

parts 1230, 1232, and/or 1234 of this chapter, respectively.

Approval and Inspection Requirements

§ 1228.240 How does an agency request authority to establish or relocate records storage facilities?

(a) *General policy.* Agencies are responsible for ensuring that records in their legal custody are stored in appropriate space as outlined in this subpart. Under § 1228.156(a), agencies are responsible for removing records from space that does not meet these standards if deficiencies are not corrected within 6 months after initial discovery of the deficiencies by NARA or the agency.

(1) *Agency records centers.* Agencies must obtain prior written approval from NARA before establishing or relocating an agency records center. Each separate agency records center must be specifically approved by NARA prior to the transfer of any records to that individual facility. If an agency records center has been approved for the storage of Federal records of one agency, any other agency that proposes to store its records in that facility must still obtain NARA approval to do so.

(2) *Commercial records storage facilities.* An agency may contract for commercial records storage services. However, before any agency records are transferred to a commercial records storage facility, the transferring agency must ensure that the facility meets all of the requirements for an agency records storage facility set forth in this subpart and must submit the documentation required in paragraph (e) of this section.

(b) *Exclusions.* For purposes of this section, the term "agency records center" excludes NARA-owned and operated records centers. For purposes of this section and § 1228.242, the term "agency records center" also excludes agency records staging and/or holding areas with a capacity for containing less than 25,000 cubic feet of records. However, such records centers and areas, including records centers operated and maintained by NARA, must comply with the facility standards in §§ 1228.228 through 1228.236.

(c) *Content of requests for agency records centers.* Requests for authority to establish or relocate an agency records center must be submitted in writing to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The request must identify the specific facility and must document compliance with the standards in this subpart.

(d) *Approval of requests for agency records centers.* NARA will review the submitted documentation to ensure the facility demonstrates full compliance with the standards in this subpart. NARA reserves the right to visit the facility, if necessary, to make the determination of compliance. NARA will inform the agency of its decision within 45 days after the request is received. Requests will be denied only if NARA determines that the facility does not demonstrate full compliance with the standards in this subpart. Approvals will be valid for a period of 10 years, unless the facility is materially changed before then or an agency or NARA inspection finds that the facility does not meet the standards in this subpart. Material changes require submission of a new request for NARA approval.

(e) *Documentation requirements for storing Federal records in commercial records storage facilities.* At least 45 days before an agency first transfers records to a commercial records storage facility, the agency must submit documentation to NARA that the facility complies with the standards in this subpart. The documentation may take the form of a copy of the agency's contract that incorporates this subpart in its provisions or a statement from the agency records officer that certifies that the facility meets the standards in this subpart. An agency must provide the documentation for each separate commercial records storage facility where its records will be stored. Documentation must be sent to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The agency must submit updated documentation to NARA every 10 years if it continues to store records in that commercial records storage facility.

§ 1228.242 When may NARA conduct an inspection of a records storage facility?

(a) At the time an agency submits a request to establish an agency records center, pursuant to § 1228.240, NARA may conduct an inspection of the proposed facility to ensure that the facility complies fully with the standards in this subpart. NARA may also conduct periodic inspections of agency records centers so long as such facility is used as an agency records center. NARA will inspect its own records center facilities on a periodic basis to ensure that they are in compliance with the requirements of this subpart.

(b) Agencies must ensure, by contract or otherwise, that agency and NARA officials, or their delegates, have the right to inspect commercial records storage facilities to ensure that such facilities fully comply with the standards in this subpart. NARA may conduct periodic inspections of commercial records storage facilities so long as agencies use such facilities to store agency records. The using agency, not NARA, will be responsible for paying any fee or charge assessed by the commercial records storage facility for NARA's conducting an inspection.

3. Appendix A is added to part 1228 to read as follows:

Appendix A to Part 1228—Minimum Security Standards for Level III Federal Facilities

Note: The full text of this appendix will appear in the final rule. Copies of the appendix may be obtained from the person listed in **FOR FURTHER INFORMATION CONTACT**.

Dated: February 25, 1999.

John W. Carlin,

Archivist of the United States.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1222, and 1228

RIN 3095-AA86

Storage of Federal Records

AGENCY: National Archives and Records Administration.

