## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1228

**RIN 3095–AA81**

### Agency Records Centers

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule; request for comment.

**SUMMARY:** NARA is issuing revised regulations updating the standards that records center storage facilities must meet to store Federal records. Since the regulations were last updated in 1982, there have been a number of advances in sprinkler systems and other general facility standards that significantly improve the environment and general safeguards for Federal records. This rule also reflects updated information on certain measures that may prevent fire and water damage to records. NARA also recognizes the authority of agencies to contract with private entities for the storage of Federal records. NARA provides agencies with standards, procedures and guidelines for the use of such commercial records storage facilities. The regulation will apply to all agencies, including NARA, that establish and operate records centers, and to agencies that contract for the services of commercial records storage facilities.

As a result of the comments received on the proposed rule, we are adding new provisions that address handling conflicts with other regulatory requirements and requests for waivers. We are seeking public comments on these new provisions.

**DATES:** This rule is effective January 3, 2000, except §§ 1228.234, 1228.236, and 1228.238 which will be effective March 2, 2000.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 3, 2000.

Comments on §§ 1228.234, 1228.236, and 1228.238 must be received by January 31, 2000 at the address shown below. NARA intends to publish any changes to §§ 1228.234, 1228.236, and 1228.238 resulting from this comment period before March 2, 2000.

**ADDRESSES:** Comments must be sent to Regulation Comment Desk (NPLN), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may be faxed to 301–713–7270.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at (301) 713–7360, ext. 226.

**SUPPLEMENTARY INFORMATION:** NARA published a notice of proposed rulemaking on April 30, 1999, at 64 FR 23504. On June 7, 1999, NARA announced a June 18, 1999, public meeting on the proposed rule and extended the comment period to July 7, 1999 (64 FR 30276). Approximately 30 people attended the public meeting. NARA received timely comments from 11 Federal agencies, 5 professional organizations, 2 commercial records centers, and 5 other individuals or companies. In addition, NARA received a number of comments dated on or before July 7, 1999, forwarded from Congressional offices.

On September 15, 1999, at 64 FR 50028, NARA published an initial regulatory flexibility analysis to aid the public in commenting upon the small business impact of the proposed rule. Comments on the initial analysis were received from an industry association, 6 firms that provide records storage services, 12 Federal agencies, and two other individuals.

Following is a summary of the comments and a discussion of the changes that we made to the proposed rule.

Four Federal agencies concurred in full with the proposed rule in their written comments, as did two individuals and two companies. The National Association of Government Archives and Records Administrators, ARMA International, and the Society of American Archivists also expressed strong support for the proposed rule in their written comments. Two commercial records centers and PRISM International, a not-for-profit industry association that includes off-site storage company members, opposed the proposed rule in their written comments; these commenters and other commercial records centers also raised concerns in the June 18 public meeting. The other Federal agencies and the Federal Information and Records Managers Council, an organization of Federal information and records management professionals, raised questions or suggested changes to the proposed rule in their comments.

### General Comments

One of the broad concerns expressed by some Federal and private sector comments was whether the cost of compliance with the proposed NARA standards would preclude the private sector from competing for Federal agency business or make them less competitive than NARA Federal Records Centers (FRCs). Part of the concern expressed in these comments was based on a misinterpretation of the proposed § 1228.234, which provided the specifications for NARA's tested fire-safety detection and suppression system as one alternative way to achieve a 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. That section specified a maximum records storage height of 15 feet, which is not commonly used in commercial facilities, but is standard in NARA FRCs. To address this common misinterpretation, we have moved the NARA FRC specifications to a new Appendix B that clearly states the specifications are an optional alternative way of complying with the rule. Another basis for the concern with the cost of the proposed rule was the requirement in proposed § 1228.230(b) that records storage areas not exceed 250,000 cubic feet of records. We have also modified that requirement. Further discussion of the comments on the cost of compliance is found later in this **SUPPLEMENTARY INFORMATION** in the section titled Regulatory Flexibility Act (RFA) Certification.

Another concern expressed by some written comments and at the public meeting was whether all Federal records warrant the level of protection that would be provided by the proposed standard. As we noted in the preamble to the proposed rule and again at the public meeting and in the September 15, 1999, initial analysis, Federal records provide essential documentation of the Federal government's policies and transactions and protect the rights of individuals. The Government has an obligation to protect and preserve these records for their entire retention period, even if that retention period is only a few years, as is the case with IRS income tax returns. We believe that there is a minimum level of fire safety, security, and structural integrity that any facility storing Federal records must have, which are reflected in these standards. For environmental controls, where a difference in the level of protection is warranted for permanent records, we have taken a graded approach by retention and media. We also note that a higher level of physical security is appropriate for vital records and records of high intrinsic value, but this regulation focuses on the minimum requirements for protecting all Federal records.

Several industry comments and the FIRM Council expressed skepticism that NARA's own records centers will meet the standards. As we stated at the public meeting, all NARA FRCs are in compliance with those portions of the rule that become effective on ''day one,'' i.e., the effective date of this final rule. Many NARA records center facilities are not compliant with environmental and water damage control provisions that do not become effective until 2009.

