

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION****36 CFR Subchapter B**

[FDMS Docket NARA-08-0004]

**RIN 3095-AB16****Federal Records Management; Revision****AGENCY:** National Archives and Records Administration (NARA).**ACTION:** Proposed 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 proposed rule will affect Federal agencies.

**DATES:** Submit comments on or before October 3, 2008.

**ADDRESSES:** NARA invites interested persons to submit comments on this proposed rule. Please include "Attn: 3095-AB16" and your name and mailing address in your comments. Comments may be submitted by any of the following methods:

- *Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* Submit comments by facsimile transmission to 301-837-0319.
- *Mail:* Send comments to Regulations Comments Desk (NPOL), Room 4100, Policy and Planning Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

• *Hand Delivery or Courier:* Deliver comments to 8601 Adelphi Road, College Park, MD.

**FOR FURTHER INFORMATION CONTACT:**

Laura McCarthy at telephone number 301-837-3023 or Nancy Allard at telephone number 301-837-1477. They can also be reached at fax number 301-837-0319.

**SUPPLEMENTARY INFORMATION:****Background****Overview**

On July 31, 2003, the National Archives and Records Administration (NARA) issued our Strategic Directions for Federal Records Management. In that document we set out our goals, strategies, and tactics for redesigning Federal records management to serve agencies in the 21st century. This proposed rule reflects those strategic

directions and the initiatives that NARA has undertaken in support of the redesigned Federal records management program. It does not reflect pending 2008 legislation relating to management of electronic messages that was introduced after this proposed rule was developed; NARA will further revise proposed Part 1236 in a separate rulemaking should that legislation go into effect.

On March 15, 2004, at 69 FR 12100, NARA published an Advanced Notice of Proposed Rulemaking (ANPRM) requesting comments about a proposal to rewrite and restructure the Federal records management regulations contained in 36 CFR Chapter XII, Subchapter B. In response, we received remarks from one member of the public, seven Federal records management professionals, one records management contractor working for a Federal agency, one retired records management consultant, and one records management consultant.

Overall, the comments were in favor of our proposal. Many commented that it was time for an update and that the regulations needed to incorporate changes to address the evolution of technology. They also recommended that we use *ISO 15489-1:2001, Records management—Part 1: General*, as guidance for the entire revision, not just the sections pertaining to electronic records management.

In rewriting and restructuring the regulation, we incorporated plain language principles with the intent of making the regulations easier to read, understand, and use. We also organized the regulations according to the lifecycle concept of records, while acknowledging that the lifecycle is not linear. As recommended in the comments, the organization of the CFR parts in this proposed rule generally reflects the order outlined in the ANPRM. Our comprehensive review of the Subchapter identified opportunities to consolidate related requirements that had been added over the years to different sections within the parts.

The existing Subchapter B contains several Parts that are subdivided into multiple subparts, making it difficult to locate information quickly. The proposed rule instead has broken the material into smaller, more focused Parts. Each part begins with a statement of the statutory authorities and the ISO 15489-1:2001 clauses that pertain to the provisions.

**Discussion of Proposed Rule Provisions**

**Proposed Part 1220, Federal Records; General**

This part sets out the statutory basis for Federal records management programs; the roles of NARA, other oversight agencies, and every Federal agency in carrying out records management; and general records management program requirements, which are specified in greater detail in subsequent parts. The material in proposed part 1220 is drawn from subparts A and B of the existing 36 CFR part 1220, plus existing §§ 1222.10 and 1222.20. Existing § 1220.18 is moved to proposed part 1239.

In proposed § 1220.18 we have added definitions for the following terms:

*Disposition authority, Information system, and Personal files.* The definition for *Personal files* is based on the definition of "personal papers" in the existing 36 CFR 1222.36, but has been updated and clarified. We deleted the definition for *Maintenance and use* as the term is understandable in the regulations without the definition. A number of the other definitions in § 1220.18 have been edited but their substantive meaning has not changed.

We have not revised the definition of *Records* (Federal records) other than to add a cross reference to an explanation of the elements of the definition. We caution agencies and the public that the statutory definition of "record" in 44 U.S.C. 3301, and thus this regulatory definition, differs from statutory definitions of the same term for purposes of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and other statutes.

The existing 36 CFR part 1220, subpart B has been reorganized and rewritten in plain language. The proposed provisions are organized around identification of agency records management responsibilities, general records management principles that agency records management programs must implement, and high-level statement of the actions agencies must take to carry out their records management responsibilities. Concepts in existing §§ 1222.10 and 1222.20 have been incorporated in the revised subpart B.

**Proposed Part 1222, Creation and Maintenance of Federal Records**

This part distinguishes between records, personal files, and nonrecord materials; and prescribes recordkeeping requirements for agencies, Federal employees, and Federal contractors. The material in proposed part 1222 is drawn from subparts A and C of existing 36

CFR part 1222. The significant changes to this part are:

- In the new § 1222.18, we are revising the conditions under which nonrecord materials may be removed by departing employees from Government agency custody. Currently, the regulations permit nonrecord materials containing national security classified information or information restricted from release under the Privacy Act or other statutes to be removed from an agency if the information is appropriately protected. After consulting the Information Security Oversight Office, we have revised the provision relating to national security classified information to limit removal to instances governed by the National Industrial Security Program. We also propose to prohibit without exception removal of Privacy Act and other statutorily restricted nonrecord materials from Government custody. 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.