ACTION: Proposed rule.

SUMMARY: NARA proposes to amend its records management regulations governing records creation, maintenance, and disposition to update provisions relating to the storage of Federal records. Current regulations focus on the use of NARA records centers for off-site storage and provide procedures for securing NARA approval of agency records centers. However, in addition to records centers operated by NARA and other Federal agencies, some agencies now use commercial records storage facilities for the storage of their records. Among the proposed changes is a new requirement that agencies maintain the same level of intellectual control over records stored in their own records centers and commercial records storage facilities, as is required for records stored in NARA records centers. As part of this requirement, agencies must report to NARA when permanent or unscheduled records are sent for storage to an agency records center or

commercial storage facility. The revised regulations specify that agencies must store Federal records in space with appropriate environmental controls to ensure their preservation until the expiration of their retention period (for temporary records) or until the date of transfer to the National Archives of the United States (for permanent records). In a separate related proposed rule published elsewhere in this separate part of the **Federal Register**, NARA is also proposing to update facilities standards for records storage facilities.

DATES: Comments must be received by June 29, 1999.

ADDRESSES: Comments should be sent to Regulation Comment Desk (NPOL), Room 4100, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Comments may also be faxed to 301-713-7270.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301-713-7360.

SUPPLEMENTARY INFORMATION: The Federal Records Act assigns responsibility to NARA to provide guidance and assistance to Federal agencies regarding records creation, maintenance, and disposition, and to develop and issue standards, procedures, and guidelines for the proper management of Federal records (44 U.S.C. 2904). The law further charges NARA with responsibility for establishing standards for the identification of permanent records and assisting agencies in applying those standards (44 U.S.C. 2905). The law authorizes NARA to operate records centers (44 U.S.C. 2907) and requires NARA approval for records centers maintained and operated by Federal agencies (44 U.S.C. 3103). Finally, the law requires NARA approval for the disposal of records (44 U.S.C. 3303a).

Many agencies use the records centers operated by NARA for records storage. Some agencies operate their own records centers. In addition, some agencies may use commercial records storage facilities. NARA's oversight encompasses the protection and preservation of Federal records for as long as they are needed, wherever they are stored, in keeping with its statutory responsibility for records management oversight and for the identification and preservation of permanent records.

Over the past three months NARA has reviewed all of its records management regulations to identify provisions that related to records storage and is updating them here to reflect what agencies must do to manage their records wherever they are stored. These changes include:

- New definitions for "records storage facility" and "commercial records storage facility."

- Clarified definitions for "disposition," "permanent record," and "records center."

- A requirement that agencies maintain adequate records management controls over their records, wherever they are maintained. This requirement is implicit in current regulations. It is made explicit now because more agencies than in the past are operating large records centers, and other agencies are placing their records in commercial facilities for storage.

- A requirement that agencies report to NARA on permanent and unscheduled records transferred to storage. For records transferred to NARA records centers, the transfer documentation serves as the report. For records transferred to other records storage facilities, the agency must submit its report within 30 days of transferring the records.

- A requirement that agencies ensure that temporary records are destroyed according to schedule provisions and permanent records are transferred to NARA in accordance with schedule provisions, wherever the records may be at the time of final disposition. NARA takes responsibility for the proper disposition of records in NARA records centers under the provisions of records schedules, including initiating SF 258's for permanent records when they are eligible to be transferred to NARA's legal custody in the National Archives of the United States. Agencies need to ensure that records disposition is properly implemented for records that are not in NARA records centers.

- A requirement that agencies store records only in facilities that meet the standards specified in 36 CFR 1228 subpart K, as proposed for revision in a separate proposed rule published elsewhere in this separate part of the **Federal Register**. This requirement was implicit in the current subpart K and is emphasized here.

- A requirement that agencies obtain NARA approval to change the period of time permanent records will remain in the custody of the agency before transfer to the National Archives of the United States.

- Authorization for agencies to retain records for up to one year beyond their scheduled retention period if needed for administrative purposes such as audit or investigation without requesting formal approval from NARA. Currently, agencies must obtain approval from NARA for any temporary extension, but this approval has been handled

informally when records are stored at NARA records centers.