**Relationship to Existing Industry Standards**

One commercial records storage vendor argued that existing industry storage standards should not be discarded in favor of NARA's proposed rule; conversely, an individual noted that the proposed rule ''fills a badly needed void in our Records Management literature. We do not have definitive or comprehensive standards for a Records Center.'' Currently there is no standard for records storage facilities larger than 49,999 cubic feet of records (NFPA 232 (1995), Standard for the Protection of Records). NFPA 232A (1995), Guide for Fire Protection for Archives and Records Centers, is a guide or recommended practice, and is not mandatory. However, NFPA 232A does recommend the sprinkler systems and compartmentalization required by this and NARA's previous rule. Other standards such as NFPA 13, 231 and 231C treat Federal records the same as the storage of blank paper (or even used paper for recycling), and are intended to provide life safety, protection of adjacencies, etc., but not necessarily to limit the loss of records to an acceptable level of risk. Further discussion of the appropriateness of using NFPA 13, 231, and 231C as the only fire protection requirements is found in the Regulatory Flexibility Act Certification section of this Supplementary Information.

**Conflicts With Other Codes**

Several comments questioned why local and regional building codes could not be followed in place of the proposed NARA standards. At the June 18 meeting, NARA staff explained that fire-safety components of building codes are designed to protect the life and safety of occupants, mitigate against the spread of a fire to adjacent structures, and to protect fire fighters, not to limit the loss of valuable contents. NARA's standards in this final rule supplement the building codes to provide a safety level for the items stored.

We recognize, however, that there may be instances where a NARA standard differs from a local or regional building code provision. We have added a new § 1228.234 that outlines how such conflicts should be handled. Following normal rules of precedence in applying differing standards or codes, we specify that if any NARA provisions conflict with local or regional codes, the more stringent fire protection and life-safety provision applies. If a mandatory NARA requirement cannot be reconciled with a mandatory local or regional requirement, the local or regional code applies. We invite public comment on this new § 1228.234, which has a delayed effective date so that we can consider any comments on it.

**Underground Storage Facilities**

Several industry comments pointed out that the proposed rule did not address the unique characteristics of underground storage facilities and ignored Mine Safety and Health Administration regulations for underground facilities. They stated that, in many cases, MSHA safety guidelines would exceed those outlined in the proposed rule. To address these concerns, we have added a provision in § 1228.234(b) that if any of the provisions of this subpart conflict with mandatory life safety or ventilation requirements imposed on underground storage facilities by MSHA's regulations at 30 CFR Chapter I, the MSHA requirement applies. We have also addressed the need for variances from NARA requirements for roofs of underground facilities in the new § 1228.236 and § 1228.238. We invite public comment on the new provisions in §§ 1228.234, 1228.236, and 1228.238, which have a delayed effective date so that we can consider any comments on them. As we noted at the June 18 public meeting, we are concerned with the potential for severe fire damage to records holdings in an underground facility because of the fuel load and characteristics of a mine. In this final rule, we do not require underground facilities to meet more stringent requirements for fire detection and suppression systems. We intend to work with the underground storage industry and MSHA to develop appropriate standards to protect Federal records stored in underground facilities against catastrophic fire. We will invite public comment on proposed standards that are developed.

**Definitions (§ 1228.224)**

In response to various comments, we have added definitions of ''auxiliary space,'' ''fire barrier wall,'' ''licensed fire protection engineer,'' and ''records storage area.'' With ''fire barrier wall'' we clarified that the type of wall required by this regulation is 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. A fire barrier wall is a less costly wall than a fire wall. We also changed the terminology throughout the regulation.

Several comments pointed out that fire protection engineers (FPEs) are not separately licensed or registered in some States. Our definition of FPEs includes both licensed or registered professional engineers with a recognized specialization in fire protection engineering and, for those States that do not separately licenced or register FPEs, licensed or registered professional engineers with training and experience in fire protection engineering who are professional members of the Society of Fire Protection Engineers.

**Multi-Story Facilities (§ 1228.228(b))**

We received several comments on the proposed § 1228.228(b), which requires facilities with two or more stories to be designed or certified by a licensed FPE. One agency questioned whether FPEs ''design'' facilities or perform design reviews for fire protection systems and features. The rule allows for either the active involvement of a licensed FPE in the facility design (a highly desirable, but not required effort) OR that a licensed FPE certify (i.e., conduct a design review or post construction inspection) to ensure that the facility actually meets the design criteria.

Another agency pointed out that evaluation of structural aspects of a multi-story facility were out of the professional scope of an FPE. We adopted the agency's recommendation that a civil/structural engineer also be involved in the design or certification.

PRISM International questioned whether this was a facility issue from which NARA could exempt itself rather than a fire safety issue and how much it would cost NARA to comply with the provision since NARA has several multi-story records centers. The provision is primarily a fire safety issue, but is placed in § 1228.228 because it is also a structural issue. All multi-story NARA facilities have four-hour rated intermediate floors and are compliant.

**Flood Walls (§ 1228.228(c))**

In response to a question from ARMA International, we have clarified that the required flood wall for buildings in a 100 year flood plain areas must conform to local or regional building codes.

**Protection From Water Damage (§ 1228.228(g) and (h))**

One agency pointed out in its comments that properly designed roof-mounted equipment could be installed in such a way to minimize potential damage to the roof membrane and that periodic roof inspection by appropriately certified professionals should allow potential problems to be identified and corrected before any actual damage occurs. We agree with the agency but note that care must be taken also to ensure that the foot traffic required by maintenance personnel to service roof-mounted equipment does not damage the roof. We have modified paragraph (g) to require only that measures are taken to ensure that the roof membrane does not permit water to penetrate the roof. We state that the preferred way of achieving this is that no equipment be mounted on the roof, but that the agency's suggested alternative may be used instead.