• In the new § 1222.32, we have added clarification concerning creation and maintenance of records when a contractor operates a program for an agency and reference to the National Industrial Security Program requirements for national security classified information.

#### Proposed Part 1223, Management of Vital Records

This part establishes the necessary actions that each agency must take to ensure proper and adequate documentation for continuing agency operations in the event of an emergency or disaster. The material in proposed part 1223 is drawn from existing 36 CFR part 1236. There are no significant changes from the existing regulations other than updating references to the authorities.

#### Proposed Part 1224, Disposition of Federal Records; General

This part specifies the elements of a records disposition program, the details of which are covered in proposed parts 1225 through 1235. The requirements in existing 36 CFR 1228.12, Basic elements of disposition programs, are covered now in § 1220.34.

#### Proposed Part 1225, Scheduling Records

This part outlines the process for developing records schedules and obtaining records disposition authorities. The material in proposed

part 1225 replaces subpart B of existing 36 CFR part 1228.

#### Proposed Part 1226, Implementing Schedules

This part instructs agencies on how to apply disposition instructions, dispose of records, and train agency personnel in these procedures. The material in proposed part 1226 is drawn from subpart D of existing 36 CFR part 1228. We have removed the requirement to submit 20 copies of printed schedules and now require only that an electronic copy be sent via e-mail. As authorized by a 2004 change to 44 U.S.C. 2909, the proposed § 1226.20 will allow agencies to temporarily retain records beyond their approved retention period when special circumstances alter the normal administrative, legal or fiscal value of the records. The existing regulation requires agencies to obtain NARA approval if the records must be kept for more than one year beyond the date they are eligible for disposal.

#### Proposed Part 1227, General Records Schedules

This part explains General Records Schedules (GRS) and when the GRS must be used by agencies. The material in proposed part 1227 is drawn from subpart C of existing 36 CFR part 1228. The only significant change from the existing regulation is that the list of current GRS is no longer provided in the part. Instead, agencies are directed to NARA's Web site to obtain copies of the most current schedules.

#### Proposed Part 1228, Loan of Permanent and Unscheduled Records

This part prescribes the procedures for agencies to loan permanent and unscheduled records to other Federal agencies and non-Federal entities. The material in proposed part 1228 is drawn from subpart E of existing 36 CFR part 1228. Because the loan of permanent and unscheduled records increases the likelihood of the records becoming lost, misplaced, or incorporated into other files, we have added a requirement that agencies obtain prior NARA approval to loan original permanent or unscheduled records to other Federal agencies. We believe that there are few, if any, instances where agencies currently loan original records to another agency.

Since agencies do not need to request NARA approval to provide copies of records to other agencies and entities, this provision should not place a burden on agencies.

#### Proposed Part 1229, Emergency Authorization to Destroy Records

This part outlines the steps agencies must take when they discover records that are a continuing menace to human health or life or to property. The material in proposed part 1229 is drawn from subpart F of existing 36 CFR part 1228. The only significant change is to require agencies to notify NARA in all cases where records constituting a continuing menace to human health or life or to property are identified; the existing § 1228.92 permits agencies to deal with deteriorating nitrocellulose base film unilaterally, notifying NARA within 30 days after their action.

#### Proposed Part 1230, Unlawful or Accidental Removal, Defacing, Alteration, or Destruction of Records

This part sets out the penalties and reporting requirements when records are destroyed, damaged, or removed without authorization. The material in proposed part 1230 is drawn from existing 36 CFR part 1228, subpart G. The title of the part now reflects the wording used in 44 U.S.C. 3106. We have also updated the provision relating to criminal penalties to reflect amendments to 18 U.S.C. 2071. We have added a new § 1230.16 to address how NARA and agencies handle credible allegations of unlawful or accidental removal, defacing, alteration, or destruction of records.

#### Proposed Part 1231, Transfer of Records from the Custody of One Executive Agency to Another

This part provides procedures for the transfer of records between executive agencies. The material in proposed part 1231 is drawn from 36 CFR part 1228, subpart H. The only significant change from the existing regulation is the removal of sections concerning transfer of equipment and the cost of transfers.

#### Proposed Part 1232, Transfer of Records to Records Storage Facilities

This part provides procedures for the transfer of records to a NARA, agency-operated, or commercial records storage facility. There are no substantive changes from the existing subpart I of 36 CFR part 1228.

#### Proposed Part 1233, Transfer, Use, and Disposition of Records in a NARA Records Center

This part provides procedures that apply to the use of NARA's Federal Records Center Program. There are no substantive changes from the existing subpart J of 36 CFR part 1228.

**Proposed Part 1234, Facility Standards for Records Storage Facilities [Reserved]**

At the final rule stage, we intend to re-designate the regulations currently in 36 CFR part 1228, subpart K, as new part 1234 without change. Comments are not being considered on the current subpart K or the move to a new part 1234.

**Proposed Part 1235, Transfer of Records to the National Archives of the United States**

The material in proposed part 1235 is drawn from 36 CFR part 1228, subpart L. The significant changes are elimination of descriptive information on the archival depositories in which transferred records will be stored and specification of timeframes for NARA approval or disapproval of agency requests to retain records beyond their expected transfer date.

**Proposed Part 1236, Electronic Records Management**

This part reflects an update and reorganization of policies and procedures relating to electronic records management, currently contained in 36 CFR part 1234. This proposed part 1236 reminds agencies that all records management program requirements in parts 1220 through 1235 apply to electronic records, and then focuses on additional requirements that apply to electronic records. The revision of this part was also informed by the responses NARA received to an ANPRM published on October 10, 2001 (66 FR 51740) addressing a petition for rulemaking. The petition had requested that the Archivist amend NARA rules concerning the management, scheduling and preservation of text documents created in electronic form.