- A requirement that permanent records be transferred to the National Archives of the United States as individual series spanning one or more years. This requirement will ensure that permanent records stored in facilities that control records at the box level will be transferred to the National Archives of the United States in series order.

- Modification of some restrictions on storing unscheduled, contingent, and "frozen" records at NARA records centers.

NARA also is proposing other minor clarifications to existing regulations. These changes are not substantive. In addition, NARA proposes to remove some of the detailed instructions for storing and accessing records in NARA records centers. These instructions will be addressed in NARA bulletins and other guidance issuances.

This proposed rule would completely revise subpart I of Part 1228, add a new subpart J to Part 1228, redesignate the current subpart J as subpart L, and revise individual sections or paragraphs of other records management regulations in 36 CFR Chapter XII, Subchapter B. We have written subparts I and J in the plain language format required by the Presidential memorandum of June 1, 1998, Plain Language in Government Writing. We intend to rewrite the other records management regulations included in this proposed rule in plain language format in a future rulemaking. At this time, we have determined that piecemeal reformatting of individual sections or paragraphs is not appropriate.

This rule is a significant regulatory action under E.O. 12866 of September 30, 1993, and has been reviewed by OMB. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Parts 1220, 1222, and 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend 36 CFR parts 1220, 1222, and 1228 as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 continues to read as follows:

Authority: 44 U.S.C. 2104(a) and chs. 29 and 33.

2. In § 1220.14, revise the definitions of "Disposition", "Permanent record"

and "Recordkeeping requirements"; and add new definitions in alphabetical order for "Commercial records storage facility", "Records center", and "Records storage facility" to read as follows:

§ 1220.14. General definitions.

* * * * *

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

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

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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. Permanent records include all records accessioned by NARA into the National Archives of the United States and later increments of the same records, and those for which the disposition is permanent on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973.

* * * * *

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

* * * * *

Records center is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist 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.

* * * * *

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.

* * * * *

3. In § 1220.18, revise the section heading, designate the existing text as paragraph (b), and add new paragraph (a) to read as follows:

§ 1220.18 Inspection of records.

(a) In order for NARA to conduct inspections and studies required in 44 U.S.C. Chapter 29 and records appraisals in 44 U.S.C. Chapter 33, agencies must provide access for authorized NARA staff members to records in the agency's legal custody, regardless of the physical location of the records.

* * * * *

4. Revise § 1220.36 to read as follows:

§ 1220.36 Maintenance and use of records.

(a) Agencies must institute adequate records management controls over the maintenance and use of records wherever they are located to ensure that all records, regardless of format or medium, are organized, classified, and described to promote their accessibility, and make them available for use by all appropriate agency staff for their authorized retention period. Agencies must also maintain permanent records in a format that will permit transfer to the National Archives of the United States.

(b) Agencies must ensure that they maintain adequate information about their records moved to an off-site records storage facility (see 36 CFR 1228.154). Agencies must also create and maintain records that document the destruction of temporary records and the transfer of permanent records to the National Archives of the United States. The disposition of records that provide such documentation is governed by General Records Schedule (GRS) 16.

(c) Agencies must also comply with GSA regulations on the maintenance and use of records found in 41 CFR part 101-11.

5. Revise § 1220.38 to read as follows:

§ 1220.38 Disposition of records.

(a) Agencies must ensure the proper, authorized disposition of their records, regardless of format or medium, so that permanent records are preserved and temporary records no longer of use to an agency are promptly deleted or disposed of in accordance with the approved records schedule when their required retention period expires. As an intermediate step when records are not needed for current day-to-day reference, they may be transferred to a records storage facility.

(b) Agencies must secure NARA approval of a records schedule or apply the appropriate General Records Schedule item before destroying any temporary records or transferring permanent records to the National Archives of the United States (see 36 CFR part 1228).

6. Revise § 1220.42 to read as follows:

§ 1220.42 Agency internal evaluations.