The same agency also suggested that water damage from overhead piping could be prevented by stringent design, inspection, and supplemental techniques such as gutters or shields. We have adopted this suggestion in § 1228.228(h).

ARMA International suggested that the rule would be more complete if guidelines for preventing water damage also addressed water coming from below, e.g., backed up plumbing or broken toilet or kitchen pipes. We agree with this comment, but have not determined the appropriate way to address water entering at floor level. There are preservation concerns that floor drains may permit sewer gas to enter the records storage area and that the drains themselves may be an avenue for water to enter the storage area. We intend to address this issue in a future rulemaking. Until then, we believe that the requirement that the building be protected against floods (§ 1228.228(c)) and the fairly standard shelving assembly that raises the bottom shelf one to three inches off the floor mitigates this risk.

**Shelving (§ 1228.228(i))**

Several comments addressed the shelving requirements in paragraph (i). One individual recommended that several Federal specifications for bracing shelving be added. We have not adopted this comment, as the performance standard to brace to prevent collapse under full load is sufficient. An agency questioned whether we intended that the shelving be rated at least 50 pounds per square foot. We confirm that we do mean pounds per cubic foot, as different facilities use different shelving schemes, sometimes stacking two, or even three boxes high per shelf. A cubic foot of wet records can easily weigh 50 pounds.

**Security Requirements (§ 1228.228(k))**

In response to an agency comment, we have clarified paragraph (k) to permit agencies to require compliance with DOJ Level IV or Level V facility requirements if the facility is classified at the higher level. Appendix A contains only Level III requirements. We note that if an agency requires a commercial records storage facility to implement higher security requirements, the agency must furnish the facility with those requirements as part of its contract specifications.

**Integrated Pest Management (IPM) Program (§ 1228.228(m))**

One agency strongly endorsed the requirement to have an IPM program while another agency stated that it does not seem reasonable to require the same level of pest control in records storage areas as in food preparation areas. The IPM program is a systemic approach to pest management, and not a ''level of pest control'' exclusively for food preparation areas, and we have made no changes to this paragraph.

**Mechanical and Electrical Equipment in Records Storage Areas (§ 1228.228(n))**

Several respondents misunderstood that § 1228.228(n) applies only to new records storage facilities, i.e., facilities established or converted to use as records storage facilities on or after January 3, 2000. We have rewritten the introductory text to emphasize this more strongly.

In response to several comments questioning the prohibition on mechanical and electrical equipment in records storage areas, we have clarified that our intent was to avoid transformers, switchgear, and large motors, not lighting and code-required illuminated signs. We have split the proposed paragraph (n)(1) into separate paragraphs for mechanical and electrical equipment. Mechanical equipment containing motors rated in excess of 1 HP and high-voltage electrical distribution equipment (i.e., 13.2 kv or higher switchgear and transformers) are prohibited in this final rule. We did not adopt an agency's recommendation that high efficiency gas HVAC units with open flames be permitted in smaller records storage areas, given both the fire risk and the pollution risk, and the minimal impact of requiring the unit to be installed exterior to the records storage area.

Two agencies questioned the requirement for new facilities to provide a redundant source of primary electric service. A redundant source of electrical service provides a higher level of protection than batteries for fire alarm and fire protection systems, and is required only in new facilities. We have clarified that we did not intend to require instantaneous switching between supplies. A third agency asked whether exit signs should be included in the requirement for secondary power. Exit sign power is regulated by NFPA 101 (1997), Life Safety Code. NARA does not intend to be more restrictive in this case.

**Compartmentalization of Storage Areas (§ 1228.230(b))**

The requirement in paragraph (b) that each records storage area must not exceed a total capacity of 250,000 cubic feet of records drew both strong support and strong opposition in written comments and at the June 18 meeting. The purpose of this requirement was to limit the loss of Federal records in a catastrophic fire where the fire suppression system failed to contain a fire. One respondent from a firm that makes records storage vaults stated that

> ''* * * From a practical application, there is no doubt these improvements will drastically improve the risk profile of the records center and reduce losses should a fire occur. One only has to view the lessons learned from the fires at [four commercial storage facilities] to confirm what NARA has suggested. * * * [Two facilities] suffered total losses in warehouses where open space storage and high bay ceiling were in use. * * * [One facility] utilized demising walls and the fire was stopped at the first demising wall as this allowed the fire department to create a perimeter defense due to the fact that the fire could not breach the surrounding walls. Compartmentalization does work. * * * [In the fourth] fire, the demising walls and the low ceiling worked to limit the loss to 4,000 boxes when 100,000 were at risk. Clearly this design was most effective. An intelligent analysis of these fires points out that the NARA Standard is based on performance in actual fires and the resultant damage. Large open warehouses without in-rack sprinklers are destined to a complete loss as the fire is not only unstoppable but unfightable.''

A major commercial records storage vendor stated that the limitation of records storage areas ''will result in tremendous costs to retrofit existing buildings especially considering the additional ventilation problems which will have to be addressed.'' The vendor also stated that ''without substantial renovations, both existing commercial and NARA records centers will be virtually disqualified from further consideration.'' NARA records centers meet this requirement now, as do any agency records centers that were approved under the previous subpart K or that procured their records center space through the General Services Administration. The representative of the storage vault firm noted in his comments that many commercial records centers would be able to comply.

