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centers, NARA will notify those affected records centers to suspend disposal of the records (see §1228.54(e)).

Subpart K—Facility Standards for Records Storage Facilities

SOURCE: 64 FR 67642, Dec. 2, 1999, unless otherwise noted.

GENERAL

1228.220 What authority applies to this subpart?

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

1228.222 What does this subpart cover?

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

(b) Except where specifically noted, this subpart applies to all records storage facilities. Certain noted provisions apply only to new records storage facilities.

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1228.224 Publications incorporated by reference.

(a) *General.* The following publications cited in this section are hereby incorporated by reference into this part 1228. They are available from the issuing organizations at the addresses listed in this section. They 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 as they exist on the date of approval, and a document indicating any change in these materials will be published in the FEDERAL REGISTER.

(b) *American Society of Testing and Materials (ASTM) standards.* The following ASTM standard is available from the American Society of Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA, 19428-2959, or on-line at www.astm.org:

E 119-98, Standard Test Methods for Fire Tests of Building Construction and Materials.

(c) *National Fire Protection Association (NFPA) standards.* The following NFPA standards are 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 10, Standard for Portable Fire Extinguishers (1994 Edition).

NFPA 13, Standard for the Installation of Sprinkler Systems (1996 Edition).

NFPA 20, Standard for the Installation of Centrifugal Fire Pumps (1996 Edition).

NFPA 40, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film (1997 Edition).

NFPA 42, Code for the Storage of Pyroxylin Plastic (1997 Edition).

NFPA 72, National Fire Alarm Code (1996 Edition).

NFPA 101, Life Safety Code (1997 Edition).

NFPA 221, Standard for Fire Walls and Fire Barrier Walls (1994 Edition).

NFPA 231, Standard for General Storage (1998 Edition).

NFPA 231C, Standard for Rack Storage of Materials (1998 Edition).

NFPA 232, Standard for the Protection of Records (1995 Edition).

NFPA 232A, Guide for Fire Protection of Archives and Records Centers (1995 Edition).

(d) *Underwriters Laboratory (UL) standards.* The following UL standards are available from the Underwriters Laboratory at www.ul.com or from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112:

UL 611, Central-Station Burglar-Alarm Systems (February 22, 1996).

UL 827, Central-Station Alarm Services (April 23, 1999).

UL 1076, Proprietary Burglar Alarm Units and Systems (February 1, 1999).

(e) *American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) standards.* The following ASHRAE standards are available from ASHRAE at ASHRAE Customer Service, 1791 Tullie Circle NE, Atlanta, GA 30329 or online at www.ASHRAE.org:

ANSI/ASHRAE 55-1992, Thermal Environmental Conditions for Human Occupancy.

ANSI/ASHRAE 62-1989, Ventilation for Acceptable Indoor Air Quality.

(f) *American National Standards Institute (ANSI) standards.* The following ANSI standards are available from the American National Standards Institute, 11 West 42nd St., New York, NY 10036:

ANSI/NAPM IT9.18-1996, Imaging Materials—Processed Photographic Plates—Storage Practices.

ANSI/NAPM IT9.20-1996, Imaging Materials—Reflection Prints—Storage Practices.

ANSI/NAPM IT9.23-1996, Imaging Materials—Polyester Base Magnetic Tape—Storage.

ANSI/PIMA IT9.11-1998, Imaging Materials—Processed Safety Photographic Films—Storage.

ANSI/PIMA IT9.25-1998, Imaging Materials—Optical Disc Media—Storage.

§ 1228.226 Definitions.

The following definitions apply to this subpart:

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

Commercial records storage facility has the meaning specified in § 1220.14 of this chapter.

Existing records storage facility means any records center or commercial records storage facility used to store records on January 2, 2000, and that has stored records continuously since that date.

Fire barrier wall means a wall, other than a fire wall, having a fire resistance rating, constructed in accordance with NFPA 221 (1994), Standard for Fire Walls and Fire Barrier Walls, Chapter 4.

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

Must and *provide* mean that a provision is mandatory.

New records storage facility means any records center or commercial records storage facility established or converted for use as a records center or commercial records storage facility on or after January 3, 2000.

Permanent record has the meaning specified in § 1220.14 of this chapter.

Records center has the meaning specified in § 1220.14 of this chapter.

Records storage area means the area containing records that is enclosed by four fire walls, the floor, and the ceiling.

Records storage facility has the meaning specified in § 1220.14 of this chapter.

