Authority: 44 U.S.C. 2904, 3101, 3102, and 3105.

Subpart A—General

§ 1236.1 What are the authorities for part 1236?

The statutory authority for this part is 44 U.S.C. 2904, 3101, 3102, and 3105. OMB Circular A–130, Management of Federal Information Resources, applies to records and information systems containing records.

§ 1236.2 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1236.

(b) As used in part 1236—

Electronic information system means an information system that contains and provides access to computerized Federal records and other information.

Electronic mail system means a computer application used to create, receive, and transmit messages and other documents. Excluded from this definition are file transfer utilities (software that transmits files between users but does not retain any transmission data), data systems used to collect and process data that have been organized into data files or data bases on either personal computers or mainframe computers, and word processing documents not transmitted on an e-mail system.

Metadata consists of preserved contextual information describing the history, tracking, and/or management of an electronic document.

Unstructured electronic records means records created using office

automation applications such as electronic mail and other messaging applications, word processing, or presentation software.

§ 1236.4 What standards are used as guidance for this part?

These regulations conform with ISO 15489–1:2001. Paragraph 9.6 (Storage and handling) is relevant to this part.

§ 1236.6 What are agency responsibilities for electronic records management?

Agencies must:

- (a) Incorporate management of electronic records into the records management activities required by parts 1220–1235 of this subchapter;
- (b) Integrate records management and preservation considerations into the design, development, enhancement, and implementation of electronic information systems in accordance with subpart B of this part; and
- (c) Appropriately manage electronic records in accordance with subpart C of this part.

Subpart B—Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems

§ 1236.10 What records management controls must agencies establish for records in electronic information systems?

The following types of records management controls are needed to ensure that Federal records in electronic information systems can provide adequate and proper documentation of agency business for as long as the information is needed. Agencies must incorporate controls into the electronic information system or integrate them into a recordkeeping system that is external to the information system itself (see § 1236.20 of this part).

(a) *Reliability:* Controls to ensure a full and accurate representation of the transactions, activities or facts to which they attest and can be depended upon in the course of subsequent transactions or activities.

(b) *Authenticity:* Controls to protect against unauthorized addition, deletion, alteration, use, and concealment.

(c) *Integrity:* Controls, such as audit trails, to ensure records are complete and unaltered.

(d) *Usability:* Mechanisms to ensure records can be located, retrieved, presented, and interpreted.

(e) *Content:* Mechanisms to preserve the information contained within the record itself that was produced by the creator of the record;

(f) *Context:* Mechanisms to implement cross-references to related records that show the organizational, functional, and

operational circumstances about the record, which will vary depending upon the business, legal, and regulatory requirements of the business activity; and

(g) *Structure:* controls to ensure the maintenance of the physical and logical format of the records and the relationships between the data elements.

§ 1236.12 What other records management and preservation considerations must be incorporated into the design, development, and implementation of electronic information systems?

As part of the capital planning and systems development life cycle processes, agencies must ensure:

(a) That records management controls (see § 1236.10) are planned and implemented in the system;

(b) That all records in the system will be retrievable and usable for as long as needed to conduct agency business (i.e., for their NARA-approved retention period). Where the records will need to be retained beyond the planned life of the system, agencies must plan and budget for the migration of records and their associated metadata to new storage media or formats in order to avoid loss due to media decay or technology obsolescence. (See § 1236.14.)

(c) The transfer of permanent records to NARA in accordance with part 1235 of this subchapter.

(d) Provision of a standard interchange format (e.g., ASCII or XML) when needed to permit the exchange of electronic documents between offices using different software or operating systems.

§ 1236.14 What must agencies do to protect records against technological obsolescence?

Agencies must design and implement migration strategies to counteract hardware and software dependencies of electronic records whenever the records must be maintained and used beyond the life of the information system in which the records are originally created or captured. To successfully protect records against technological obsolescence, agencies must:

(a) Determine if the NARA-approved retention period for the records will be longer than the life of the system where they are currently stored. If so, plan for the migration of the records to a new system before the current system is retired.

(b) Carry out upgrades of hardware and software in such a way as to retain the functionality and integrity of the electronic records created in them. Retention of record functionality and integrity requires:

(1) Retaining the records in a usable format until their authorized disposition date. Where migration includes conversion of records, ensure that the authorized disposition of the records can be implemented after conversion;

(2) Any necessary conversion of storage media to provide compatibility with current hardware and software; and

(3) Maintaining a link between records and their metadata through conversion or migration, including capture of all relevant associated metadata at the point of migration (for both the records and the migration process).

(c) Ensure that migration strategies address non-active electronic records that are stored off-line.

Subpart C—Additional Requirements for Electronic Records

§ 1236.20 What are appropriate recordkeeping systems for electronic records?

(a) *General.* Agencies must use electronic or paper recordkeeping systems or a combination of those systems, depending on their business needs, for managing their records. Transitory e-mail may be managed as specified in § 1236.22(c).

(b) *Electronic recordkeeping.* Recordkeeping functionality may be built into the electronic information system or records can be transferred to an electronic recordkeeping repository, such as a DoD-5015.2 STD-certified product. The following functionalities are necessary for electronic recordkeeping:

(1) *Declare records.* Assign unique identifiers to records.

(2) *Capture records.* Import records from other sources, manually enter records into the system, or link records to other systems.

(3) *Organize records.* Associate with an approved records schedule and disposition instruction.

(4) *Maintain records security.* Prevent the unauthorized access, modification, or deletion of declared records, and ensure that appropriate audit trails are in place to track use of the records.

(5) *Manage access and retrieval.* Establish the appropriate rights for users to access the records and facilitate the search and retrieval of records.

(6) *Preserve records.* Ensure that all records in the system are retrievable and usable for as long as needed to conduct agency business and to meet NARA-approved dispositions. Agencies must develop procedures to enable the migration of records and their associated metadata to new storage

media or formats in order to avoid loss due to media decay or technology obsolescence.

(7) *Execute disposition.* Identify and effect the transfer of permanent records to NARA based on approved records schedules. Identify and delete temporary records that are eligible for disposal. Apply records hold or freeze on disposition when required.

(c) *Backup systems.* System and file backup processes and media do not provide the appropriate recordkeeping functionalities and must not be used as the agency electronic recordkeeping system.

§ 1236.22 What are the additional requirements for managing electronic mail records?

(a) Agencies must issue instructions to staff on the following retention and management requirements for electronic mail records:

(1) The names of sender and all addressee(s) and date the message was sent must be preserved for each electronic mail record in order for the context of the message to be understood. The agency may determine that other metadata is needed to meet agency business needs, e.g., receipt information.

(2) Attachments to electronic mail messages that are an integral part of the record must be preserved as part of the electronic mail record or linked to the electronic mail record with other related records.

(3) If the electronic mail system identifies users by codes or nicknames or identifies addressees only by the name of a distribution list, retain the intelligent or full names on directories or distributions lists to ensure identification of the sender and addressee(s) of messages that are records.

(4) Some e-mail systems provide calendars and task lists for users. These may meet the definition of Federal record. Calendars that meet the definition of Federal records are to be managed in accordance with the provisions of GRS 23, Item 5.

(5) Draft documents that are circulated on electronic mail systems may be records if they meet the criteria specified in 36 CFR 1222.10(b) of this subchapter.

(b) Agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that Federal records sent or received on such systems are preserved in the appropriate agency recordkeeping system.

(c) Agencies may elect to manage electronic mail records with very short-

term NARA-approved retention periods (transitory records with a very short-term retention period of 180 days or less as provided by GRS 23, Item 7, or by a NARA-approved agency records schedule) on the electronic mail system itself, without the need to copy the record to a paper or electronic recordkeeping system, provided that:

(1) Users do not delete the messages before the expiration of the NARA-approved retention period, and

(2) The system's automatic deletion rules ensure preservation of the records until the expiration of the NARA-approved retention period.