The proposed part 1236 contains, in restated language, most of the provisions of the existing part 1234. We have broadened the coverage of text documents to include all unstructured records. We have eliminated the existing § 1234.26, Judicial use of electronic records, because those principles are now widely accepted by courts. As noted previously, this proposed part does not reflect pending legislation relating to requirements that electronic records be captured and preserved in electronic recordkeeping systems only.

**Proposed Part 1237, Audiovisual, Cartographic, and Related Records Management**

This proposed part expands and updates the audiovisual records management provisions in the existing 36 CFR part 1232 to address aerial

photographic records, architectural engineering records, cartographic records, and digital photographs. As with the proposed CFR parts for electronic and micrographic records, this proposed part 1237 reminds agencies that all records management program requirements in parts 1220 through 1235 apply to audiovisual, cartographic and related records, and then focuses on additional requirements that apply specifically to records in these formats and media.

**Proposed Part 1238, Microforms Records Management**

The material in proposed part 1238 is drawn from existing 36 CFR part 1230. The only substantive change is the deletion of the current § 1230.50 concerning non-regulatory information on centralized micrographic services from NARA.

**Proposed Part 1239, Program Assistance and Inspections**

The material in proposed part 1239 relating to program assistance NARA provides to agencies is drawn from existing 36 CFR part 1238; there are no substantive changes. The material relating to inspections of records management programs has been changed significantly from the current regulations on evaluations contained in subpart C of existing 36 CFR part 1220. As NARA announced in its 2003 Strategic Directions for Federal Records Management, NARA will undertake inspections when an agency, or a series of agencies in a specific line of business, fails to address high-level records management risks or specific problems identified through NARA's risk-based resource allocation model or other means such as Government reports or the media. The time frames for the inspection steps have been shortened, reflecting the more focused nature of inspections.

Parts 1240 through 1249 are reserved.

**Regulatory Impact**

This proposed 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). The proposed rule incorporates changes made during the OMB and interagency review under E.O. 12866. As required by the Regulatory Flexibility Act, I certify that this proposed 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.

**List of Subjects**

Archives and records.

For the reasons set forth in the preamble, NARA proposes to revise 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
- 1235 Transfer or 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 and documentary materials must be managed in accordance with the regulations in Subchapter B?
- 1220.18 What definitions apply to the regulations in 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 prescribes 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 part 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 may be destroyed and which records 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 and documentary materials must be managed in accordance with the regulations in Subchapter B?**

The requirements in Subchapter B apply to recorded information and documentary materials that meet the definition of Federal records. See also part 1222.

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

As used in subchapter B—  
*Agency* (see *Executive agency* and *Federal agency*).

*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.

*Appraisal* is the process by which the National Archives and Records Administration (NARA) determines the value and thus 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 Standard Forms 115, 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* are a collective term that refers to recorded information, regardless of the medium or the method or circumstances of recording.

*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 branch 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 is used to denote 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 a discrete set of information resources organized for the collection, processing, maintenance, transmission, and dissemination of information, in accordance with defined procedures, whether automated or manual. (OMB Circular A-130.)

*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 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 SFs 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, or any reasonably segregable portion thereof, regardless of physical form or format, of a private or nonpublic character that do not relate to and do not have an affect upon the conduct of 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:

(a) A Standard Form 115, Request for Records Disposition Authority that has been approved by NARA to authorize the disposition of Federal records;

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

(c) A published agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SFs 115 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 are to 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:

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

(b) 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 Standard Form 115, Request for Records Disposition Authority. Such records must be treated as permanent until a final disposition is approved.

## 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 useable 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, and the form or format of each record is specified;
- (b) Records are organized and maintained to facilitate their use and usefulness throughout their authorized retention periods;
- (c) Records are available when needed, where needed, and in a useable 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 Subchapter B).

**§ 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, e-mail and postal addresses, telephone and fax numbers of the individual to NARA (NWM), 8601 Adelphi Road, College Park, MD 20740-6001 or to *RM.Communications@nara.gov*. The name, title, and telephone 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;

(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;

(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);

(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 compliance 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 to guidance provided in ISO 15489-1:2001. 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 chapter.

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

(1) *Documentary materials* is a collective term for records, nonrecord

materials, and personal papers that refers to all media containing recorded information, regardless of the nature of the media or the method(s) or circumstance(s) of recording.

(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 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) 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; or

(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 solely upon whether it contains unique information. Multiple copies of the same document and documents containing duplicative information may each have record status depending on their relationship to other records (context) and 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 because their volume may exceed that of records. 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) including:

(1) Information copies of correspondence, directives, forms, and other documents on which no action is recorded or taken.

(2) Tickler, follow up, or suspense copies of correspondence, provided they are not the original documents.

(3) Duplicate copies of documents filed together in the same file.

(4) Extra copies of printed or processed materials for which complete record sets exist, such as current and superseded manuals maintained outside the office responsible for maintaining the record set.

(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, as evidence of agency activities and for the information they contain, 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 maintained in an electronic repository, 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 that is restricted from release under the Privacy Act or other

statutes may not be removed from Government custody.