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

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

Temporary record has the meaning specified in § 1220.14 of this chapter.

Unscheduled records has the meaning specified in § 1220.14 of this chapter.

[64 FR 67642, Dec. 2, 1999; 64 FR 68946, Dec. 9, 1999]

FACILITY STANDARDS

§ 1228.228 What are the facility requirements for all records storage facilities?

(a) The facility must be constructed with non-combustible materials and building elements, including walls, columns and floors. An agency may request a waiver of this requirement from NARA for an existing records storage facility with combustible building elements to continue to operate until October 1, 2009. In its request for a waiver, the agency must provide documentation that the facility has a fire suppression system specifically designed to mitigate this hazard and that the system meets the requirements of § 1228.230(s). Requests must be submitted to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

(b) A facility with two or more stories must be designed or certified by a licensed fire protection engineer and civil/structural engineer to avoid catastrophic failure of the structure due to an uncontrolled fire on one of the intermediate floor levels.

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

(d) The facility must be designed in accordance with regional building codes to provide protection from building collapse or failure of essential equipment from earthquake hazards, tornados, hurricanes and other potential natural disasters.

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

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

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

(1) New records storage facilities must meet the requirements in this paragraph (g) January 3, 2000.

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

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

(1) New records storage facilities must meet the requirements in this paragraph (h) January 3, 2000.

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

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

(1) All storage shelving must be designed and installed to provide seismic bracing that meets the requirements of the applicable regional building code;

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

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

(j) The area occupied by the records storage facility must be equipped with an anti-intrusion alarm system, or equivalent, meeting the requirements of Underwriters Laboratory (UL) Standard 1076, Proprietary Burglar Alarm Units and Systems (February 1, 1999), level AA, to protect against unlawful entry after hours and to monitor designated interior storage spaces. This intrusion alarm system must be monitored in accordance with UL Standard 611, Central-Station Burglar-Alarm Systems (February 22, 1996).

(k) The facility must comply with the requirements for a Level III facility as defined in the Department of Justice, U. S. Marshals Service report "Vulnerability Assessment of Federal Facilities" dated June 28, 1995. These requirements are provided in Appendix A to this Part 1228. Agencies may require compliance with Level IV or Level V facility security requirements if the facility is classified at the higher level.

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

(m) To eliminate damage to records and/or loss of information due to insects, rodents, mold and other pests that are attracted to organic materials under specific environmental conditions, the facility must have an Integrated Pest Management program as defined in the Food Protection Act of 1996 (Section 303, Public Law 104-170, 110 Stat. 1512). This states in part that Integrated Pest Management is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. The IPM program

emphasizes three fundamental elements:

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

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

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

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

(1) Do not install mechanical equipment containing motors rated in excess of 1 HP within records storage areas (either floor mounted or suspended from roof support structures).

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

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

(4) The facility must be kept under positive air pressure especially in the area of the loading dock. In addition, to prevent fumes from vehicle exhausts from entering the facility, air intake louvers must not be located in the area of the loading dock, adjacent to parking areas or in any location where a vehicle engine may be running for any period of time. Loading docks must have an air supply and exhaust system

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that is separate from the remainder of the facility.

[64 FR 67642, Dec. 2, 1999; 64 FR 68946, Dec. 9, 1999]

§ 1228.230 What are the fire safety requirements that apply to records storage facilities?

(a) The fire detection and protection systems must be designed or certified by a licensed fire protection engineer.

(b) All walls separating records storage areas from each other and from other storage areas in the building must be 4-hour fire resistant. The records storage areas must not exceed a total capacity of 250,000 cubic feet of records each and must be constructed to prevent migration of fire and smoke to other spaces of the building. If the facility does not have fire compartmentalization of its records storage area or has compartmentalized records storage areas larger than 250,000 cubic feet, the facility may not store more than 250,000 cubic feet total of Federal records in the records storage area.

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

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

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

(d) Penetrations in the walls must not reduce the specified fire resistance ratings. The fire resistance ratings of structural elements and construction assemblies must be in accordance with American Society of Testing and Materials E 119-98, Standard Test Methods for Fire Tests of Building Construction and Materials.

(e) The fire resistive rating of the roof must be a minimum of ½ hour for all records storage facilities. For new records storage facilities, the fire resistive

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rating of the roof must also be a maximum of 1 hour.