From the lessons NARA learned from the 1973 fire that destroyed the top floor of the St. Louis National Personnel Records Center and that have been confirmed with the commercial sector fires in the past year, we believe that it is essential to provide safeguards against catastrophic loss of Federal records in a fire. We recognize, however, that commercial storage facilities have different space configurations and that they may not want to or be able to modify a facility to conform to this requirement. Therefore, we modified § 1228.230(b) as recommended by a Federal agency with extensive experience with commercial storage facilities. Paragraph (b) in this final rule provides that if the facility does not have fire compartmentalization in its records storage areas or the storage compartments are larger than 250,000 cubic feet, no more than 250,000 cubic feet of Federal records may be stored in the records storage area.

**Fire Barrier Walls (§ 1228.230(c)–(f))**

In response to an agency comment, we have modified paragraph (c)(2), which applies to new facilities only, to permit one or more knock-out panels in one exterior wall of each stack area instead of designing that wall with a maximum fire resistive rating of one hour. We also clarified in paragraph (f) that fire doors that maintain the same rating as the wall are permitted.

**Roof Support Structures (§ 1228.230(g))**

Two agencies questioned the requirement that roof support structures that cross or penetrate fire barrier walls must be cut and supported independently. Both agencies were concerned that it may be extremely difficult to achieve; one of the agencies suggested that the requirement be imposed for new facilities only. We disagree. This requirement was also in the existing regulation, which has been in effect for the past 17 years for NARA and agency records centers. It is not unreasonable to design a facility to avoid a roof collapse from bringing down the fire wall.

**Automatic Roof Vents (§ 1228.230(j))**

One agency and PRISM International questioned the prohibition on automatic roof vents. We agree that appropriately designed roof vents whose sole purpose is to ventilate a fully involved fire are effective. We have modified this section to continue to prohibit automatic roof vents in new facilities for routine ventilation purposes, because they are a source of later leakage, but to permit automatic vents designed solely for venting in case of a fire.

**300 Cubic Feet Limit on Loss of Records (§ 1228.230(s))**

Several vendors expressed the view in their written comments and at the public meeting that limiting loss of records to 300 cubic feet per incident is unreasonable, even though we noted in the proposed rule that this maximum limit has been set to reflect what current sprinkler technology can guarantee. The 300 cubic feet loss per incident is a design objective, based on live fire testing. It means that if the system works as intended (i.e., has not been sabotaged, is properly maintained, etc.) that the anticipated or likely loss will not exceed 300 cubic feet. This has been demonstrated in three separate live fire tests, each test including multiple burns, and in no case did the damage exceed 300 cubic feet.

Several questions were asked at the public meeting concerning whether NARA's existing facilities meet the 300 cubic feet standard and any testing or certification process used. NARA staff stated that NARA's centers meet the fire-safety requirements, which have been in place since at least 1982. The live fire tests were conducted for NARA by Factory Mutual and Underwriters Laboratory (compact shelving) during the 1970's and 1980's. NARA's centers were designed to the standard by fire professionals, but there was no certification process in place under the previous regulation.

In this final rule, we have moved §§ 1228.232 (agency certification of fire-safety detection and suppression systems) and 1228.234 (NARA's certified system) to § 1228.242 and Appendix B, respectively.

**Environmental Controls (§ 1228.232)**

The Society of American Archivists (SAA), two agencies, and an underground storage provider commented on this section (§ 1228.236 in the proposed rule). SAA stated its view that ''while in an ideal world permanent records would be stored in an environment suitable for permanent records from the beginning of their life cycle, the proposed NARA regulations strike a reasonable compromise for the real world.'' One agency questioned why humidity control was not a requirement for permanent paper records, while the underground storage provider pointed out that its salt mine temperature and humidity levels would fall within the specifications for office space air conditioning. The cited ASHRAE standards in paragraph (c) address temperature, humidity, and air exchange aspects of air conditioning. If an underground facility can meet all three aspects of the standards, its natural air conditioning would be permitted.

The other Federal agency questioned what standards should be applied to mixed-media records, e.g., combined microfiche and paper records. This is a problem not just for the Department of Defense (DOD) and NARA at our St. Louis facility, but for other agencies that may retire files that are primarily paper-based records but also contain microforms, x-rays, photographs, or other nontextual records. While the ideal solution is for agencies to segregate their nontextual records before sending them for storage, it is not an easily achievable solution. We will review this issue further and address it in a future rulemaking.

**Waivers of Requirements (§§ 1228.236 and 1228.238)**

In response to written comments and discussion at the public meeting, we have added two new sections to address when and how NARA would consider waiving a requirement in this subpart.

We will consider waiving a requirement in three situations—(1) when a system, method or device is equivalent or superior to a requirement prescribed in the NARA regulation; (2) for an agency records center that met the previous NARA standards but does not meet a new standard (e.g., environmental controls for permanent nontextual records); and (3) for roof-related requirements for underground storage facilities. The information to be provided and NARA's procedure for processing and approving waiver requests are specified in new §§ 1228.236 and 1228.238. We are delaying the effective date for these sections to permit public comment on them.

**Time Limits for Removing Records From a Noncompliant Records Storage Facility (§ 1228.240)**

In response to agency comments, we are clarifying both § 1228.240(a) in this final rule and § 1228.156 in a related final rule published elsewhere in this separate part of the **Federal Register** to require agencies to complete removal of records from noncompliant storage facilities within 18 months after initial discovery of the deficiencies.