(d) Except for those electronic mail records within the scope of paragraph (c) of this section:

(1) Agencies must not use an electronic mail system to store the recordkeeping copy of electronic mail messages identified as Federal records unless that system has all of the features specified in § 1236.20(b) of this part.

(2) If the electronic mail system is not designed to be a recordkeeping system, agencies must instruct staff on how to copy Federal records from the electronic mail system to a recordkeeping system.

(e) Agencies that retain permanent electronic mail records scheduled for transfer to the National Archives must either store them in a format and on a medium that conforms to the requirements concerning transfer at 36 CFR part 1235 or maintain the ability to convert the records to the required format and medium at the time transfer is scheduled.

(f) Agencies that maintain paper recordkeeping systems must print and file their electronic mail records with the related transmission and receipt data specified by the agency's electronic mail instructions.

§ 1236.24 What are the additional requirements for managing unstructured electronic records?

(a) Agencies that manage unstructured electronic records electronically must ensure that the records are filed in a recordkeeping system that meets the requirements in § 1236.10, except that transitory e-mail may be managed in accordance with § 1236.22(c).

(b) Agencies that maintain paper files as their recordkeeping systems must establish policies and issue instructions to staff to ensure that unstructured records are printed out for filing in a way that captures any pertinent hidden text (such as comment fields) or structural relationships (e.g., among worksheets in spreadsheets or other complex documents) required to meet agency business needs.

§ 1236.26 What actions must agencies take to maintain electronic information systems?

(a) Agencies must maintain inventories of electronic information systems and review the systems periodically for conformance to established agency procedures, standards, and policies as part of the periodic reviews required by 44 U.S.C. 3506. The review should determine if the records have been properly identified and described, and if the schedule descriptions and retention periods reflect the current informational content and use. If not, agencies must submit an SF 115, Request for Records Disposition Authority, to NARA.

(b) Agencies must maintain up-to-date documentation about electronic information systems that is adequate to:

- (1) Specify all technical characteristics necessary for reading and processing the records contained in the system;
- (2) Identify all inputs and outputs;
- (3) Define the contents of the files and records;
- (4) Determine restrictions on access and use;
- (5) Understand the purpose(s) and function(s) of the system;
- (6) Describe update cycles or conditions and rules for adding, changing, or deleting information in the system; and
- (7) Ensure the timely, authorized disposition of the records.

§ 1236.28 What additional requirements apply to the selection and maintenance of electronic records storage media for permanent records?

(a) Agencies must maintain the storage and test areas for electronic records storage media containing permanent and unscheduled records within the following temperature and relative humidity ranges:

- (1) Temperature—62° to 68° F.
- (2) Relative humidity—35% to 45%.

(b) Electronic media storage libraries and test or evaluation areas that contain permanent or unscheduled records must be smoke-free.

(c) For additional guidance on the maintenance and storage of CDs and DVDS, agencies may consult the National Institute of Standards and Technology (NIST) Special Publication 500–252, Care and Handling of CDs and DVDs at <http://www.itl.nist.gov/iad/894.05/papers/CDandDVDCareandHandlingGuide.pdf>, contact phone number (301) 975–6478.

(d) Agencies must test magnetic computer tape media no more than 6 months prior to using them to store electronic records that are unscheduled

or scheduled for permanent retention. This test should verify that the magnetic computer tape media are free of permanent errors and in compliance with NIST or industry standards.

(e) Agencies must annually read a statistical sample of all magnetic computer tape media containing permanent and unscheduled records to identify any loss of data and to discover and correct the causes of data loss. In magnetic computer tape libraries with 1800 or fewer tape media, a 20% sample or a sample size of 50 media, whichever is larger, should be read. In magnetic computer tape libraries with more than 1800 media, a sample of 384 media should be read. Magnetic computer tape media with 10 or more errors should be replaced and, when possible, lost data must be restored. All other magnetic computer tape media which might have been affected by the same cause (i.e., poor quality tape, high usage, poor environment, improper handling) must be read and corrected as appropriate.

(f) Before the media are 10 years old, agencies must copy permanent or unscheduled data on magnetic records storage media onto tested and verified new electronic media.

PART 1237—AUDIOVISUAL, CARTOGRAPHIC, AND RELATED RECORDS MANAGEMENT

Sec.

- 1237.1 What is the applicability and scope of this part?
- 1237.2 What are the authorities for part 1237?
- 1237.3 What standards are incorporated by reference for this part?
- 1237.4 What definitions apply to this part?
- 1237.10 How must agencies manage their audiovisual, cartographic, and related records?
- 1237.12 What record elements must be created and preserved for permanent audiovisual records?
- 1237.14 What are the scheduling requirements for audiovisual, cartographic, and related records?
- 1237.16 How do agencies store audiovisual records?
- 1237.18 What are the environmental standards for audiovisual records storage?
- 1237.20 What are special considerations in the maintenance of audiovisual records?
- 1237.22 What are special considerations in the storage and maintenance of cartographic and related records?
- 1237.24 What are the special considerations for storage and maintenance of aerial photographic records?
- 1237.26 What materials and processes must agencies use to create audiovisual records?
- 1237.28 What special concerns apply to digital photographs?

1237.30 How do agencies manage records on nitrocellulose-base and cellulose-acetate base film?

Authority: 44 U.S.C. 2904 and 3101.

§ 1237.1 What is the applicability and scope of this part?

Agencies must manage audiovisual, cartographic, and related records in accordance with parts 1220–1235. This part prescribes additional policies and procedures for managing audiovisual, cartographic, and related records to ensure adequate and proper documentation and authorized, timely, and appropriate disposition.

§ 1237.2 What are the authorities for part 1237?

The authorities for this part are 44 U.S.C. 2904 and 3101.

§ 1237.3 What standards are incorporated by reference in this part?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register. For information on the availability of this material at the Office of the Federal Register, call (202) 741–6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The material incorporated by reference is also available for inspection at NARA's Archives Library Information Center (NWCCA), Room 2380, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–3415, and is available for purchase from the sources listed below. If you experience difficulty obtaining the standards referenced below, contact NARA's Policy and Planning Staff (NPOL), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–1850.

(c) *American National Standards Institute (ANSI) and International Organization for Standards (ISO) standards.* The following ANSI and ISO standards are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036, phone number (212) 642–4900, or online at <http://webstore.ansi.org>.

(1) ISO 18906: 2000 (“ISO 18906”), Imaging Materials—Photographic Films—Specifications for Safety Film,

First Edition, December 15, 2000, IBR approved for § 1237.26.

(2) ISO 18911: 2000 (“ISO 18911”), Imaging Materials—Processed safety photographic films—Storage practices, First Edition, November 1, 2000, IBR approved for § 1238.20, IBR approved for §§ 1237.16 and 1237.18.

(3) ISO 18920: 2000 (“ISO 18920”), Imaging Materials—Processed Photographic Reflection Prints—Storage Practices, First Edition, July 15, 2000, IBR approved for § 1237.18.

(4) ANSI/AIIM TR34: 1996 (“ANSI/AIIM TR34”), Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management and Micrographic Systems, May 13, 1996, IBR approved for § 1237.28.

(d) *National Fire Protection Association (NFPA)*. The following standards are available from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9109, Quincy, MA 02269–9101, phone number (617) 770–3000 or online at <http://catalog.nfpa.org>.

(1) NFPA 40–2007 (“NFPA 40–2007”), Standard for the Storage and Handling of Cellulose Nitrate Film, 2007, IBR approved for § 1237.30.