Each agency must periodically evaluate its records management programs relating to records creation and record keeping requirements, maintenance and use of records, and records disposition. These evaluations shall include periodic monitoring of staff determinations of the record status of documentary materials in all media, and implementation of these decisions. These evaluations should determine compliance with NARA regulations in this subchapter, including requirements for storage of agency records and records storage facilities in 36 CFR part 1228, subparts I and K, and assess the effectiveness of the agency's records management program.

PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

7. In § 1222.20, remove the period at the end of paragraphs (b)(5), (b)(8), and (b)(9), and add a semicolon in its place, and add paragraph (b)(10) to read as follows:

§ 1222.20 Agency responsibilities.

* * * * *

(b) * * *

(10) Ensure that records storage facilities used to store the agency's records comply with the standards specified in 36 CFR part 1228, subpart K. The agency must also comply with 36 CFR 1228.240 by obtaining NARA approval of an agency records center or submitting documentation of compliance by a commercial records storage facility before the agency transfers records to that facility.

8. In § 1222.50, revise the section heading and add paragraph (c) to read as follows:

§ 1222.50 Records maintenance and storage.

* * * * *

(c) Agencies must ensure that records in their legal custody sent for off-site storage are maintained in facilities that meet the standards specified in 36 CFR part 1228, subpart K, and that the information requirements specified at 36 CFR 1228.154 are met. Agencies must remove their records from any records storage facility that is found to be non-compliant with the standards specified in 36 CFR part 1228, subpart K, if the facility is not brought into compliance within 6 months of initial discovery by NARA or the using agency.

PART 1228—DISPOSITION OF FEDERAL RECORDS

9. In § 1228.22, revise paragraph (d) to read as follows:

§ 1228.22 Developing records schedules.

* * * * *

(d) Based on agency need, develop specific recommended retention and disposition instructions for each records series or each part of an automated information system, including file breaks, retention periods for temporary records, transfer periods for permanent records, and instructions for the transfer of records to an approved records storage facility when appropriate.

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10. In § 1228.24, revise paragraph (c)(2) to read as follows:

§ 1228.24 Formulation of agency records schedules.

* * * * *

(c) *Provisions of schedules.* * * *

(2) The removal to a records storage facility of records not eligible for immediate destruction or other disposition but which are no longer needed in office space. These records are maintained by the records storage facility until they are eligible for final disposition action;

* * * * *

11. In § 1228.32, add paragraph (c), to read as follows:

§ 1228.32 Request to change disposition authority.

* * * * *

(c) Agencies must secure NARA approval before changing the provision in a disposition instruction that specifies the period of time that permanent records will remain in agency legal custody prior to transfer to the National Archives of the United States.

12. In § 1228.50, revise paragraphs (a)(1) and (a)(3) to read as follows:

§ 1228.50 Application of schedules.

* * * * *

(a) * * *

(1) Published schedules do not include nonrecurring records for which NARA has granted authority for immediate disposal or transfer to the National Archives of the United States. They do include general instructions for transfer of records to a records storage facility, transfer of records to the National Archives of the United States, and other retention and disposition procedures.

* * * * *

(3) Prior to issuance, agencies may consult with NARA concerning directives or other issuances containing approved schedules, instructions for use of NARA records centers, transfer of records to the National Archives of the United States, or other matters covered by NARA procedures or regulations.

* * * * *

13. In § 1228.54, revise paragraphs (a), (c)(4), and (e) and remove paragraphs (g) and (h) to read as follows:

§ 1228.54 Temporary extension of retention periods.

(a) Approved agency records schedules and the General Records Schedules are mandatory (44 U.S.C. 3303a). Records series or systems eligible for destruction must not be maintained longer without the prior written approval of the National Archives and Records Administration (NWML) except when:

(1) The agency has requested a change in the retention period for the records series or system in accordance with § 1228.32; or

(2) Records are needed for up to one year beyond the date they are eligible for disposal. When such records are in a records storage facility, the agency must notify the facility of the need for continued retention of the records.

* * * * *

(c) * * *

(4) A statement of the current and proposed physical location of the records.

* * * * *

(e) Agencies must ensure that affected records storage facilities are notified when NARA approves an extension of the retention period beyond the period authorized in the records control schedule. Agencies must forward to NARA (NWML) two copies of all formally issued instructions which extend the retention periods.