**Content of Requests for Agency Records Centers (§ 1228.240(c))**

Proposed § 1228.240(a)(1) contained a requirement that an agency that proposes to store its records in an agency records center operated by another agency must obtain NARA's approval to do so. We have clarified § 1228.240(c) to include requests for approval in this situation and to note that such requests do not have to provide documentation of compliance with the standards in this subpart (the agency-owner/operator will have provided the documentation).

We also recognize that some agencies may have had unofficial records storage facilities that did not meet the standards of the previous regulation. In response to one agency's suggestion, we have added a new paragraph (c)(2) to allow those agencies to submit requests for approval of an existing agency records center with a plan to bring the facility into compliance with current requirements within a three-year period.

**Certification of Fire-Safety Detection and Suppression System (§ 1228.242)**

The proposed rule contained a requirement in proposed § 1228.232 that any fire-safety detection and suppression system undergo independent live testing to be certified as meeting the requirements of § 1228.230(s). We received a number of written comments and comments at the public meeting opposing this requirement because it is too costly. We have reconsidered our position that full testing is the only way to demonstrate compliance. We have moved the revised section to § 1228.242, and offer three alternatives for documenting compliance:

- A statement that the facility is using a NARA-certified system described in Appendix B.
- A report of the results of independent live fire testing.
- A report of the results of computer modeling and a certification by a licensed FPE that the system has been designed to meet the requirement of § 1228.230(s).

NARA will approve systems within 10 work days if the facility has used a previously approved system design or the system is documented through live fire testing. For systems documented through the third alternative, NARA will give its approval within 30 calendar days if, in NARA's judgement, the system clearly demonstrates compliance with § 1228.230(s). If NARA questions whether the documentation demonstrates compliance, NARA will consult the appropriate industry standards body or other qualified expert before making the determination.

**NARA Inspection of Records Storage Facility (§ 1228.244)**

In response to an agency comment, we have added a paragraph that NARA will contact the agency operating a records center or holding a contract with a commercial facility in advance to set a date for the inspection.

**OMB Review Under Executive Order 12866**

This rule is a significant regulatory action for the purposes of Executive Order 12866, and has been reviewed by OMB at both the proposed and final rule stages. It is deemed significant because it is a NARA regulatory plan regulation. It is also deemed significant in accordance with section 3(f)(4) because it is related to the new reimbursable records center program.

**Congressional Review of Agency Rulemaking**

This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

**Regulatory Flexibility Act (RFA) Certification**

*Background*

Several respondents questioned NARA's certification statement in the proposed rule, which stated "As required by the Regulatory Flexibility Act, we certify that this proposed rule will not have a significant impact on small entities." [1] The question was first raised at the June 18, 1999, public meeting. At that time, NARA staff stated that NARA had not done any formal cost analysis to support this certification and invited attendees to provide comments on the adequacy of that statement.

Two respondents, Underground Vaults and Storage, Inc. and Iron Mountain, specifically commented that the regulation would have a significant impact on small business. Underground did not state a specific cost. Iron Mountain, one of the largest records center vendors in the United States, asserted that the limitation of storage areas to 40,000 sq. ft. (§ 1228.222) would require that company to spend approximately $500,000 to retrofit each of its existing buildings. Extrapolating that figure to 2,400 small businesses providing records management services, Iron Mountain stated that the cost would be $1.2 billion to small businesses if each business only operated one similar sized center. A third respondent, Hugh Smith (Firelock) stated that smaller vendors are better able to meet the proposed standards because they have smaller warehouses than the larger vendors. PRISM International questioned which of the RFA requirements NARA had used to review the proposed rule. Additionally, some records storage facilities wrote to their members of Congress stating that the proposed rule would have a significant impact on them but did not specify any cost.

After evaluating these comments, NARA decided to publish an initial regulatory flexibility analysis (analysis) to provide further information and opportunity for public comment on the small business impact, if any, of the proposed rule. When the document was published in the **Federal Register**, NARA encouraged wide review of the analysis by posting it on NARA's web site with the proposed rule, and sending notifications to PRISM International, ARMA, SAA, NAGARA, and the Records Management and Archives List Serves. Additionally, NARA notified agency records officers of the availability of the analysis for comment and sought information on current and planned agency use of commercial records centers to assist in the assessment of the potential impact on small businesses.

*Succinct Statement of the Need for, and Objectives of, the Rule*

Current records center standards were last issued in 1982. They cite outdated industry standards and do not reflect other government-wide requirements that have been imposed since 1982. The 1982 regulation addresses only officially established agency records centers, although NARA Federal records centers voluntarily conform to that regulation. It is necessary to update the standards applicable to agency records centers and NARA centers to reflect these changes. Moreover, as more agencies are turning to the private sector for off-site storage, NARA finds that it is necessary to explicitly require agencies to ensure that records in their legal custody are stored in appropriate space wherever the records are stored.

Federal records provide essential documentation of the Federal Government's policies and transactions and protect rights of individuals. These records must be stored in appropriate space to ensure that they remain available for their scheduled life.

NARA is authorized, under 44 U.S.C. 2907, to establish, maintain and operate records centers for Federal agencies. 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

[1] As discussed in the document published September 15, 1999, at 64 FR 50028, the certification statement in the proposed rule inadvertently omitted the phrase "a substantial number of", although NARA intended that phrase to be part of the statement.

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.

*Comments Received in Response to Initial Regulatory Flexibility Analysis*

NARA received comments on the analysis from PRISM International, 4 small businesses that provide records services, 2 other records storage businesses that did not specifically identify whether they were small businesses, and 2 consultants. Additionally 12 Federal agencies, or components of agencies, responded to the letter to records officers. We have carefully reviewed the comments and considered them before issuing this final rule.

*Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis*

The public comments on small business impact generally concerned three significant issues:

*(1) Availability of alternative standards.* PRISM and four records storage businesses argued that adherence to NFPA standards 13, 231, and 231C and local building codes provide sufficient protection for records in commercial records centers. One small business added that the proposed rule would ''effectively quadruple the fire protection requirements of Federal Records Centers and for commercial records centers storing government records.'' (We note, however, that NARA's Federal records centers meet the fire protection requirements now.) Another small business recommended waiving the 250,000 cubic foot limitation for facilities that can gain certification of compliance with NFPA 232A.

*(2) The cost of structural changes to comply with the proposed rule.* One small business identified the requirement to have records storage areas no larger than 250,000 cubic feet to be of particular concern. This business estimated that its cost to construct fire walls would be over $250,000, and that the walls would significantly reduce the efficiency of the workflow within the building. The commenter also projected losing $600,000 of potential gross revenues from potential Federal agency customers within their service area during the first year if the fire walls had to be constructed prior to moving in Federal customers.

Another records storage firm, which did not identify whether it was a small business, stated that adopting the proposed NARA rules would increase capital costs by 216 percent. The commenter identified the following specific areas where costs would be affected by NARA requirements: height/module restriction; seismic requirements*; interior 4-hour fire-walls 20 feet high; fire suppression; fire protection; added mechanical room for equipment; added mechanical equipment/HVAC; exterior 1-hour wall; 2 sides to access all modules; electrical/security system; and Level III security measures.* (Starred items are government-wide, not NARA, requirements. We note that in this final rule, there are no height restrictions and the module (records storage compartment) size restriction relates to the number of Federal records that can be stored in a module, not to the size of the module itself.)

PRISM International stated that building costs would more than triple under NARA's proposed requirements, and provided the results of a study done for PRISM by Hanscomb, Inc., an international construction consultant firm, in support of that statement. PRISM also commented that live fire tests required to obtain certification for alternate storage and fire protection designs were very expensive, costing $250,000 or more.

In its comments on the proposed rule prior to the publication of the September 15 analysis, Iron Mountain (which is not a small business) asserted that the limitation of storage areas to 40,000 sq. ft. (§ 1228.222) would require that company to spend approximately $500,000 to retrofit each of its existing buildings. Iron Mountain further asserted that there are 2,400 small businesses providing records management services; extrapolating its costs to this universe, Iron Mountain stated that the cost would be $1.2 billion to small businesses if each business only operated one similar sized center.

Several other public comments expressed concern that the cost of alterations needed to comply with the NARA requirements would discourage or prevent small businesses from doing business with the Federal Government.

*(3) Adoption of NARA standards for non-Federal records.* PRISM and two records storage firms raised concerns that private sector businesses might incorporate the NARA standards as technical specifications for storage of general business records. These commenters stated that such an action would stifle competition and raise prices.

*Other issues.* In addition to these three issues, several commenters reiterated their general concerns over the appropriateness of stringent standards for most Federal records and the applicability of the regulation to underground storage facilities, which are addressed elsewhere in this Supplementary Information.

*Summary of NARA's Assessment of Such Issues*

*(1) Availability of alternative standards.* As noted earlier in this Supplementary Information, we believe that Federal records require a greater level of protection against fire damage and loss than stocks of paper being stored as a commodity. Commodities can easily be replaced if damaged or lost; records containing evidence of Federal agency actions, individual rights, and fulfillment of individual and organizational obligations to the Federal government cannot be replaced. We also note that the professional organization responsible for developing and issuing fire protection standards, the National Fire Protection Association (NFPA), also recognizes that protection of records is distinct from protection of commodities. Since the adoption of the original edition of NFPA 232A, Guide for Fire Protection of Archives and Records Centers in 1970, the NFPA has recognized that large collections of inactive records is not the same as protecting bulk storage of recycled paper or new bond paper in bulk, and that separate guidance was needed.

In August 1999, NFPA and ANSI adopted a new NFPA 230, Standard for the Fire Protection of Storage (1999) and revised NFPA 13, Standard for the Installation of Sprinkler Systems (1999). Because these standards were adopted after the proposed NARA rule was published, we have not incorporated them in this final rule. We intend to do so at the next revision of this rule, which will be subject to public comment. Nevertheless, we considered the action of NFPA indicative of the fire protection industry's assessment of the adequacy of the editions of NFPA 13, 231, and 231C in effect prior to August 13, 1999. NFPA 230 (1999) cancelled NFPA 231, Standard for General Storage (1998) and NFPA 231C, Standard for Rack Storage (1998). The sprinkler-specific information from these canceled Standards was transferred to NFPA 13 (1999), which now includes a special hazard classification of ''high piled storage'' that can be used for the bulk storage of paper products over 12 feet high.

NFPA has clearly stated that the Technical Committee on General

Storage (formerly responsible for NFPA 231, General Storage and now responsible for NFPA 230, Standard for the Fire Protection of Storage) does not have responsibility for the protection of records: ''This Committee shall have primary responsibility for documents on safeguarding general warehousing and commodities against fire where stored indoors or outdoors. This Committee does not cover storage that is specifically covered by other NFPA standards.'' [2] The Technical Committee for Rack Storage (formerly responsible for NFPA 231C, Rack Storage) has clearly excluded the storage of records from the scope of NFPA 231C (see section 1–1 Application and Scope).