(2) Reserved.

(e) *Techstreet*. The following standards are available from the standards reseller Techstreet, 3916 Ranchero Drive, Ann Arbor, MI 48108, phone number (800) 699–9277, or online at <http://www.Techstreet.com>.

(1) ISO 18902: 2001 (“ISO 18902”), Imaging Materials—Processed Photographic Films, Plates, and Papers—Filing Enclosures and Storage Containers, 2001, IBR approved for § 1237.16.

(2) ISO 18923: 2000 (“ISO 18923”), Imaging Materials—Polyester-Base Magnetic Tape—Storage Practices, First Edition, June 1, 2000, IBR approved for § 1237.18.

(3) ISO 18925: 2002 (“ISO 18925”), Imaging Materials—Optical Disc Media—Storage Practices, First Edition, June 1, 2002, IBR approved for § 1237.18.

(f) The following standards are not available from the original publisher or a standards reseller. As indicated in paragraph (b) of this section, the standards are available for inspection at the NWCCA. In order to inspect the standards at a NARA location other than the NARA facility in College Park, MD, please contact the NWCCA, Room 2380, 8601 Adelphi Road, College Park, MD 20740–6001, phone number (301) 837–3415 or e-mail your request to alic@nara.gov.

(1) ISO 2859–1: 1996 (“ISO 2859–1”), Sampling Procedures for Inspection by

Attributes—Part 1: Sampling Plans Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection, 1996, IBR approved for § 1237.28.

(2) ANSI/NAPM IT9.11–1993 (“ANSI/NAPM IT9.11–1993”), Imaging Media—Processed Safety Photographic Films—Storage, 1993, IBR approved for § 1237.16.

§ 1237.4 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1237.

(b) As used in part 1237—

Aerial photographic records means film-based images of the surface of the earth, of other planetary bodies, or of the atmosphere that have been taken from airborne vehicles or satellites. They include vertical and oblique aerial negative film taken from conventional aircraft as well as copy negatives, internegatives, rectified negatives, and annotated and other prints from these negatives. Also included are infrared, ultraviolet, multispectral, video, and radar imagery that has been converted to a film base. These records also include the relevant index system in whatever form it may exist such as mosaics, flight-line overlays or annotated maps, or electronic data bases capturing the latitude and longitude (or other coordinate-based location data) of individual aerial photographic center points.

Architectural and engineering records means graphic records that depict the proposed and actual construction of stationary structures, such as buildings, bridges, and canals as well as movable objects, such as ships, aircraft, vehicles, weapons, machinery, and equipment. These records are also known as design and construction drawings and include closely related indexes and written specifications.

Audiovisual means any pictorial or aural means of communicating information, e.g., photographic prints, negatives, slides, digital images, sound recordings, and moving images.

Audiovisual equipment means equipment used for recording, producing, duplicating, processing, broadcasting, distributing, storing, or exhibiting audiovisual materials or for providing any audiovisual services.

Audiovisual production means an organized and unified presentation, developed according to a plan or script, containing visual imagery, sound, or both, and used to convey information. An audiovisual production generally is a self-contained presentation.

Audiovisual records means records in pictorial or aural form, including still

photographs and motion media (i.e., moving images whether on motion picture film or as video recordings), sound recordings, graphic works (e.g., printed posters), mixed media, and related finding aids and production files.

Cartographic records means graphic representations drawn to scale of selected cultural and physical features of the surface of the earth, of other planetary bodies, and of the atmosphere. They include maps, charts, photomaps, orthophotomaps and images, atlases, cartograms, globes, and relief models. Related records are those that are integral to the map-making process, such as field survey notes, geodetic controls, map history case files, source material, indexes, and finding aids.

§ 1237.10 How must agencies manage their audiovisual, cartographic, and related records?

Each Federal agency must manage its audiovisual, cartographic and related records as required in parts 1220 through 1235. In addition, agencies must:

(a) Prescribe the types of audiovisual, cartographic, and related records to be created and maintained. (See § 1235.42 of this subchapter for transfer requirements for permanent audiovisual records.)

(b) Create and maintain current inventories showing the location of all generations of audiovisual records and all cartographic and related records, especially those not maintained centrally by the agency.

§ 1237.12 What record elements must be created and preserved for permanent audiovisual records?

For permanent audiovisual records, the following record elements must be created or acquired and preserved for transfer into the National Archives of the United States. (See § 1235.42 of this subchapter for transfer requirements for permanent audiovisual records.)

(a) *Motion pictures*.

(1) Agency-sponsored or produced motion picture films (e.g., public information films) whether for public or internal use:

(i) Original negative or color original plus separate optical sound track;

(ii) Intermediate master positive or duplicate negative plus optical track sound track; and,

(iii) Sound projection print and video recording, if both exist.

(2) Agency-acquired motion picture films: Two projection prints in good condition or one projection print and one videotape.

(3) Unedited footage, outtakes and trims (the discards of film productions)

that are properly arranged, labeled, and described and show unstaged, unrehearsed events of historical interest or historically significant phenomena:

(i) Original negative or color original; and

(ii) Matching print or videotape.

(b) *Video recordings.*

(1) For analog videotapes, the original or earliest generation videotape using industrial-quality or professional videotapes for originals and a copy for reference.

(2) For video discs, the premaster video used to manufacture the video disc and two copies of the disc.

(c) *Still pictures.*

(1) For analog black-and-white photographs, an original negative and a captioned print or the captioning information maintained in another file such as a data base if the file number correlation is clear. If the original negative is nitrate, unstable acetate, or glass based, a duplicate negative on a polyester base is needed.

(2) For analog color photographs, the original color negative, color transparency, or color slide; a captioned print of the original color negative and/or captioning information in another file such as a data base with a clear correlation to the relevant image; and a duplicate negative, or slide, or transparency.

(3) For slide sets, the original and a reference set, and the related audio recording and script.

(4) For other pictorial records such as posters, original art work, and filmstrips, the original and a reference copy.

(d) *Digital photographic records.* See § 1237.28 for requirements for digital photographs.

(e) *Sound recordings.*

(1) Disc recordings:

(i) For electronic recordings, the origination recording regardless of form and two compact discs (CDs) or digital video disks (DVDs).

(ii) For analog disc recordings, the master tape and two disc pressings of each recording, typically a vinyl copy for playback at 33 $\frac{1}{3}$ revolutions per minute (rpm).

(2) For analog audio recordings on magnetic tape (open reel, cassette, or cartridge), the original tape, or the earliest available generation of the recording, and a subsequent generation copy for reference.

(f) *Finding aids and production documentation.*

(1) Existing finding aids such as data sheets, shot lists, continuities, review sheets, catalogs, indexes, list of captions, and other documentation that identifies the records.

(2) Production case files or similar files that include copies of production contracts, scripts, transcripts, and appropriate documentation bearing on the origin, acquisition, release, and ownership of the production.

§ 1237.14 What are the additional scheduling requirements for audiovisual, cartographic, and related records?

The disposition instructions should also provide that permanent records be transferred to the National Archives of the United States within 5–10 years after creation (see also 36 CFR part 1235). See § 1235.42 of this subchapter for specifications and standards for transfer to the National Archives of the United States of audiovisual, cartographic, and related records.

§ 1237.16 How do agencies store audiovisual records?

Agencies must maintain appropriate storage conditions for permanent, long-term temporary or unscheduled audiovisual records:

(a) Ensure that audiovisual records storage facilities comply with 36 CFR part 1234.