(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. The NARA publications *Documenting Your Public Service* <http://www.archives.gov/records-mgmt/publications/documenting-your-public-service.html> and *Disposition of Federal Records* <http://www.archives.gov/records-mgmt/publications/disposition-of-federal-records/index.html> further explain what types of materials are personal files. This section does not apply to agencies and positions that are covered by the Presidential Records Act (see 36 CFR part 1270).

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

(4) Propose how long records must be maintained for agency business per the scheduling process in Part 1225;

(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) 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 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 telephone 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) and, where applicable, the Defense Federal Acquisition Regulation Supplement (DFARS).

(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 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 (5 U.S.C. 552), and the Privacy Act (5 U.S.C. 552a), 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), in accordance with 32 CFR part 2004.

**§ 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, 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;

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

(h) Comply with 36 CFR parts 1232 and 1234 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 guidelines for Part 1223?

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; 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 Emergency Management Agency Federal Preparedness Circular (FPC) 65, Federal Executive Branch Continuity of Operations (COOP).

**§ 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 that type 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 guidelines for Part 1223?**

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

#### **§ 1223.10 What is the purpose of Part 1223?**

Part 1223 prescribes 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 Annex G of FPC 65. 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 record 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/) 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 so as not to be 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 chapter, 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 Standard Form 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). 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 to guidance provided in ISO 15489–1:2001. 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) agencies must:

(a) Ensure that all records are scheduled in accordance with part 1225, schedules are implemented in accordance with part 1226, 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).

(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 records systems (whether paper or electronic). See § 1236.6.

(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 to guidance provided in ISO 15489–1:2001. 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), and 9.10 (Documenting records management processes) 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, Standard Form (SF) 115, Request for Records Disposition Authority, or the NARA General Records Schedules. See §§ 1230.10 and 1234.32 of Subchapter B, for requirements specific to microform and electronic records, respectively.

#### **§ 1225.12 How are records schedules developed?**

The principal steps in developing agency records schedules are listed below. Details are given in the NARA *Disposition of Federal Records* handbook <http://www.archives.gov/records-mgmt/publications/disposition-of-federal-records/index.html> and other NARA guidance.

(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 all media, 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 the 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 General Accounting Office, when required under title 8 of the GAO Policy and Procedures Manual for the Guidance of Federal Agencies (see § 1225.20).

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

(j) The disposition instructions on SFs 115 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 using guidelines in the NARA records management handbook, Disposition of Federal Records.

(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;

(iii) Inclusive dates;

(iv) An arrangement statement;

(v) Statement of restrictions on access under the Freedom of Information Act 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.

(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 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.

(1) If NARA determines either that records are not permanent or that the transfer instructions are not appropriate, it will notify the agency and negotiate an appropriate disposition. The disposition instruction on the SF 115 will be modified prior to NARA approval.

(2) If NARA and the agency cannot agree on the disposition and/or 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.

#### § 1225.16 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.

(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, 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 will submit an SF 115 with a revised proposal for disposition within 6 months of the date of the approval of the original SF 115 or withdrawal of the SF 115 item.

#### § 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) SFs 115 include only records not covered by the General Records Schedules (GRS) (see part 1227), deviations from the GRS (see § 1227.10), or previously scheduled records requiring changes in retention periods or substantive changes in description.

(c) SFs 115 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)); 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 SFs 115 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) As specified in the GAO Policy and Procedures Manual for Guidance of Federal Agencies, title 8—Records Management (44 U.S.C. 3309), 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 GRS 2–10, and  
 (3) Certain records relating to claims and demands by or against the Government, and to accounts in which the Government is concerned.

(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 reassigned 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 NARA (NWM) in writing of records that have been previously scheduled as permanent in hard copy form, including special media records as described in 36 CFR 1235.52. 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) 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), agencies are authorized to retain records eligible for destruction until the new schedule is approved.

(a) SFs 115 that revise previously approved disposition authorities must cite the SF 115 and item numbers to be superseded, the current printed records disposition schedule and item numbers, if any, and/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.

(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 NARA (NWM). NARA approval is documented as an annotation to the schedule item.

**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?**

This part is in conformance with ISO 15489-1:2001, 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 NARA.

**§ 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 telephone 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 with the following limitations:

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

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

(d) 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, an agency must notify NARA (NWM) 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. 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, 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. Agencies must inform NARA about such court orders in writing. The notification must include a copy of the order and the information specified in § 1226.20(b)(1) through (b)(4).

(b) To request an extension, agencies must send a letter to NARA (NWM). 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 General Records Schedule 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.

**§ 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.

(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 wastepaper contractor must definitively destroy the information contained in the records by one of the means specified in paragraph (b) 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 by reuse in any way.

**§ 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 NARA (NWM), 8601 Adelphi Rd., College Park, MD 20740–6001. The request must include:

(1) The name of the department or agency, and subdivisions thereof, 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) That 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) That 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 disposal 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 guidelines for this part?

1227.11 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 guidelines for this part?**

These regulations are in conformance with ISO 15489–1:2001, 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 NARA 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, and a justification for the deviation.

When NARA issues a new or revised GRS, and	Then
(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 90 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.

#### **§ 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 Program (NWM), 8601 Adelphi Road, College Park, MD 20740-6001.

(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?

**1228.10** 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.

#### **§ 1228.10 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; 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) The agency must send a written request to NARA (NWM) transmitting the proposed loan agreement, citing the rationale for not providing copies in place of the original records, and specifying the name, title, and telephone 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).

#### **§ 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 45 days.

(b) NARA will deny the request if the records are due or past due to be transferred to the National Archives of the United States in accordance with Part 1235, 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 life, health, or 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.