* * * * *

14. In § 1228.100, revise paragraph (a) to read as follows:

§ 1228.100 Responsibilities.

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

(SF 115 approved by NARA or the General Records issued by NARA).

* * * * *

15. Revise subpart I to read as follows:

Subpart I—Transfer of Records to Records Storage Facilities

Sec.

1228.150 Where can a Federal agency transfer records for storage?

1228.152 Under what conditions may Federal records be stored in records storage facilities?

1228.154 What requirements must an agency meet when it transfers records to a records storage facility?

1228.156 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Subpart I—Transfer of Records to Records Storage Facilities**§ 1228.150 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 subpart K of this part. Records transferred to a records storage facility remain in the legal custody of the agency.

(a) NARA 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 which 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 records centers is available from the NARA web site at <http://www.nara.gov> 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>.

(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.

§ 1228.152 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	(i) Any storage facility that meets the provisions of subpart K of this part.
(2) Unscheduled records	(i) Any storage facility that meets the provisions of subpart K of this part. (ii) Also requires submission of SF 115 and its acceptance from NARA under the provisions of subpart B of this part.
(3) Temporary records (excluding Civilian Personnel Records and Military Personnel Records).	(i) Any storage facility that meets the provisions of subpart K of this part.
(4) Vital records	(i) Storage facility must meet the provisions of subpart K of this part and 36 CFR part 1236.
(5) Civilian Personnel Records and Military Personnel Records.	(i) May only be transferred to NPRC, St. Louis as required by this part.

§ 1228.154 What requirements must an agency meet when it transfers records to a records storage facility?

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

(a) Ensure that the requirements of subpart K 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 1230 through 1234).

(b) To transfer unscheduled records, submit an SF 115 to NARA (NWML) prior to the transfer. The agency may transfer the records only after NARA has determined that the SF 115 meets the requirements specified in this part.

(c) Create documentation sufficient to identify and locate files.

(1) Such 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 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.

(2) In the case of permanent and unscheduled records, provide copies of such documentation to NARA.

(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 1220.36.

(1) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1228.54.

(2) Transfer permanent records to the National Archives of the United States in accordance with § 1228.260.

(e) Provide access to appropriate NARA staff to records wherever they are located in order to conduct an evaluation in accordance with 36 CFR 1220.50 or to process a request for records disposition authority.

(f) Move temporary records that are subsequently reappraised as permanent to a facility that meets the environmental control requirements for permanent records in § 1228.236 within six months 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 § 1228.236(b) on October 1, 2009, must be moved from that facility no later than February 28, 2010.)

§ 1228.156 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 subpart K of this part 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.

(b) For temporary records, the agency must make available to NARA on request the documentation specified in § 1228.154. For permanent or unscheduled records, the agency must transmit this documentation to NARA (NWML) no later than 30 days after records are transferred to the agency records center or commercial records storage facility.

(c) 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.

(d) 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 § 1228.272.

(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 disposable 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 § 1228.58.

(g) Agencies must ensure that emergency operating vital records, as defined in 36 CFR 1236.14, that are transferred to an agency records center or commercial records storage facility are available in accordance with 36 CFR part 1236.

16. Redesignate subpart J of part 1228 as subpart L of part 1228 as set forth in the following redesignation table:

Old section subpart J	New section subpart L
1228.180	1228.260
1228.182	1228.262
1228.183	1228.264
1228.184	1228.266
1228.186	1228.268
1228.188	1228.270
1228.190	1228.272
1228.192	1228.274
1228.194	1228.276
1228.196	1228.278
1228.198	1228.280
1228.200	1228.282

17. Add a new subpart J to read as follows:

Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center

Sec.

- 1228.160 How does an agency transfer records to a NARA records center?
- 1228.162 How does an agency transfer vital records to a NARA records center?
- 1228.164 What records must be transferred to the National Personnel Records Center (NPRC)?
- 1228.166 How does an agency transfer records to the National Personnel Records Center (NPRC)?
- 1228.168 How can records be used in NARA records centers?
- 1228.170 How are disposal clearances managed for records in NARA records centers?

Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center

§ 1228.160 How does an agency transfer records to a NARA records center?