(b) For the storage of permanent, long-term temporary, or unscheduled records, use audiovisual storage containers or enclosures made of non-corroding metal, inert plastics, paper products and other safe materials recommended in ISO 18902 and ISO 18911 (both incorporated by reference, see § 1237.3);

(c) Store originals and use copies (e.g., negatives and prints) separately, whenever practicable. Store distinct audiovisual record series separately from textual series (e.g., store poster series separately from other kinds of agency publications, or photographic series separately from general reference files). Retain intellectual control through finding aids, annotations, or other descriptive mechanisms;

(d) Store series of permanent and unscheduled x-ray films, i.e., x-rays that are not interspersed among paper records (case files), in accordance with § 1238.20 of this subchapter. Store series of temporary x-ray films under conditions that will ensure their preservation for their full retention period, in accordance with ANSI/PIMA IT9.11–1993 (incorporated by reference, see § 1237.3);

(e) Store posters and similar graphic works in oversize formats, in map cases, hanging files, or other enclosures that are sufficiently large or flexible to accommodate the records without rolling, folding, bending, or other ways that compromise image integrity and stability; and

(f) Store optical disks in individual containers and use felt-tip, water-based markers for disk labeling.

§ 1237.18 What are the environmental standards for audiovisual records storage?

(a) *Photographic film and prints.* The requirements in this paragraph apply to permanent, long-term temporary, and unscheduled audiovisual records.

(1) *General guidance.* Keep all film in cold storage following guidance by the International Organization for Standardization in ISO 18911 (incorporated by reference, see § 1237.3). See also ISO 18920 (incorporated by reference, see § 1237.3).

(2) *Color images and acetate-based media.* Keep in an area maintained below 40 degrees Fahrenheit with 20–40% relative humidity to retard the fading of color images and the deterioration of acetate-based media.

(b) *Digital images on magnetic tape.* For digital images stored on magnetic tape, keep in an area maintained at a constant temperature range of 62 degrees Fahrenheit to 68 degrees Fahrenheit, with constant relative humidity from 35% to 45%. See also the recommendations in ISO 18923 (incorporated by reference, see § 1237.3); and the requirements for electronic records storage in 36 CFR 1236.28.

(c) *Digital images on optical media.* For permanent, long-term temporary, or unscheduled digital images maintained on optical media (e.g., CDs, DVDs), use the recommended storage temperature and humidity levels stated in ISO 18925 (incorporated by reference, see § 1237.3).

§ 1237.20 What are special considerations in the maintenance of audiovisual records?

Agencies must:

(a) Handle audiovisual records in accordance with commonly accepted industry practices.

(b) Protect audiovisual records, including those recorded on digital media or magnetic sound or video media, from accidental or deliberate alteration or erasure.

(c) If different versions of audiovisual productions (e.g., short and long versions or foreign-language versions) are prepared, keep an unaltered copy of each version for record purposes.

(d) Link audiovisual records with their finding aids, including captions and published and unpublished catalogs, inventories, indexes, and production files and similar documentation created in the course of audiovisual production. Establish and communicate agency-wide, clear

captioning standards, procedures, and responsibilities.

(e) Maintain current and accessible documentation identifying creators of audiovisual products, their precise relationship to the agency, and the nature and status of copyright or other rights affecting the present and future use of items acquired from sources outside the agency. (See § 1222.32 of this subchapter for requirements to ensure agency ownership of appropriate contractor produced records.)

(f) Create unique identifiers for all audiovisual records (*e.g.*, for digital files, use file naming conventions), that clarify connections between related elements (*e.g.*, photographic prints and negatives, or original edited masters and dubbing for video and audio recordings), and that associate records with the relevant creating, sponsoring, or requesting offices.

(g) Maintain temporary and permanent audiovisual records separately.

(h) Require that personnel wear white lint-free cotton (or other approved) gloves when handling film.

§ 1237.22 What are special considerations in the storage and maintenance of cartographic and related records?

Agencies must:

(a) Maintain permanent and unscheduled cartographic, architectural, and engineering records in an environment that does not exceed 70 degrees Fahrenheit and with relative humidity under 50%.

(b) Create an identification scheme for each series and assign unique identification designations to each item within a series.

(c) Maintain lists or indexes for each series with cross-references to related textual records.

(d) Avoid interfiling separate series of maps, charts, or drawings, and file permanent cartographic and architectural records separately from temporary series unless hand-corrected versions have been systematically filed with other published maps in a central or master file.

(e) Avoid rolling and folding maps and drawings. Store permanent maps and drawings flat in shallow drawer map cases in acid-free folders.

(f) Do not laminate original oversize records. Consult the National Archives and Records Administration, Preservation Programs, (NWT), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1785 for preservation, storage, and treatment options.

§ 1237.24 What are special considerations for storage and maintenance of aerial photographic records?

(a) Mark each aerial film container with a unique identification code to facilitate identification and filing.

(b) Mark aerial film indexes with the unique aerial film identification codes or container codes for the aerial film that they index. Also, file and mark the aerial indexes in such a way that they can easily be retrieved by area covered.

§ 1237.26 What materials and processes must agencies use to create audiovisual records?

Agencies must:

(a) For picture negatives and motion picture preprints (negatives, masters, and all other copies) of permanent, long-term temporary, or unscheduled records, use polyester base media and process in accordance with industry standards as specified in ISO 18906 (incorporated by reference, see § 1237.3).

(1) Ensure that residual sodium thiosulfate (hypo) on newly processed black-and-white photographic film does not exceed 0.014 grams per square meter.

(2) Require laboratories to process film in accordance with this standard. Process color film in accordance with the manufacturer's recommendations.

(3) If using reversal type processing, require full photographic reversal; *i.e.*, develop, bleach, expose, develop, fix, and wash.

(b) Avoid using motion pictures in a final "A & B" format (two precisely matched reels designed to be printed together) for the reproduction of excerpts or stock footage.

(c) Use only industrial or professional video and audio recording equipment, new and previously unrecorded magnetic tape stock and blank optical media (*e.g.*, DVD and CD), for original copies of permanent, long-term temporary, or unscheduled recordings. Limit the use of consumer formats to distribution or reference copies or to subjects scheduled for destruction. Avoid using videocassettes in the VHS format for use as originals of permanent or unscheduled records.

(d) Record permanent, long-term, temporary, or unscheduled audio recordings on optical media from major manufacturers. Avoid using cassettes as originals for permanent records or unscheduled records (although they may be used as reference copies).

(e) For born-digital or scanned digital images that are scheduled as permanent or unscheduled, a record (or master) version of each image must be comparable in quality to a 35 mm film

photograph or better, and must be saved in Tagged Image File Format (TIFF) or JPEG File Interchange Format (JFIF, JPEG). For more detailed requirements on image format and resolution, see § 1235.48(e) of this subchapter. For temporary digital photographs, agencies select formats that they deem most suitable for fulfillment of business needs.

§ 1237.28 What special concerns apply to digital photographs?

Digital photographs, either originating in digital form ("born-digital") or scanned from photographic prints, slides, and negatives, are subject to the provisions of this part and the requirements of 36 CFR part 1236, and NARA guidance for transfer of digital photographs located on the following NARA Web page—<http://www.archives.gov/records-mgmt/initiatives/digital-photo-records.html>. In managing digital photographs, agency and contractor personnel must:

(a) Schedule digital photographs and related databases as soon as possible for the minimum time needed for agency business and transfer the records promptly according to the disposition instructions on their records schedule.

(b) Select image management software and hardware tools that will meet long-term archival requirements, including transfer to the National Archives of the United States, as well as business needs. Additional information and assistance is available from the National Archives and Records Administration, Modern Records Program (NWM), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1738.

(c) When developing digital image storage strategies, build redundancy into storage systems, backing up image files through on-line approaches, off-line, or combinations of the two. (See also electronic storage requirements in § 1236.28 of this subchapter).