#### **§ 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 1229.

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

When the Archivist 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 to property, the Archivist 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 NARA (NWM). 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 or fax to NWM or the NARA Regional Administrator.

(b) If NARA concurs in a determination that the records must be destroyed, the 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 by a foreign power appears imminent, the head of the agency that has custody of the records determines that their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient administrative, 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 NARA (NWM) 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 this part?
- 1230.2 What standards are used as guidelines 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 this part?**

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

**§ 1230.2 What standards are used as guidelines for this part?**

These regulations conform to 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 NARA-approved retention period of a temporary record (other than court-ordered disposal under § 1226.14(d)); 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) 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 Record 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 NARA (NWM).

(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).

**§ 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:

(a) If the threat has not yet resulted in damage, removal, or destruction, NARA will contact the agency by telephone 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 by 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 this part?

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 this part?**

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?**

The Archivist of the United States 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 NARA (NWM). 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.

**§ 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 centers or to the National Archives of the United States in accordance with parts 1232, 1233, and 1235;

(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.

**PART 1232—TRANSFER OF RECORDS TO RECORDS STORAGE FACILITIES**

Sec.

1232.1 What are the authorities for this part?

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 agencies 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 guidelines for this part?**

These regulations conform to 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
(1) Permanent records .....	Any storage facility that meets the provisions of 36 CFR part 1234.
(2) Unscheduled records .....	(i) Any storage facility that meets the provisions of 36 CFR part 1234. (ii) Also requires prior notification to NARA (see § 1232.14(b)).
(3) Temporary records (excluding Civilian Personnel Records) .....	Any storage facility that meets the provisions of 36 CFR part 1234.
(4) Vital records .....	Storage facility must meet the provisions of 36 CFR parts 1223 and 1234.
(5) Civilian Personnel Records .....	May only be transferred to the National Personnel Records Center (NPRC), St. Louis, MO (see part 1233).

**§ 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 of this part 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 NARA (NWM) 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 as required by 36 CFR 1226.22.

**§ 1232.16 What documentation must agencies 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:

(i) Creating office;

(ii) Series title;

(iii) 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);

(iv) Date span;

(v) Physical form and medium of records (e.g., paper, motion picture film, sound recordings, photographs or digital images);

(vi) Volume;

(vii) Citation to NARA-approved 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);

(viii) Restrictions on access if applicable;

(ix) Disposition ("permanent," "temporary," or "unscheduled; SF 115 pending");

(x) Date of disposition action (transfer to the National Archives of the United States or destruction);

(xi) Physical location, including name and address of facility; and

(xii) 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 NARA (NWM) 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.

(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 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.

(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 1226.22.

(1) Agencies must establish procedures that ensure that temporary records are destroyed in accordance with NARA-approved 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 prior to 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 § 1234.3 within one year of their re-appraisal, 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 § 1234.3(b) 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.

(e) Agencies must ensure that records that are restricted because they are security classified or exempt from disclosure by statute, including the Privacy Act (5 U.S.C. 552a), 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, or regulation), are destroyed in accordance with the requirements specified in § 1226.24.

(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 this part?

1233.2 What definitions apply to this part?

1233.3 What standards are used as guidelines 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 this part?

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 guidelines for this part?

These regulations conform to 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 part 1234 of this part, which meets the agency's obligation in § 1232.14(a).

(b) NARA Federal Records Centers may under some circumstances accept records that pose a threat to other records or to the health and safety of users including hazardous materials such as nitrate film, radioactive or chemically contaminated records, records exhibiting active mold growth, or untreated insect or rodent infiltrated records. Agencies may contact the NARA Federal Records Center for technical advice on treating such records.

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

(d) Transfers to NARA Federal Records Centers must be preceded by the submission of a Standard Form (SF)

135, Records Transmittal and Receipt. Preparation and submission of this form will meet the requirements for records description provided in § 1232.14(c), 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.

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

(f) 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 Office of Regional Records Services (NR) 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 NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001. 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 (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118. An agency must transfer the following four types of records to the NPRC:

(i) Official personnel folders of separated Federal civilian employees;

(ii) Service record cards of employees who separated or transferred on or before December 31, 1947;

(iii) Audited individual earnings and pay cards and comprehensive payrolls; and

(iv) Employee medical folders of separated Federal civilian employees.

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

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

(2) Medical treatment records (outpatient) for military retirees, dependents, and others treated at military health care facilities.

**§ 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 National Personnel Records Center 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. Civilian personnel records must be retired in Standard Form 66, Official Personnel Folder, or Standard Form 66C, Merged Records Personnel Folder, as appropriate.

(4) Consult the Office of Personnel Management Web site (<http://www.opm.gov/feddata/html/opf.htm>) for the OPM publication The Guide to Personnel Recordkeeping for procedures on the transfer of OPFs and EMFs. (The Guide is also available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402-9328.)

(b) *Military medical records.* Please contact NPRC staff for information on transferring medical records.

(c) *Other guidance.* For further guidance consult the NPRC Web site ([http://www.archives.gov/facilities/mo/st\\_louis.html](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 the Center Information Processing System (CIPS), the Optional Form 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). 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 online 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.

(e) Federal agencies must use an SF 180, Request Pertaining to Military Records, to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). 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>.

(f) 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 1226.22(c).

(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).