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

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

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

(i) For new records storage facilities, building columns in the records storage areas must be 4-hour fire resistant from the floor to slab above or to the location where they connect to the roof framing system. For existing records storage facilities, the building columns must be at least 2-hour fire resistant.

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

(k) Where lightweight steel roof or floor supporting members (e.g., bar joists having top chords with angles 2 by 1½ inches or smaller, ¼-inch thick or smaller, and 1³⁄₁₆-inch or smaller web diameters) are present, they must be protected either by applying a 10-minute fire resistive coating to the top chords of the joists, or by retrofitting the sprinkler system with large drop sprinkler heads. If a fire resistive coating is applied, it must be a product that will not release (off gas) harmful fumes into the facility. If fire resistive coating is subject to air erosion or flaking, it must be fully enclosed in a drywall containment constructed of metal studs with fire retardant drywall. Retrofitting may require modifications to the piping system to ensure that adequate water capacity and pressure are provided in the areas to be protected with these large drop sprinkler heads.

(l) No open flame (oil or gas) unit heaters or equipment may be installed or used in any records storage area.

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

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

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

(p) Equipment rows running perpendicular to the wall must comply with NFPA 101 (1997), Life Safety Code, with respect to egress requirements.

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

(r) Hazardous materials, including records on cellulose nitrate film, must not be stored in records storage areas. Nitrate motion picture film and nitrate sheet film may be stored in separate areas that meet the requirements of the appropriate NFPA standard, NFPA 40 (1997), Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film, or NFPA 42 (1997), Code for the Storage of Pyroxylin Plastic.

(s) All records storage and adjoining areas must be protected by a professionally-designed fire-safety detection and suppression system that is designed to limit the maximum anticipated loss in any single fire event to a maximum of 300 cubic feet of records destroyed by fire. Section 1228.242 specifies how to document compliance with this requirement.

§ 1228.232 What are the requirements for environmental controls for records storage facilities?

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

(b) *Nontextual temporary records.* Nontextual temporary records, including microforms and audiovisual and electronic records, must be stored in records storage space that will ensure their preservation for their full retention period. New records storage facilities that store nontextual temporary records must meet the requirements in this paragraph (b) January 3, 2000. Existing records storage facilities that store nontextual temporary records must meet the requirements in this paragraph (b) no later than October 1, 2009. At a minimum, nontextual temporary records must be stored in records storage space that meets the requirements for medium term storage set by the appropriate standard in this paragraph (b). In general, medium term conditions as defined by these standards are those that will ensure the preservation of the materials for at least 10 years with little information degradation or loss. Records may continue to be usable for longer than 10 years when stored under these conditions, but with an increasing risk of information loss or degradation with longer times. If temporary records require retention longer than 10 years, better storage conditions (cooler and drier) than those specified for medium

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term storage will be needed to maintain the usability of these records. The applicable standards are:

(1) ANSI/PIMA IT9.11-1998, Imaging Materials—Processed Safety Photographic Films—Storage;

(2) ANSI/NAPM IT9.23-1996, Imaging Materials—Polyester Base Magnetic Tape—Storage;

(3) ANSI/PIMA IT9.25-1998, Imaging Materials—Optical Disc Media—Storage;

(4) ANSI/NAPM IT9.20-1996, Imaging Materials—Reflection Prints—Storage Practices; and/or

(5) ANSI/NAPM IT9.18-1996, Imaging Materials—Processed Photographic Plates—Storage Practices.

(c) *Paper-based permanent, unscheduled and sample/select records.* Paper-based permanent, unscheduled, and sample/select records must be stored in records storage space that provides 24 hour/365 days per year air conditioning (temperature, humidity, and air exchange) equivalent to that required for office space. See ASHRAE Standard 55-1992, Thermal Environmental Conditions for Human Occupancy, and ASHRAE Standard 62-1989, Ventilation for Acceptable Indoor Air Quality, for specific requirements. New records storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet the requirement in this paragraph (c) January 3, 2000. Existing storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet the requirement in this paragraph (c) no later than October 1, 2009.

(d) *Nontextual permanent, unscheduled, and/or sample/select records.* All records storage facilities that store microfilm, audiovisual, and/or electronic permanent, unscheduled, and/or sample/select records must comply with the storage standards for permanent and unscheduled records in parts 1230, 1232, and/or 1234 of this chapter, respectively.