(d) For scanned digital images of photographic prints, slides, and negatives that are scheduled as permanent or unscheduled, document the quality control inspection process employed during scanning.

(1) Visually inspect a sample of the images for defects, evaluate the accuracy of finding aids, and verify file header information and file name integrity.

(2) Conduct the sample using a volume sufficiently large to yield statistically valid results, in accordance with one of the quality sampling methods presented in ANSI/AIIM TR34 (incorporated by reference, see § 1237.3). (See also ISO 2859-1 (incorporated by reference, see § 1237.3).)

(e) For born-digital images scheduled as permanent, long-term temporary, or unscheduled, perform periodic inspections, using sampling methods or more comprehensive verification systems (e.g., checksum programs), to evaluate image file stability, documentation quality, and finding aid reliability. Agencies must also establish procedures for refreshing digital data (recopying) and file migration, especially for images and databases retained for five years or more.

(f) Designate a record set of images that is maintained separately from other versions. Record sets of permanent or unscheduled images that have already been compressed once (e.g., compressed TIFF or first-generation JPEG) must not be subjected to further changes in image size.

(g) Organize record images in logical series. Group permanent digital images separately from temporary digital images.

(h) Document information about digital photographic images as they are produced. For permanent or unscheduled images descriptive elements must include:

- (1) An identification number;
- (2) Information about image content;
- (3) Identity and organizational affiliation of the photographer;
- (4) Existence of any copyright or other potential restrictions on image use; and
- (5) Technical data including file format and version, bit depth, image size, camera make and model, compression method and level, custom or generic color profiles (ICC/ICM profile), and, where applicable, Exchangeable Image File Format (EXIF) information embedded in the header of image files by certain digital cameras.

(i) Provide a unique file name to identify the digital image.

(j) Develop finding aids sufficiently detailed to ensure efficient and accurate retrieval. Ensure that indexes, caption lists, and assignment logs can be used to identify and chronologically cut-off block of images for transfer to the NARA.

§ 1237.30 How do agencies manage records on nitrocellulose-base and cellulose-acetate base film?

(a) The nitrocellulose base, a substance akin to gun cotton, is chemically unstable and highly flammable. Agencies must handle nitrocellulose-base film (used in the manufacture of sheet film, 35 mm motion pictures, aerial and still photography into the 1950s) as specified below:

(1) Remove nitrocellulose film materials (e.g., 35mm motion picture

film and large series of still pictures) from records storage areas.

(2) Notify the National Archives and Records Administration, Modern Records Program (NWM), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1738, about the existence of nitrocellulose film materials for a determination of whether they may be destroyed or retained after a copy is made by the agency for transfer to NARA. If NARA appraises nitrate film materials as disposable and the agency wishes to retain them, the agency must follow the standard NFPA 40-2007 (incorporated by reference, see § 1237.3).

(3) Follow the packing and shipping of nitrate film as specified in Department of Transportation regulations (49 CFR 172.101, Hazardous materials table; 172.504, Transportation; 173.24, Standard requirements for all packages; and 173.177, Motion picture film and X-ray film—nitrocellulose base).

(b) Agencies must inspect cellulose-acetate film periodically for an acetic odor, wrinkling, or the presence of crystalline deposits on the edge or surface of the film that indicate deterioration. Agencies must notify the National Archives and Records Administration, Modern Records Program (NWM), 8601 Adelphi Road, College Park, MD 20740, phone number (301) 837-1738, immediately after inspection about deteriorating permanent or unscheduled audiovisual records composed of cellulose acetate so that they can be copied by the agency prior to transfer of the original and duplicate film to NARA.

PART 1238—MICROFORMS RECORDS MANAGEMENT

Subpart A—General

- 1238.1 What is the scope of this part?
 1238.2 What are the authorities for part 1238?
 1238.3 What definitions apply to this part?
 1238.4 What standards are used as guidance for this part?
 1238.5 What publications are incorporated by reference?

Subpart B—Microfilming Standards

- 1238.10 What are the format standards for microfilming records?
 1238.12 What documentation is required for microfilmed records?
 1238.14 What are the microfilming requirements for permanent and unscheduled records?
 1238.16 What are the microfilming requirements for temporary records, duplicates, and user copies?

Subpart C—Storage, Use, and Disposition Standards for Microform Records

- 1238.20 How must microform records be stored?
 1238.22 What are the inspection requirements for permanent and unscheduled microform records?
 1238.24 What are NARA inspection requirements for temporary microform records?
 1238.26 What are the restrictions on use for permanent and unscheduled microform records?
 1238.28 What must agencies do when sending permanent microform records to a records storage facility?
 1238.30 What must agencies do when transferring permanent microform records to the National Archives of the United States?
 1238.32 Do agencies need to request NARA approval for the disposition of all microform and source records?

Authority: 44 U.S.C. chapters 29 and 33.

Subpart A—General

§ 1238.1 What is the scope of this part?

This part covers the standards and procedures for using micrographic technology in the management of Federal records.

§ 1238.2 What are the authorities for part 1238?

The statutory authorities for this part are 44 U.S.C. chapters 29 and 33.

§ 1238.3 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1238.

§ 1238.4 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO15489-1:2001, part 7.1 (Principles of records management programmes), and 9.6 (storage and handling).

§ 1238.5 What publications are incorporated by reference in this part?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register. For information on the availability of this material at the Office of the Federal Register, call (202) 741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The material incorporated by reference is also available for inspection at NARA's Archives Library Information Center (NWCCA), Room 2380, 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-3415, and is available for purchase from the sources listed below. If you experience difficulty obtaining the standards referenced below, contact NARA's Policy and Planning Staff (NPOL), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1850.

(c) *American National Standards Institute (ANSI) and International Organization for Standards (ISO) standards.* The following ANSI and ISO standards are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036, phone number (212) 642-4900, or online at <http://webstore.ansi.org>.

(1) ANSI/AIIM MS1-1996 ("ANSI/AIIM MS1"), Standard Recommended Practice for Alphanumeric Computer-Output Microforms—Operational Practices for Inspection and Quality Control, August 8, 1996, IBR approved for § 1238.14.

(2) ANSI/AIIM MS5-R1998 ("ANSI/AIIM MS5"), Standard for Information and Image Management—Microfiche, December, 1998, IBR approved for § 1238.10.

(3) ANSI/AIIM MS14-1996 ("ANSI/AIIM MS14"), Standard Recommended Practice—Specifications for 16mm and 35mm Roll Microfilm, August 8, 1996, IBR approved for § 1238.10.

(4) ANSI/AIIM MS19-1993 ("ANSI/AIIM MS19"), Standard Recommended Practice—Identification of Microforms, August 18, 1993, IBR approved for § 1238.12.

(5) ANSI/AIIM MS32-1996 ("ANSI/AIIM MS32"), Standard Recommended Practice—Microrecording of Engineering Source Documents on 35mm Microfilm, February 16, 1996, IBR approved for § 1238.10.

(6) ANSI/AIIM MS41-1996 ("ANSI/AIIM MS41"), Dimensions of Unitized Microfilm Carriers and Apertures (Aperture, Camera, Copy and Image Cards), July 16, 1996, IBR approved for § 1238.10.

(7) ANSI/AIIM MS43-1998 ("ANSI/AIIM MS43"), Standard Recommended Practice—Operational Procedures—Inspection and Quality Control of Duplicate Microforms of Documents and From COM), June 2, 1998, IBR approved for § 1238.14.

(8) ANSI/AIIM MS45-1990 ("ANSI/AIIM MS 45"), Recommended Practice for Inspection of Stored Silver-Gelatin

Microforms for Evidence of Deterioration, January 22, 1990, IBR approved for § 1238.22.