(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—[RESERVED]**

**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 this part?

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 records, 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 this part?**

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 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?**

The ANSI and ISO publications cited in this section are available from the American National Standards Institute

(ANSI), 25 West 43rd Street, 4th floor, New York, NY 10036 or electronically at <http://www.ansi.org/>. The FIPS standard cited in this paragraph is available from the National Technical Information Service, Department of Commerce, Springfield, VA 22161. All these standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

ANSI X3.39-1986, American National Standard: Recorded Magnetic Tape for Information Interchange (1600 CPI, PE).

ANSI X3.54-1986, American National Standard: Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording).

ANSI X3.180-1990, American National Standard: Magnetic Tape and Cartridge for Information Interchange—18-Track, Parallel, 1/2 inch (12.65 mm), 37871 cpi (1491 cpmm), Group-Coded—Requirements for Recording.

ANSI/NISO/ISO 9660-1990, American National Standard for Volume and File Structure of CD-ROM for Information Exchange.

FIPSPUB 173-1, Spatial Data Transfer Standard (SDTS).

ISO/IEC 10918-1: Information Technology—Digital Compression and Coding of Continuous-tone Still Images (1994).

ISO/IEC 15307:1997, First edition, December 1, 1997, Information technology—Data interchange on 12.7 mm 128-track magnetic tape cartridges—DLT 4 format.

ISO/IEC 15896:1999, First edition, December 15, 1999, Information technology—Data interchange on 12.7 mm 208-track magnetic tape cartridges—DLT 5 format.

ISO/IEC 16382:2000, First edition, May 15, 2000, Information technology—Data interchange on 12.7 mm 208-track magnetic tape cartridges—DLT 6 format.

##### **§ 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 General Records Schedule; 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 NARA (NWM) 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 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 the Freedom of Information Act (5 U.S.C. 552) 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 chapter).

**§ 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 36 CFR 1237.12(d) 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 NARA (NWCS) 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 the digital image transfer standard "Expanding Acceptable Transfer Requirements: Transfer Instructions for Permanent Electronic Records—DIGITAL PHOTOGRAPHIC RECORDS" page at <http://www.archives.gov/records-mgmt/initiatives/digital-photo-records.html>. See also 36 CFR 1235.48(e) and 1235.50(e) for transfer requirements for digital photographic records.

(e) *Sound recordings.*

- (1) Disc recordings.

(i) For compact discs, the origination recording regardless of form and two compact discs.

(ii) For analog disc recordings, the master tape and two disc pressings of each recording, typically a vinyl copy for playback at 33 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) for audio recordings.

(e) *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 NARA (NWCS) 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.

(f) *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.

(g) *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.

(h) *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.

(i) *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) When transferring electronic records, the agency must consult with NARA (NWCS for digital photographs and accompanying metadata, NWME for other electronic records) for guidance when transferring these types of electronic records in forms or formats other than those prescribed in this subpart.

**§ 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 X3.39-1986, American National Standard: Recorded Magnetic Tape for Information Interchange (1600 CPI, PE) or ANSI X3.54-1986, American National Standard: Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording), respectively.

(2) 18-track 3480-class cartridges must be recorded at 37,871 bpi that meet ANSI X3.180-1990, American National Standard: Magnetic Tape and Cartridge for Information Interchange—18-Track, Parallel, 1/2 inch (12.65 mm), 37871 cpi (1491 cpmm), Group-Coded—Requirements for Recording. The data must be blocked at no more than 32,760 bytes per block.

(3) DLT tape IV cartridges must be recorded in an uncompressed format. Agencies interested in transferring scheduled electronic records using a Tape Archive (TAR) utility must contact NARA's Electronic and Special Media Records Services Division (NWME) to initiate transfer discussions. 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:

(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 9660-1990, American National Standard for Volume and File Structure of CD-ROM for Information Exchange.

(2) Permanent electronic records must be stored in discrete files. Transferred CD-ROMs 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 contains temporary records and where those records are located on the CD-ROM. The agency must also specify whether NARA should return the CD-ROM 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 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 NARA (NWME) 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 9660-1990, American National Standard for Volume and File Structure of CD-ROM for Information Exchange.

(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, and a completed NARA Form 14028, Information System Description Form, or their equivalents. Agencies must submit the required documentation 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 spatial data files.* Digital spatial data files must include the documentation specified in paragraph (b) of this section. In addition, documentation for digital spatial 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).

(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 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 (PDF) format;
- (iv) Digital photographic records; and
- (v) Web content records.

(2) Documentation for electronic records in these formats must follow the transfer requirements available on the NARA Electronic Records Management Initiative Web page at <http://www.archives.gov/records-mgmt/initiatives/erm-products.html> or from NARA (NWCS for digital photographs and metadata, NWME 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 ASCII or EBCDIC with all control characters and other non-data characters removed. Agencies must consult with NARA (NWME) 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. The records must not be in an aggregated format (e.g., TAR files).

(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:

(1) The Spatial Data Transfer Standard (SDTS) as defined in the Federal Information Processing Standard 173-1 (June 10, 1994) that is incorporated by reference. Digital geospatial data files created on systems procured prior to February 1994 which do not have a SDTS capability are exempt from this requirement. Agencies must consult with NARA regarding transfer of noncompliant digital geospatial data files created after February 1, 1994.

(2) 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 Generalized Markup Language (SGML) tags.

(e) *Electronic mail, scanned images of textual records, portable document format records, digital photographic records, and Web content records.* Agencies must follow the transfer requirements available on the NARA Electronic Records Management Initiative Web page at <http://www.archives.gov/records-mgmt/initiatives/erm-products.html> or from NARA (NWCS for digital photographs and NWME for other electronic records).