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HANDLING DEVIATIONS FROM NARA'S FACILITY STANDARDS

§ 1228.234 **What rules apply if there is a conflict between NARA standards and other regulatory standards that a facility must follow?**

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

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

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

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

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

§ 1228.236 **How does an agency request a waiver from a requirement in this subpart?**

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

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

(2) Existing agency records centers that met the previous NARA standards in effect on January 2, 2000, but that do not meet a new standard required to be in place on January 3, 2000; and

(3) The application of roof requirements in §§ 1228.228 and 1228.230 to underground storage facilities.

(b) *Where to submit a waiver request.* The agency submits a waiver request, containing the information specified in

paragraphs (c), (d), and/or (e) of this section to the Director, Security and Space Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740-6001.

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

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

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

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

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

§ 1228.238 How does NARA process a waiver request?

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

(1) If in NARA's judgement the supporting documentation clearly supports the claim that the alternative is equivalent or superior to the NARA requirement, NARA will grant the waiver and notify the requesting agency within 30 calendar days.

(2) If NARA questions whether supporting documentation demonstrates that the proposed alternative offers at least equal protection to Federal records, NARA will consult the appro-

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

(b) *Waiver of new requirement for existing agency records center.* NARA will review the agency's waiver request and plan to bring the facility into compliance.

(1) NARA will approve the request and plan within 30 calendar days if NARA judges the planned actions and time frames for bringing the facility into compliance are reasonable.

(2) If NARA questions the feasibility or reasonableness of the plan, NARA will work with the agency to develop a revised plan that NARA can approve and the agency can implement. NARA may grant a short-term temporary waiver, not to exceed 180 calendar days, while the revised plan is under development.

(c) *Waiver of roof requirements for underground storage facilities.* NARA will normally grant the waiver and notify the requesting agency within 10 work days if the agency has not also requested a waiver of a different requirement under § 1228.236. If the agency has another waiver request pending for the same facility, NARA will respond to all of the waiver requests at the same time and within the longest time limits.

FACILITY 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 initiating action to remove records from space that does not meet these standards if deficiencies are not corrected within 6 months after initial discovery of the deficiencies by NARA or the agency and to complete removal of the records within 18

months after initial discovery of the deficiencies.

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

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

(b) *Exclusions.* For purposes of this section, the term “agency records center” excludes NARA-owned and operated records centers. For purposes of this section and §1228.244, 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 1228.232.

(c) *Content of requests for agency records centers.* Requests for authority to establish or relocate an agency records center, or to use an agency records center operated by another agency, must be submitted in writing to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

(1) The request must identify the specific facility and, for requests to establish or relocate the agency’s own records center, document compliance with the standards in this subpart. Documentation requirements for §1228.230(s) are specified in §1228.242.

(2) If the request is for approval of an existing agency records center that did not comply with the requirements of this subpart in effect on January 2, 2000, the request must also contain the agency’s plan to modify the facility to bring it into compliance with current requirements within a three year period. Such requests must be submitted to NARA no later than July 1, 2000.

(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. For requests submitted under paragraph (c)(2) of this section, NARA also will review the submitted plan to ensure that the plan is realistic. NARA reserves the right to visit the facility, if necessary, to make the determination of compliance. NARA will inform the agency of its decision within 45 calendar days after the request is received, and will provide the agency information on the areas of noncompliance if the request is denied. Requests will be denied only if NARA determines that the facility does not demonstrate full compliance with the standards in this subpart. Approvals will be valid for a period of 10 years, unless the facility is materially changed before then or an agency or NARA inspection finds that the facility does not meet the standards in this subpart. Material changes require submission of a new request for NARA approval.

(e) *Documentation requirements for storing Federal records in commercial records storage facilities.* At least 45 calendar days before an agency first transfers records to a commercial records storage facility, the agency must submit documentation to NARA that the facility complies with the standards in this subpart. The documentation may take the form of a copy of the agency’s contract that incorporates this subpart in its provisions or a statement from the agency records officer that certifies that the facility meets the standards in this subpart. An agency must provide the documentation for each separate commercial records storage facility where its records will be stored. Documentation must be sent to the Director, Space and Security Management Division

(NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. 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 What does an agency have to do to certify a fire-safety detection and suppression system?