(9) ISO 18911:2000 ("ISO 18911"), Imaging materials—Processed safety photographic films—Storage practices, First Edition, November 1, 2000, IBR approved for § 1238.20.

(d) *Techstreet.* The following standards are available from the standards reseller Techstreet, 3916 Rancho Drive, Ann Arbor, MI 48108, phone number (800) 699-9277, or online at www.Techstreet.com.

(1) ISO 18901:2002 ("ISO 18901"), Imaging Materials—Processed silver-gelatin type black-and-white films—Specifications for stability, February 15, 2002, IBR approved for §§ 1238.10, 1238.14, and 1238.20.

(2) Reserved

(e) *Document Center Inc.* The following are available from the standards reseller the Document Center Inc., 111 Industrial Road, Suite 9, Belmont, CA, 94002, phone number (650) 591-7600, or online at <http://www.document-center.com>.

(1) ANSI/NAPM IT2.19-1994 ("ANSI/NAPM IT2.19"), American National Standard for Photography—Density Measurements—Part 2: Geometric Conditions for Transmission Density, February 20, 1995, IBR approved for § 1238.14.

(2) ANSI/PIMA IT9.2-1998 ("ANSI/PIMA IT9.2"), Photographic Processed Films, Plates, and Papers—Filing Enclosures and Storage Containers, April 15, 1998, IBR approved for §§ 1238.10 and 1238.20.

(3) ANSI/AIIM MS 23-1998 ("ANSI/AIIM MS23"), Standard Recommended Practice—Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents, June 2, 1998, IBR approved for §§ 1238.10 and 1238.14.

(4) ANSI/ISO 3334-1991, ANSI/AIIM MS51-1991 ("ANSI/ISO 3334, ANSI/AIIM MS51"), Micrographics—ISO Resolution Test Chart No. 2—Description and Use, May 10, 1991, IBR approved for § 1238.14.

(5) ANSI/NAPM IT2.18-1996 ("ANSI/NAPM IT2.18"), American National Standard for Photography—Density Measurements—Part 3: Spectral Conditions, March 8, 1996, IBR approved for § 1238.14.

Subpart B—Microfilming Standards

§ 1238.10 What are the format standards for microfilming records?

The following formats must be used when microfilming records:

(a) *Roll film*—(1) *Source documents.* The formats described in ANSI/AIIM

MS14 (incorporated by reference, see § 1238.5) must be used for microfilming source documents on 16mm and 35mm roll film. A reduction ratio no greater than 1:24 is recommended for correspondence or similar typewritten documents. Use ANSI/AIIM MS23 (incorporated by reference, see § 1238.5) for the appropriate reduction ratio and format for meeting image quality requirements. When microfilming on 35mm film for aperture card applications, the format dimensions in ANSI/AIIM MS32 (incorporated by reference, see § 1238.5), Table 1 must be used, and the aperture card format "D Aperture" shown in ANSI/AIIM MS41 (incorporated by reference, see § 1238.5), Figure 1, must be used. The components of the aperture card, including the paper and adhesive, must conform to the requirements of ANSI/PIMA IT9.2 (incorporated by reference, see § 1238.5). The 35mm film used in the aperture card application must conform to film designated as LE 500 in ISO 18901 (incorporated by reference, see § 1238.5).

(2) *COM.* Microfilm created using computer output microfilm (COM) technology must use the simplex mode described in ANSI/AIIM MS14 (incorporated by reference, see § 1238.5) at an effective ratio of 1:24 or 1:48 depending upon the application.

(b) *Microfiche.* When creating microfiche, either by microfilming source documents or using COM technology, the formats and reduction ratios prescribed in ANSI/AIIM MS5 (incorporated by reference, see § 1238.5) must be used as specified for the size and quality of the documents being filmed. Use ANSI/AIIM MS23 (incorporated by reference, see § 1238.5) for determining the appropriate reduction ratio and format for meeting the image quality requirements.

(c) *Index placement*—(1) *Source documents.* When microfilming source documents, place indexes, registers, or other finding aids, if microfilmed, either in the first frames of the first roll of film or in the last frames of the last roll of film of a series. For microfiche, place the indexes in the last frames of the last microfiche or microfilm jacket of a series.

(2) *COM.* Place indexes on COM following the data on a roll of film, in the last frames of a single microfiche, or in the last frames of the last fiche in a series. Other locations for indexes may be used only if dictated by special system constraints.

§ 1238.12 What documentation is required for microfilmed records?

Agencies must ensure that the microforms capture all information contained on the source documents and that they can be used for the purposes the source documents served. Microform records must be labeled and organized to support easy retrieval and use. Agencies must:

(a) Arrange, describe, and index the filmed records to permit retrieval of any particular document or component of the records.

(b) Title each microform roll or fiche with a titling target or header. For fiche, place the titling information in the first frame if the information will not fit on the header. At a minimum, titling information must include:

- (1) The title of the records;
- (2) The number or identifier for each unit of microform;
- (3) The security classification, if any; and
- (4) The name of the agency and sub-organization, the inclusive dates, names, or other data identifying the records to be included on a unit of microform.

(c) Add an identification target showing the date of microfilming. When necessary to give the microform copy legal standing, the target must also identify the person who authorized the microfilming. Use ANSI/AIIM MS19 (incorporated by reference, see § 1238.5) for standards for identification targets.

§ 1238.14 What are the microfilming requirements for permanent and unscheduled records?

(a) Agencies must apply the standards in this section when microfilming:

(1) Permanent paper records where the original paper record will be destroyed (only after authorization from NARA);

(2) Unscheduled paper records where the original paper record will be destroyed (only after authorization from NARA); and

(3) Permanent and unscheduled original microform records (no paper originals) produced by automation, such as COM.

(b) Agencies must use polyester-based silver gelatin type film that conforms to ISO 18901 (incorporated by reference, see § 1238.5) for LE 500 film in all applications.

(c) Agencies must process microforms so that the residual thiosulfate ion concentration will not exceed 0.014 grams per square meter in accordance with ISO 18901 (incorporated by reference, see § 1238.5) and use the processing procedures in ANSI/AIIM MS1 and ANSI/AIIM MS23 (both incorporated by reference, see § 1238.5).

(d) Agencies must use the following standards for quality:

(1) *Resolution*—(i) *Source documents*. Agencies must determine minimum resolution on microforms of source documents using the method in the Quality Index Method for determining resolution and anticipated losses when duplicating, as described in ANSI/AIIM

MS23 and ANSI/AIIM MS43 (both incorporated by reference, see § 1238.5). Agencies must perform resolution tests using an ANSI/ISO 3334 Resolution Test Chart (incorporated by reference, see § 1238.5) or a commercially available certifiable target manufactured to comply with this standard, and read the patterns following the instructions of ANSI/ISO 3334. Agencies must use the smallest character used to display information to determine the height used in the Quality Index formula. Agencies must use a Quality Index of five at the third generation level.

(ii) *COM*. COM must meet the requirements of ANSI/AIIM MS1 (incorporated by reference, see § 1238.5).

(2) *Background density of images*. Agencies must use the background ISO standard visual diffuse transmission density on microforms appropriate to the type of documents being filmed. Agencies must use the procedure for density measurement described in ANSI/AIIM MS23 (incorporated by reference, see § 1238.5). The densitometer must meet with ANSI/NAPM IT2.18 (incorporated by reference, see § 1238.5) for spectral conditions and ANSI/NAPM IT2.19 (incorporated by reference, see § 1238.5) for geometric conditions for transmission density.