**PART 1236—ELECTRONIC RECORDS MANAGEMENT**

**Subpart A—General**

Sec.

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**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.

*Electronic record* includes both record content and associated metadata that the agency determines is required to meet agency business needs.

*Metadata* consists of contextual information preserved 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 guidelines for this part?**

These regulations are in conformance with ISO 15489-1:2001.

**§ 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;

(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).

(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 agency's capital planning and systems development life cycle processes, ensure:

(a) Records management controls (see § 1236.10) are planned and implemented in the system.

(b) 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).

## 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 distribution 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 General Records Schedule 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).

(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).

(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(b).

(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:

Temperature—62° to 68°F.

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 the maintenance and storage of CDs and DVDS, see 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>.

(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) Agencies must copy permanent or unscheduled data on electronic records storage media before the media are 10 years old 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?
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- 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?
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- 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 this part?**

The authorities for this part are 44 U.S.C. 2904 and 3101.

**§ 1237.3 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, 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.

**§ 1237.4 What standards are incorporated by reference for this part?**

(a) The following publications cited in this section are hereby incorporated by reference into this part 1237. They are available from the issuing organizations at the addresses listed in this section. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

(b) The following International (ISO) and American National Standards Institute (ANSI) standards are available from ANSI, 25 West 43rd Street, Fourth Floor, New York, NY 10036 or online at <http://www.ansi.org>:

ISO 2859-1: 1996, Sampling Procedures for Inspection by Attributes—Part 1: Sampling Plans Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection

ISO 18901: 2002, Imaging Materials—Processed Silver-Gelatin Type Black-and-White Films—Specifications for Stability

ISO 18902: 2001, Imaging Materials—Processed Photographic Films, Plates, and Papers—Filing Enclosures and Storage Containers

ISO 18906: 2000, Imaging Materials—Photographic Films—Specifications for Safety Film

ISO 18911: 2000, Imaging Materials—Processed Safety Photographic Films—Storage Practices

ISO 18918: 2000, Imaging Materials—Processed Photographic Plates—Storage Practices

ISO 18920: 2000, Imaging Materials—Processed Photographic Reflection Prints—Storage Practices

ISO 18923: 2000, Imaging Materials—Polyester-Base Magnetic Tape—Storage Practices

ISO 18925: 2002, Imaging Materials—Optical Disc Media—Storage Practices

ANSI/NAPM IT9.11-1993, Imaging

Media—Processed Safety

Photographic Films—Storage

ANSI/AIIM TR34:1996, Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management and Micrographic Systems

(c) The following NFPA standard is available from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9109, Quincy, MA 02269-9101, or on-line at <http://catalog.nfpa.org>:

NFPA 40-2007, Standard for the Storage and Handling of Cellulose Nitrate Film

**§ 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 and 1224. In addition, agencies must:

(a) Prescribe the types of audiovisual, cartographic and related records to be created and maintained. (See § 1235.42 for 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 § 1235.52 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 database 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 database 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 compact discs, the origination recording regardless of form and two compact discs.

(ii) For analog disc recordings, the master tape and two disc pressings of each recording, typically a vinyl copy for playback at 33 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 must also provide that permanent records be transferred to National Archives of the United States within 5–10 years after creation (see also 36 CFR part 1235). See § 1235.42 for specifications and standards for transfer to 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: 2001, Imaging Materials—Processed Photographic Films, Plates, and Papers—Filing Enclosures and Storage Containers; and ISO 18911: 2000, Imaging Materials—Processed Safety Photographic Films—Storage Practices;

(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., 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. Store series of temporary x-ray films under conditions that will ensure their preservation for their full retention period, in accordance with ANSI/NAPM IT9.11–1993, Imaging Media—Processed Safety Photographic Films—Storage;

(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 (ISO) 18911: 2000, Imaging Materials—Processed Safety Photographic Films—Storage Practices. See also ISO 18920: 2000, Imaging Materials—Processed Photographic Reflection Prints—Storage Practices; and ISO 18918: 2000, Imaging Materials—Processed Photographic Plates—Storage Practices.

(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: 2000, Imaging Materials—Polyester-Base Magnetic Tape—Storage Practices; and the coverage of 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: 2002, Imaging Materials—Optical Disc Media—Storage Practices.

**§ 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 § 1222.30 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 NARA (NWT) 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: 2000—Imaging Materials—Photographic Films—Specifications for Safety Film, and ISO 18901: 2002—Imaging Materials—Processed Silver-Gelatin Type Black-and-White Films—Specifications for Stability.

(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 chapter. 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 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 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 NARA (NWM).

(c) When developing digital image storage strategies, build redundancy into storage systems, backing up image files through on-line approaches, off-line, or combinations thereof. (See also electronic storage requirements in § 1236.28 of this chapter).

(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 American National Standards Institute (ANSI)/Association of Information and Image Management (AIIM) TR34:1996—Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management and Micrographic Systems. (See also ISO 2859-1: 1996—Sampling Procedures for Inspection by Attributes—Part 1: Sampling Plans Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection.)

(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 for 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. 35 mm motion picture film and large series of still pictures) from records storage areas.

(2) Notify NARA (NWM) 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 guidance in NFPA 40–2007, Standard for the Storage and Handling of Cellulose Nitrate Film.

(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 NARA (NWM) 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 this part?
- 1238.3 What definitions apply to this part?
- 1238.4 What standards are used for guidance for this part?
- 1238.5 What publications are incorporated by reference?