An agency transfers records to a NARA records center using the following procedures:

(a) General. NARA will ensure that its records centers meet the facilities standards in subpart K of this part, which meets the agency's obligation in § 1228.154(a).

(b) NARA records centers will not 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 records center for technical advice on treating such records.

(c) Agencies may use any NARA records center (see § 1228.154(a)) if space is available for the storage of unclassified records. All NARA facilities are equipped to store classified records that have a national security classification up to Confidential, and certain NARA facilities can also accept Secret (or "Q") classified records. Only the Washington National Records Center is equipped to store records that have been assigned a national security classification of Top Secret, as defined in Executive Order 12958 (3 CFR, 1995 Comp., p. 333) and predecessor orders. For storage of restricted records requiring vault storage (regardless of the level of classification), agencies must contact the records center(s) they wish to use to find out if the center(s) can properly store the records.

(d) Transfers to NARA records centers must be preceded by the submission of a Standard Form 135, Records Transmittal and Receipt. Preparation and submission of this form will meet the requirements for records description provided in § 1228.154(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 spanning one or more consecutive years with the same disposition authority and disposition date.

(f) For further guidance on transfer of records to a NARA records center, consult the NARA Records Management Web Site (<http://www.nara.gov>), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), individual NARA regional facilities, or the Washington National Records Center (NWMW).

§ 1228.162 How does an agency transfer vital records to a NARA 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 subpart and 36 CFR part 1236.

§ 1228.164 What records must be transferred to the National Personnel Records Center (NPRC)?

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:

- (a) Official personnel folders of separated Federal civilian employees;
- (b) Service record cards of employees who separated or transferred on or before December 31, 1947;
- (c) Audited individual earnings and pay cards and comprehensive payrolls; and
- (d) Employee medical folders of separated Federal civilian employees.

§ 1228.166 How does an agency transfer records to the National Personnel Records Center (NPRC)?

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

- (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.

(b) For further guidance consult the NPRC web site (<http://www.nara.gov/regional/cpr.html>).

(c) 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.)

§ 1228.168 How can records be used in NARA records centers?

(a) Agency records transferred to a NARA 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 which maintains the record, or under rules established by that agency which are not inconsistent with existing laws.

(b) 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). Agencies may furnish copies of that form to the public to aid in inquiries. 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.

(c) Use 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.

(d) Use Standard Form 184, Request for Employee Medical Folder (Separated Employee), to request medical folders stored at the National Personnel Records Center.

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

(f) For any other requests, use the Optional Form 11, Reference Request—Federal Records Centers, a form jointly designated by that agency and NARA, or their electronic equivalents.

§ 1228.170 How are disposal clearances managed for records in NARA records centers.

(a) Records at the National Personnel Records Center covered by General

Records Schedules 1 and 2 will be destroyed in accordance with those schedules without further agency clearance.

(b) Other records of Federal agencies held by NARA records centers will be destroyed only with the concurrence of the agency having legal custody of the records.

(c) Documentation on the final disposition of records, as required in 36 CFR 1220.36, will be maintained by NARA records centers for the period of time required by General Records Schedule 16.

(d) When NARA approves an extension of retention period beyond the time authorized in the records schedule for records stored in NARA records centers, NARA will notify those affected records centers to suspend disposal of the records (see § 1228.54(e)).

18. In newly redesignated subpart L, revise the subpart heading to read as follows:

Subpart L—Transfer of Records to the National Archives of the United States

19. In newly redesignated § 1228.272, revise the section heading and paragraph (a) to read as follows:

§ 1228.272. Transfer of records to the National Archives of the United States.

(a) *Policy.* (1) Federal records will be transferred to NARA's legal custody into the National Archives of the United States only if they are listed as permanent on an SF 115, Request for Records Disposition Authority, approved by NARA since May 14, 1973, or if they are accretions (continuations of series already accessioned) to holdings of the National Archives. Transfers are initiated by submission of an SF 258, Agreement to Transfer Records to the National Archives of the United States.

(2) Each SF 258 must relate to a specific records series, as identified on the SF 115, Request for Records Disposition Authority, in accumulations of one or more consecutive years.

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Dated: February 25, 1999.

John W. Carlin,

Archivist of the United States.

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