

FEDERAL RULES OF CIVIL PROCEDURE

Evidence, civil actions, see rule 43, Appendix to this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal proceedings, see rule 26, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1732. Record made in regular course of business; photographic copies

If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence, or event, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original. This subsection shall not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence.

(June 25, 1948, ch. 646, 62 Stat. 945; Aug. 28, 1951, ch. 351, §§1, 3, 65 Stat. 205, 206; Pub. L. 87-183, Aug. 30, 1961, 75 Stat. 413; Pub. L. 93-595, §2(b), Jan. 2, 1975, 88 Stat. 1949.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §695 (June 20, 1936, ch. 640, §1, 49 Stat. 1561).

Changes in phraseology were made.

AMENDMENTS

1975—Pub. L. 93-595 struck out subsec. (a) which had made admissible as evidence writings or records made as a memorandum or record of any act, transaction, occurrence, or event if made in the regular course of business, and struck out designation “(b)” preceding remainder of section. See Federal Rules of Evidence set out in Appendix to this title.

1961—Subsec. (b). Pub. L. 87-183 struck out “unless held in a custodial or fiduciary capacity or” after “may be destroyed in the regular course of business”.

1951—Act Aug. 29, 1951, §3, inserted reference to photographic copies in section catchline.

Subsecs. (a), (b). Act Aug. 28, 1951, §1, designated existing provisions as subsec. (a) and added subsec. (b).

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see rule 44, Appendix to this title.

Effect of rule 44 on former section 695 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27 and note of the Advisory Committee under rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 5555.

§ 1733. Government records and papers; copies

(a) Books or records of account or minutes of proceedings of any department or agency of the United States shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept.

(b) Properly authenticated copies or transcripts of any books, records, papers or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof.

(c) This section does not apply to cases, actions, and proceedings to which the Federal Rules of Evidence apply.

(June 25, 1948, ch. 646, 62 Stat. 946; Pub. L. 93-595, §2(c), Jan. 2, 1975, 88 Stat. 1949.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§661-667, 671 (R.S. §§882-886, 889; July 31, 1894, ch. 174, §§17, 22, 28 Stat. 210; Mar. 2, 1895, ch. 177, §10, 28 Stat. 809; June 10, 1921, ch. 18, §§301, 302, 304, 310, 42 Stat. 23-25; May 10, 1934, ch. 277, §512, 48 Stat. 758; June 19, 1934, ch. 653, §6(a), 48 Stat. 1109).

The consolidation of sections 661-667 and 671 of title 28, U.S.C., 1940 ed., permitted omission of obsolete, unnecessary and repetitive provisions in such sections. For example, the provision in section 665 of title 28, U.S.C., 1940 ed., authorizing the court to require production of documents on a plea of non est factum, was omitted. Such plea is obsolete in Federal practice.

Numerous provisions with respect to authentication were omitted as covered by Rule 44 of the Federal Rules of Civil Procedure.

Likewise the provision that official seals shall be judicially noticed was omitted as unnecessary. Seals of Federal agencies are judicially noticed by States and Federal courts without statutory mandate. *Gardner v. Barney*, 1867, 6 Wall. 499, 73 U.S.C. 499, 18 L.Ed. 890, 31 C.J.S. 599 n. 27-30 and 23 C.J.S. 99 n. 41. The same principle unquestionably will apply to seals of Government corporations.

Words “of any corporation all the stock of which is beneficially owned by the United States, either directly or indirectly”, in section 661 of title 28, U.S.C., 1940 ed., were omitted as covered by “or agency”. The revised section was broadened to apply to “any department or agency”. (See reviser’s note under section 1345 of this title.)

Changes were made in phraseology.

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c), are set out in the Appendix to this title.

AMENDMENTS

1975—Subsec. (c). Pub. L. 93-595 added subsec. (c).

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official record, see rule 44, Appendix to this title.

Subpoena for production of documentary evidence, see rule 45.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official record, see rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

Subpoena for production of documentary evidence, see rule 17.

CROSS REFERENCES

Authenticated and certified copy of Government record by Archivist admissible in evidence, see section 2116 of Title 44, Public Printing and Documents.