(i) Recommended visual diffuse transmission background densities for images of documents are as follows:

Classification	Description of document	Background density
Group 1	High-quality, high contrast printed book, periodicals, and black typing	1.3–1.5
Group 2	Fine-line originals, black opaque pencil writing, and documents with small high contrast printing	1.15–1.4
Group 3	Pencil and ink drawings, faded printing, and very small printing, such as footnotes at the bottom of a printed page.	1.0–1.2
Group 4	Low-contrast manuscripts and drawing, graph paper with pale, fine-colored lines; letters typed with a worn ribbon; and poorly printed, faint documents.	0.8–1.0
Group 5	Poor-contrast documents (special exception)	0.7–0.85

(ii) Recommended visual diffuse transmission densities for computer generated images are as follows:

Film type	Process	Density measurement method	Min. Dmax ¹	Max. Dmin ¹	Minimum density difference
Silver gelatin	Conventional	Printing or diffuse	0.75	0.15	0.60
Silver gelatin	Full reversal	Printing	1.50	0.20	1.30

¹ Character or line density, measured with a microdensitometer or by comparing the microfilm under a microscope with an image of a known density.

(3) *Base plus fog density of microfilms*. The base plus fog density of unexposed, processed microfilms must not exceed 0.10. When a tinted base film

is used, the density will be increased. The difference must be added to the values given in the tables in paragraph (d)(2) of this section.

(4) *Line or stroke width*. Due to optical limitations in most micrographic systems, microfilm images of thin lines appearing in the source documents will

tend to fill in as a function of their width and density. Therefore, as the reduction ratio of a given system is increased, reduce the background density as needed to ensure that the copies will be legible.

§ 1238.16 What are the microfilming requirements for temporary records, duplicates, and user copies?

(a) *Temporary records with a retention period over 99 years.* Agencies must use the microfilming requirements in § 1238.14.

(b) *Temporary records to be kept for less than 99 years, duplicates, and user copies.* NARA does not require the use of specific standards for these microforms. Agencies may select a film stock that meets their needs and ensures the preservation of the microforms for their full retention period. NARA recommends that agencies consult appropriate standards, available as noted in § 1238.3, and manufacturer's instructions for processing production, and maintenance of microform to ensure that the images are accessible and usable for the entire retention period of the records.

Subpart C—Storage, Use, and Disposition of Microform Records

§ 1238.20 How must microform records be stored?

(a) *Permanent and unscheduled records.* Agencies must store permanent and unscheduled microform records under the extended term storage conditions specified in ISO 18911 and ANSI/PIMA IT9.2 (both incorporated by reference, see § 1238.5), except that the relative humidity of the storage area must be a constant 35 percent RH, plus or minus 5 percent. Non-silver copies of microforms must be maintained in a different storage area than are silver gelatin originals or duplicate copies).

(b) *Temporary records.* Agencies must store temporary microform records under conditions that will ensure their preservation for their authorized retention period. NARA suggests that agencies may consult Life Expectance (LE) guidelines in ISO 18901 (incorporated by reference, see § 1238.5).

§ 1238.22 What are the inspection requirements for permanent and unscheduled microform records?

(a) Agencies must inspect, or arrange for a contractor or NARA to inspect master microform of permanent or unscheduled records following the inspection requirements in paragraph (b) of this section.

(b) The microforms listed in paragraph (a) of this section must be

inspected initially in accordance with ANSI/AIIM MS45 (incorporated by reference, see § 1238.5). All microforms must be inspected when they are two years old. After the initial two-year inspection, unless there is a catastrophic event, the microforms must be inspected as follows until they are transferred to NARA:

(1) For microfilm produced after 1990, inspect the microfilm every 5 years.

(2) For microfilm produced prior to 1990, inspect the microfilm every 2 years.

(c) To facilitate inspection, the agency must maintain an inventory that lists each microform series or publication by production date, producer, processor, format, and results of previous inspections.

(d) The inspection must include the following elements:

(1) An inspection for aging blemishes following ANSI/AIIM MS45

(incorporated by reference, see § 1238.5);

(2) A rereading of resolution targets;

(3) A remeasurement of density; and

(4) A certification of the environmental conditions under which the microforms are stored, as specified in § 1238.20(a).

(e) The agency must prepare an inspection report, and send a copy to NARA in accordance with § 1238.28(c). The inspection report must contain:

(1) A summary of the inspection findings, including:

(i) A list of batches by year that includes the identification numbers of microfilm rolls and microfiche in each batch;

(ii) The quantity of microforms inspected;

(iii) An assessment of the overall condition of the microforms;

(iv) A summary of any defects discovered, e.g., redox blemishes or base deformation; and

(v) A summary of corrective actions taken.

(2) A detailed inspection log created during the inspection that contains the following information:

(i) A complete description of all records inspected (title; roll or fiche number or other unique identifier for each unit of film inspected; security classification, if any; and inclusive dates, names, or other data identifying the records on the unit of film);

(ii) The date of inspection;

(iii) The elements of inspection (see paragraph (d) of this section);

(iv) Any defects uncovered; and

(v) The corrective action taken.

(f) If an inspection finds that a master microform is deteriorating, the agency must make a silver duplicate in

accordance with § 1238.14 to replace the deteriorating master. The duplicate microform must meet inspection requirements (see § 1238.22) before it may be transferred to a record center or NARA.

(g) Inspections must be conducted in environmentally controlled areas in accordance with ANSI/AIIM MS45 (incorporated by reference, see § 1238.5).

§ 1238.24 What are NARA inspection requirements for temporary microform records?

NARA recommends, but does not require, that agencies use the inspection procedures described in § 1238.22(a).

§ 1238.26 What are the restrictions on use for permanent and unscheduled microform records?

(a) Agencies must not use the silver gelatin master microform or duplicate silver gelatin microform of permanent or unscheduled records created in accordance with § 1238.14 of this part for reference purposes. Agencies must ensure that the master microform remains clean and undamaged during the process of making a duplicating master.

(b) Agencies must use duplicates for:

(1) Reference;

(2) Further duplication on a recurring basis;

(3) Large-scale duplication; and

(4) Distribution of records on microform.

(c) Agencies retaining the original record in accordance with an approved records disposition schedule may apply agency standards for the use of microform records.

§ 1238.28 What must agencies do when sending permanent microform records to a records storage facility?

Agencies must:

(a) Follow the procedures in part 1232 of this chapter and the additional requirements in this section.

(b) Package non-silver copies separately from the silver gelatin original or silver duplicate microform copy and clearly label them as non-silver copies.

(c) Include the following information on the transmittal (SF 135 for NARA Federal Records Centers), or in an attachment to the transmittal. For records sent to an agency records center or commercial records storage facility, submit this information to NARA as part of the documentation required by § 1232.14 of this subchapter:

(1) Name of the agency and program component;

(2) The title of the records and the media and format used;

(3) The number or identifier for each unit of microform;

(4) The security classification, if any;

(5) The inclusive dates, names, or other data identifying the records to be included on a unit of microform;

(6) Finding aids that are not contained in the microform; and

(7) The inspection log forms and inspection reports required by § 1238.22(e).

(d) Agencies may transfer permanent microform records to a records storage facility meeting the storage requirements in § 1232.14(a) (see § 1233.10 of this subchapter for NARA Federal Records Centers) of this subchapter only after the first inspection or with certification that the microforms will be inspected by the agency, a contractor, or a NARA Federal Records Center (on a reimbursable basis) when the microforms become 2 years old.

§ 1238.30 What must agencies do when transferring permanent microform records to the National Archives of the United States?

Agencies must:

(a) Follow the procedures in part 1235 of this subchapter and the additional requirements in this section.

(b) If the records are not in a NARA Federal Records Center, submit the information specified in § 1232.14(c) of this subchapter.