**Subpart B—Standards for Microfilming Records**

- 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 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 this part?**

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 for guidance for this part?**

These regulations conform to 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?**

(a) The following publications cited in this part are hereby incorporated by reference into this part 1238. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. These materials are incorporated as they exist on the date of approval, and a notice of change in these materials will be published in the **Federal Register**.

(b) The publications incorporated by reference listed in this section are

available from the issuing organization. They may also be examined at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20408.

(c) *American National Standards Institute (ANSI) and International Organization for Standards (ISO) standards.* ANSI and ISO standards cited in this part are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036. The standards can be ordered online at <http://webstore.ansi.org/ansidocstore/default.asp>.

ANSI/ISO 5.2–1991, ANSI/NAPM IT2.19–1994, February 20, 1995, American National Standard for Photography-Density Measurements—Part 2: Geometric Conditions for Transmission Density.

ANSI/ISO 5.3–1995, ANSI/NAPM IT2.18–1996, March 8, 1996, American National Standard for Photography-Density Measurements—Part 3: Spectral Conditions.

ISO 18901:2002, Imaging materials—Processed silver-gelatin type black-and-white films—Specifications for stability.

ISO 18902:2001, Imaging materials—Processed photographic films, plates, and paper—Filing enclosures and storage containers.

ISO 18911: 2000(E), First edition, November 1, 2000, Imaging materials—Processed safety photographic films—Storage practices.

(d) *Enterprise Content Management Association (AIIM) Standards.* You may obtain the following standards from the Enterprise Content Management Association, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910. The standards can be ordered online at <http://www.aiim.org/>.

ANSI/AIIM MS1–1996, August 8, 1996, Standard Recommended Practice for Alphanumeric Computer-Output Microforms-Operational Practices for Inspection and Quality Control.

ANSI/AIIM MS5–1992, December 21, 1992, Standard for Information and Image Management-Microfiche.

ANSI/AIIM MS14–1996, August 8, 1996, Standard Recommended Practice—Specifications for 16mm and 35mm Roll Microfilm.

ANSI/AIIM MS19–1993, August 18, 1993, Standard Recommended Practice—Identification of Microforms.

ANSI/AIIM MS23–1998, June 2, 1998, Standard Recommended Practice—Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents.

ANSI/AIIM MS32–1996, February 16, 1996, Standard Recommended Practice—Microrecording of Engineering Source Documents on 35mm Microfilm.

ANSI/AIIM MS41-1996, July 16, 1996, Dimensions of Unitized Microfilm Carriers and Apertures (Aperture, Camera, Copy and Image Cards).

ANSI/AIIM MS43-1998, June 2, 1998, Standard Recommended Practice—Operational Procedures—Inspection and Quality Control of Duplicate Microforms of Documents and From COM.

ANSI/AIIM MS45-1990, January 22, 1990, Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.

ANSI/ISO 3334-1991, ANSI/AIIM MS51-1991, May 10, 1991, Micrographics—ISO Resolution Test Chart No. 2—Description and Use.

## Subpart B—Standards for Microfilming Records

### § 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 MS14-1996 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 MS23-1998 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 MS32-1996, Table 1 must be used, and the aperture card format "D Aperture" shown in ANSI/AIIM MS41-1996, Figure 1, must be used. The components of the aperture card, including the paper and adhesive, must conform to the requirements of ANSI/PIMA IT9.2-1998. The 35mm film used in the aperture card application must conform to film designated as LE 500 in ISO 18901:2001.

(2) *COM.* Microfilm created using computer output microfilm (COM) technology must use the simplex mode described in ANSI/AIIM MS14-1996 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 MS5-1992 (R1998) must be used as specified for the size and quality of the documents being filmed. Use ANSI/

AIIM MS23-1998 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 MS19-1993 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; and (only after authorization from NARA);

(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 18901:2001 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 18901:2001 and use the processing procedures in ANSI/AIIM MS1-1996 and ANSI/AIIM MS23-1998.

(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 MS23-1998 and ANSI/AIIM MS43-1998. Agencies must perform resolution tests using an ISO 3334-1991 Resolution Test Chart or a commercially available certifiable target manufactured to comply with this standard, and read the patterns following the instructions of ISO 3334-1991. 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 MS1-1996.

(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 MS23-1998. The densitometer must meet with ANSI/NAPM IT2.18-1996, for spectral conditions and ANSI/NAPM IT2.19-1994, 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 <sup>1</sup>	Max. Dmin <sup>1</sup>	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

<sup>1</sup> 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 (e)(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 18911:2000 and ANSI/PIMA IT9.2–1998, 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. Agencies may consult Life Expectance (LE) guidelines in ANSI/AIIM standards (see § 1238.3 for availability) for measures that can be used to meet retention requirements.

##### **§ 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 microforms 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 MS45–1990. 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 MS45–1990;
- (2) A rereading of resolution targets;
- (3) A re-measurement 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 file 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 MS45-1990.

**§ 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 chapter:

(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 chapter for NARA Federal Records Centers) 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 chapter 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).

(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 chapter 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?

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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 this part?**

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 to 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 NARA Life Cycle Management Division (NWML), 8601 Adelphi Rd., College Park, MD 20740-6001. 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.

**§ 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]**

Dated: July 24, 2008.

**Allen Weinstein,**

*Archivist of the United States.*

[FR Doc. E8–17679 Filed 8–1–08; 8:45 am]

**BILLING CODE 7515–01–P**