(a) *Content of documentation.* The agency must submit documentation to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001, that describes the space being protected (e.g., the type and stacking height of the storage equipment used, or how the space is designed, controlled, and operated) and the characteristics of the fire-safety detection and suppression system used. The documentation must demonstrate how that system meets the requirement in § 1228.230(s) through:

(1) A statement that the facility is using a NARA certified system as described in Appendix B to this part;

(2) A report of the results of independent live fire testing (Factory Mutual, Underwriters Laboratories or equivalent); or

(3) A report of the results of computer modeling, and a certification by a licensed fire protection engineer that the system has been designed to limit the maximum anticipated loss in any single fire event to a maximum of 300 cubic feet of records destroyed by fire. If this method of demonstrating compliance is chosen, the description of the system must include specific references to any industry standards used in the design, such as those issued by the National Fire Protection Association (see NFPA 13, NFPA 231, NFPA 231C, NFPA 232 and NFPA 232A).

(b) *NARA action.* (1) NARA will approve the fire-safety detection and suppression system within 10 work days if NARA has previously approved the system design for similarly configured space or if a report of independent testing of a new system design is furnished as documentation.

(2) If, in NARA's judgment, the supporting documentation provided in ac-

cordance with paragraph (a)(3) of this section clearly demonstrates compliance with § 1228.230(s), NARA will approve the fire-safety detection and suppression system within 30 calendar days.

(3) If NARA questions whether supporting documentation demonstrates compliance with § 1228.230(s), NARA will consult the appropriate industry standards body or other qualified expert before making a determination. Before any consultation, NARA may ask the agency for additional clarifying information. NARA will notify the requesting agency within 30 calendar days of receipt of the request that consultation is necessary and will provide a final determination within 60 calendar days. If NARA does not approve the system, NARA will furnish a full explanation of the reasons for its decision.

(4) NARA will maintain a list of approved alternative systems.

§ 1228.244 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.

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(c) NARA will contact the agency operating the records center or the agency holding a contract with a commercial records storage facility in advance to set a date for the inspection.

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

SOURCE: 45 FR 5705, Jan. 24, 1980. Redesignated at 50 FR 15723, Apr. 19, 1985. Redesignated further at 64 FR 67667, Dec. 2, 1999.

§ 1228.260 Authority.

(a) *Transfer of records.* The Archivist of the United States is authorized by 44 U.S.C. 2107 to:

(1) Accept for deposit with the National Archives of the United States the records of a Federal agency or of the Congress determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the U.S. Government; and

(2) Direct and effect the transfer to the National Archives of the United States of Federal agency records that have been in existence for more than 30 years and that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the U.S. Government.

(b) *Custody of records transferred.* Under 44 U.S.C. 2108, the Archivist of the United States is responsible for the custody, use, and withdrawal of records transferred to him.

(c) *Transferred records subject to statutory or other restrictions.* When records, the use of which is subject to statutory limitations and restrictions, are so transferred, permissive and restrictive statutory provisions concerning the examination and use of records applicable to the head of the transferring agency are applicable to the Archivist of the United States and the employees of the National Archives and Records Administration.

[54 FR 2111, Jan. 19, 1989. Redesignated at 55 FR 27433, July 2, 1990, as amended at 57 FR 22432, May 28, 1992]

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§ 1228.262 Types of records to be transferred.

(a) *General.* Records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant preservation; i.e., appraised by NARA and identified as permanent records, are normally transferred to the National Archives of the United States when:

(1) They are 30 years old; or

(2) At any age when:

(i) The originating agency no longer needs to use the records for the purpose for which they were created or in its regular current business; or

(ii) Agency needs will be satisfied by use of the records in NARA research rooms or by copies of the records; and restrictions on the use of records are acceptable to NARA and do not violate the Freedom of Information Act (5 U.S.C. 552). Records appraised as permanent that are not yet eligible for transfer because of agency needs or restrictions may be stored in a Federal records center pending transfer. (See subpart I of this part.)

(b) *Archival depositories.* NARA reserves the right to determine and change the archival depository in which records transferred to the National Archives of the United States are stored. Such determinations are normally made as follows:

(1) *Presidential libraries.* Records appropriate for preservation in a Presidential library because they can most effectively be used in conjunction with materials already in that library.

(2) *Regional Archives.* (i) Records of field offices of Federal agencies, except for records of agency field offices located in the Washington, DC area;

(ii) Records including both headquarters and field office records of regional agencies such as the Tennessee Valley Authority; and

(iii) Other records determined by NARA to be of primarily regional or local interest.

(3) *National Archives Building and other Washington, DC area depositories.*

(i) Records of Washington, DC area field offices of Federal agencies and other records relating to the District of Columbia and the Washington, DC area, such as records of the National Capital Planning Commission;