(c) Transfer the silver gelatin original (or duplicate silver gelatin microform created in accordance with § 1238.14) plus one microform copy.

(d) Ensure that the inspections of the microforms are up-to-date. NARA will not accession permanent microform records until the first inspection has been performed (when the microforms are 2 years old).

(e) Package non-silver copies separately from the silver gelatin original or silver duplicate microform copy and clearly label them as non-silver copies.

§ 1238.32 Do agencies need to request NARA approval for the disposition of all microform and source records?

(a) *Permanent or unscheduled records.* Agencies must schedule both source documents (originals) and microforms. NARA must approve the schedule, SF 115, Request for Records Disposition Authority, in accordance with part 1225 of this subchapter before any records, including source documents, may be destroyed.

(1) Agencies that comply with the standards in § 1238.14 must include on the SF 115 the following certification: "This certifies that the records described on this form were (or will be) microfilmed in accordance with the

standards set forth in 36 CFR part 1238."

(2) Agencies using microfilming methods, materials, and procedures that do not meet the standards in § 1238.14(a) must include on the SF 115 a description of the system and standards used.

(3) When an agency intends to retain the silver original microforms of permanent records and destroy the original records, the agency must certify in writing on the SF 115 that the microform will be stored in compliance with the standards of § 1238.20 and inspected as required by § 1238.22.

(b) *Temporary records.* Agencies do not need to obtain additional NARA approval when destroying scheduled temporary records that have been microfilmed. The same approved retention period for temporary records is applied to microform copies of these records. The original records can be destroyed once microfilm is verified, unless legal or other requirements prevent their early destruction.

PART 1239—PROGRAM ASSISTANCE AND INSPECTIONS

Subpart A—General

Sec.

1239.1 What is the scope of this part?

1239.2 What are the authorities for part 1239?

1239.3 What definitions apply to this part?

1239.4 What standards are used as guidance for this part?

Subpart B—Program Assistance

1239.10 What program assistance does NARA provide?

1239.12 Whom may agencies contact to request assistance?

Subpart C—Inspections

1239.20 When will NARA undertake an inspection?

1239.22 How does NARA notify the agency of the inspection?

1239.24 How does NARA conduct an inspection?

1239.26 What are an agency's follow up obligations for an inspection report?

Authority: 44 U.S.C. 2904 and 2906.

Subpart A—General

§ 1239.1 What is the scope of this part?

NARA's statutory authorities include assisting agencies in carrying out their records management responsibilities and, when necessary, inspecting agency programs and reporting to Congress on those inspections. Part 1239 identifies the types of records management guidance and program assistance NARA provides to agencies under its 44 U.S.C. chapter 29 mandate; the conditions under which NARA will invoke its inspection authority, also under chapter

29; and the requirements for agencies to cooperate fully in such inspections.

§ 1239.2 What are the authorities for part 1239?

The authorities for this part are 44 U.S.C. 2904 and 2906.

§ 1239.3 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used in part 1239.

(b) As used in part 1239—
Inspection means a formal review and report by NARA under 44 U.S.C. 2904(c) and 2906(a) of an agency's recordkeeping processes that focus on significant records management problems affecting records at risk that meet one or more of the following criteria:

(1) Have a direct and high impact on legal rights or government accountability;

(2) Are the subject of high profile litigation, Congressional attention, or widespread media coverage;

(3) Have high research potential; or

(4) Are permanent records with a large volume, regardless of format.

§ 1239.4 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489-1:2001. Paragraphs 7.1, Principles of records management programmes, and 10, Monitoring and auditing, apply to this part.

Subpart B—Program Assistance

§ 1239.10 What program assistance does NARA provide?

(a) NARA publishes handbooks, conducts workshops and other training sessions, and furnishes information and guidance to Federal agencies about the creation of records, their maintenance and use, and their disposition. NARA also may conduct a targeted assistance project in cooperation with an agency to address a serious records management issue in the agency.

(b) Information on NARA handbooks and guidance is available at <http://www.archives.gov/records-mgmt/>.

(c) Information on NARA training is available at <http://www.archives.gov/records-mgmt/training/>.

§ 1239.12 Whom may agencies contact to request program assistance?

Agencies in the Washington, DC, area desiring information or assistance related to any of the areas covered by subchapter B may contact the National Archives and Records Administration, Life Cycle Management Division

(NWML), 8601 Adelphi Rd., College Park, MD 20740–6001, phone number 301–837–1738. Agency field organizations may contact the appropriate NARA Regional Administrator regarding records management assistance, including for records in or scheduled for transfer to the records center or the archival operations within the region.

Subpart C—Inspections

§ 1239.20 When will NARA undertake an inspection?

NARA may undertake an inspection when an agency fails to address specific records management problems involving high risk to significant records. Problems may be identified through a risk assessment or through other means, such as reports in the media, Congressional inquiries, allegations of unauthorized destruction, reports issued by the GAO or an agency's Inspector General, or observations by NARA staff members. Inspections will be undertaken when other NARA program assistance efforts (see § 1239.10) have failed to mitigate situations where there is a high risk of loss of significant records, or when NARA agrees to a request from the agency head that NARA conduct an inspection to address specific significant records management issues in the agency. NARA reports to Congress and the Office of Management and Budget on inspections in accordance with 44 U.S.C. 2904.

§ 1239.22 How does NARA notify the agency of the inspection?

(a) Once NARA identifies the need to conduct an agency inspection, the

Archivist of the United States sends a letter to the head of the agency. If the agency being inspected is a component of a cabinet department, the letter will be addressed to the head of the component, with a copy sent to the head of the department. NARA will also send copies to the agency's records officer. The letter will include:

(1) Notification that NARA intends to conduct an inspection, the records that will be inspected, and the issues to be addressed;

(2) A beginning date for the inspection that is no more than 30 days after the date of the letter; and

(3) A request that the agency appoint a point of contact who will assist NARA in conducting the inspection.

(b) If the agency does not respond to NARA's notification letter, NARA will use its statutory authority under 44 U.S.C. 2904(c)(8) to report the matter to the agency's congressional oversight committee and to the Office of Management and Budget.

§ 1239.24 How does NARA conduct an inspection?

(a) The NARA inspection team leader will coordinate with the agency point of contact to arrange an initial meeting with the agency. The initial meeting will address such matters as the parameters of the inspection, any surveys or other inspection instruments, the offices to be visited, and the timing of site visits.

(b) After the inspection is complete, NARA will prepare a draft inspection report and transmit it to the agency within 45 calendar days of the last site visit. The report will include:

(1) An executive summary;

(2) Background and purpose of inspection;

(3) Inspection methodology, including offices visited;

(4) Findings;

(5) Corrective actions needed and other recommendations; and

(6) Any necessary appendixes, such as summaries of each site visit or the inspection instrument.

(c) The draft report is sent to the agency for review, with a response deadline of 45 days.

(d) NARA will incorporate any necessary corrections or revisions in the final report and issue the report to the head of the agency within 45 days.

§ 1239.26 What are an agency's follow up obligations for an inspection report?

The agency must submit a plan of corrective action that specifies how the agency will address each inspection report recommendation, including a timeline for completion, and proposed progress reporting dates. The agency must submit the plan of corrective action to NARA within 60 days of transmission of the final report. NARA may take up to 60 days to review and comment on the plan. Once the plan is agreed upon by both sides, agencies must submit progress reports to NARA until all actions are completed.

PARTS 1240–1249—[RESERVED]

Adrienne C. Thomas,

Acting Archivist of the United States.

[FR Doc. E9–23613 Filed 10–1–09; 8:45 am]

BILLING CODE 7515–01–P