For these reasons, we reiterate our view that use of NFPA 13, 231, and 231C as the sole fire protection standard for records centers is not an appropriate alternative, even for small businesses.''

We also considered the alternative offered by one small business to waive the 250,000 cubic foot limitation for facilities that can gain certification of compliance with NFPA 232A. Because NFPA 232A is a guide, its provisions are cast in advisory language, e.g., ''Complete automatic sprinkler protection should be provided, including waterflow alarms * * *'' [NFPA 232 (1995) section 6–2.3(b)]. We note that NFPA 232A limits fire chambers to 40,000 square feet, which could allow storage of more than 250,000 cubic feet if higher shelving is used. NARA would be willing to grant a waiver to a small business if the business documents that it has adopted all of the provisions of NFPA 232A, i.e., it has adopted the recommendations as if they were mandatory. The waiver would be processed under § 1228.236.

*(3) The cost of structural changes to comply with the proposed rule.* The small business did not provide a detailed breakdown of its estimate of $250,000 to construct fire walls to create storage compartments with a capacity of 250,000 cubic feet of records. With the changes we have made in this final rule, however, the business would incur costs for constructing fire walls only if it intended to store more than 250,000 cubic feet of Federal records. The number of fire walls needed would vary depending on the number of compartments into which Federal records might be placed. Consolidating Federal holdings in the fewest possible compartments would reduce the need for and cost of building fire walls. Two large compartments could hold 250,000 cubic feet each, or a total of 500,000 cubic feet of Federal records.

We carefully reviewed the cost data provided by PRISM's consultant, Hanscomb. Hanscomb based its cost data on a hypothetical new center built to comply with the NARA proposed standards against a new commercial records center with a capacity of 907,000 storage locations (we assume that storage location refers to typical 1.1 cubic foot records storage boxes, and that 907,000 storage locations is similar to NARA's 1,000,000 cubic foot volume calculation).

The Hanscomb cost estimate contains several significant misinterpretations of the proposed NARA standards, which result in a grossly overstatement of the cost of a new records center built to the proposed NARA standards. Hanscomb estimated the total cost of structural changes to conform the new center to the proposed NARA standards to be $7,637,361. When we adjusted for the errors due to misinterpretation, the revised estimate (using Hanscomb's figures and 15 foot high shelving scenario) would be $2,508,294 for NARA-imposed requirements, and another $180,000 for government-wide security and pest management requirements. If the new center used higher shelving configurations, which the final rule clearly allows, the cost for NARA-imposed requirements would be significantly lower. A detailed discussion of Hanscomb's cost estimate and our adjustments is provided in Appendix A to this preamble, which appears at the end of this rule document.

Because both Hanscomb and another records center commenter misunderstood the requirement to design and install shelving in accordance with Executive Order 12941 or Executive Order 12699, we have restated the requirement as designing and installing shelving in accordance with the applicable regional building code. This should clarify that there is no additional cost for the NARA requirement.

In evaluating the comments on the analysis we also carefully considered Iron Mountain's comments on the cost of compliance. We assume that Iron Mountain meant constructing fire barrier (demising) walls to limit the capacity of records storage areas to 250,000 cubic feet, since the proposed rule did not set a square foot limit. In this final rule, we allow this requirement to be met through limiting the number of Federal records stored in a records storage area that does not meet the 250,000 cubic feet limit. We believe that this change would accommodate small records storage vendors in particular. We also believe that it is likely that Iron Mountain, which is not a small business, already meets that requirement. Iron Mountain holds a General Services Administration FSS multiple award schedule contract to provide records center storage to Federal agencies. The GSA contract requires Iron Mountain to meet NARA specifications in effect prior to this final rule which include the requirement for storing records no higher than 15 feet in storage areas no larger than 40,000 sq. ft.

No other comments were offered on the cost for existing records centers to comply with the regulation. The Health Care Financing Administration (HCFA), whose 54 contractors store Medicare records in both small and large commercial records centers, reported that the agency required the records center vendors used by its contractors to adhere to the existing NARA facility standards in 36 CFR 1228.220, or obtain a temporary waiver. All commercial storage facilities currently used by HCFA's contractors either fully or closely meet the standard. The Department of the Army also reported that its previous commercial storage facility in Seattle, a small business that was bought out by Iron Mountain, complied with standard except for using a dry-sectional sprinkler system instead of a wet sprinkler.

We acknowledge PRISM's statement that live fire testing is very expensive, and as noted earlier in this **SUPPLEMENTARY INFORMATION**, we have modified the requirement in this final rule to allow less expensive methods of certifying fire detection and suppression systems.

*Adoption of NARA standards for non-Federal records.* We acknowledge the concern that NARA's requirements for storage of Federal records may be adopted by some private sector companies. The NFPA Technical Committee on Records Protection has proposed a new standard that will address the storage of general business records, which will provide businesses an alternative standard that they can cite in their solicitations for records storage services. Nevertheless, NARA has the obligation to determine what level of protection is required for Federal records, wherever they are stored—in NARA records centers, agency records centers or private sector centers.

We do not agree that the NARA requirements will necessarily stifle competition. Indeed, small business

[2] NFPA Committee List 1999, page 59. See also NFPA 230 section 1–1.2 ''This standard shall not apply to the following: . . . (d) Inside or outside storage of commodities covered by other NFPA standards, except where specifically mentioned herein (e.g., pyroxylin plastics).''

records centers that meet the NARA requirements should be able to compete successfully against the dominant Iron Mountain/Pierce Leahy centers for Federal business.

*Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments*

As discussed previously in this SUPPLEMENTARY INFORMATION, we have made a number of changes in the proposed rule as the results of the comments we received. The following changes, in particular, are intended to reduce the burden of this regulation on small businesses:

- The 250,000 cubic feet limitation on the size of the storage compartment has been modified to allow storage of no more than 250,000 cubic feet of Federal records in an uncompartmentalized facility or in each larger capacity compartment. We note that all but one of the Federal agencies that responded to our request for information on their use of commercial facilities reported that they store no more than 250,000 cubic feet of records in any one facility, and that most store considerably less than this amount. The one agency that did not report a maximum volume or range of holdings in commercial centers is unlikely to store more than 250,000 cubic feet in a single center (1.5 million cubic feet are stored in at least 54 locations).
- We are providing a procedure to grant waivers of certain requirements for alternative methods that provide equal or better protection.
- We are providing alternative ways to certify a facility's fire detection and suppression system.
- We have modified provisions relating to roof-mounted equipment and piping in storage areas to provide more flexibility in meeting those requirements.
- We have made changes that will clearly allow underground storage facilities to be considered for storage of Federal records.

*Description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available:*

As we stated in the Analysis published on September 15, 1999, we identified commercial records storage facilities as small entities if they met the Small Business Administration (SBA) definition of a small business under Standard Industrial Code (SIC) 4226, Special Warehousing and Storage, Not Elsewhere Classified. For SIC 4226, an SBA small business must have annual gross receipts of $18.5 million or less. According to census figures furnished to NARA by SBA, there are 1,230 firms in SIC 4226. Most of these firms do not have multiple establishments (the number of SIC 4226 establishments is 1,547). We received no comments on our selection of this SIC as the appropriate classification for small business records storage vendors.

We stated in the Analysis that we did not have an estimate of the number of small businesses to which the rule would apply because agencies are not required, under existing regulations, to report to NARA when they contract with the private sector for records storage services. Even if we assume that all 1,230 firms in SIC 4226 would be interested in an opportunity to provide records storage services for the Federal government, we estimate that the number of firms that would be offered such an opportunity is much more limited.

We specifically invited comments from agencies on any contracts that they currently hold with small businesses and any plans that they have to contract with small businesses for records center services in the next 2 years. Twelve agencies responded. Eleven of the agencies store some records in commercial records centers; all but two of these store their records only in centers operated by one of the two largest businesses. One regional office in Seattle currently uses a small business to store 8,500 cubic feet of records but plans to move ''a fair amount'' of the records to a NARA center within the next year. HCFA reported that its Medicare contractors use a combination of large and small business commercial facilities that are local to the contractor. The HCFA contractors store a total of 1,469,115 cubic feet of Medicare records (which are Federal records). FDIC stores a total of 3 million cubic feet in 47 large business commercial facilities. The three agencies with the next highest volume of records stored in commercial facilities also reported that they used only large businesses.

We believe that the continued trend toward consolidation of the records storage industry, will also have an impact on small business records centers' ability to compete for Federal business. In recent years, the two largest commercial records storage companies have acquired a large number of small and medium sized records storage companies, and these two large companies have now announced their intention to merge.

At present, the General Services Administration's Multiple Award Schedule (MAS) for Records Center Services (FSS–36–IV sin 51 504) has listed only two qualified companies, the large businesses discussed in the previous paragraph. The procurement process that an agency must follow when using an MAS or when entering into an interagency agreement with NARA or another Federal agency to provide records center services is much simpler than the process it must use when seeking open market services.

The agency responses to NARA's request for agency comment and the ease with which agencies can contract with large centers through the MAS lead us to believe that it is highly unlikely that more than ten percent of the small businesses in SIC 4226 would be offered an opportunity to provide commercial storage services for Federal agencies. We do not regard this number as a substantial number of small entities.

*Description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:*

*Reporting/recordkeeping requirements:* The rule does not directly mandate reporting or recordkeeping within the meaning of the Paperwork Reduction Act. All reporting requirements are placed on Federal agencies, which must secure NARA approval before moving Federal records to a commercial records center. NARA anticipates that the Federal agencies would include 36 CFR part 1228, subpart K (the facility standards) in their contracts with commercial records centers. Section 1228.240(e) states that the agency may submit to NARA ''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.''

*Other compliance requirements:* All records centers that store Federal records, including commercial records centers operated by small businesses, must comply with the facility requirements in the rule. Certain specific requirements differ for newly constructed facilities and existing facilities. Also, existing facilities are allowed a 10-year period to become compliant with some of these requirements. The facility compliance requirements are found in §§ 1228.228, 1228.230, and 1228.232 of this final rule.

*Professional skills necessary for preparation of report or record:* If the records center owner has maintained the facility design records, no special professional skills would be necessary to provide documentation to the contracting agency that the facility meets the NARA standards. If the design records are not available, the center would have need for the services of a licensed Fire Protection Engineer to inspect the facility and prepare a report on a one-time basis. We estimate that the inspection and preparation of a report would take no more than 8 hours total. We received no public comment on this estimate, which was published in the September 15 Analysis.

*Description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.*

To the extent possible, the rule specifies performance standards and incorporates by reference industry consensus standards. NARA chose this alternative over the other possible regulatory approach—extending the coverage of the existing regulation that governed agency records centers to all providers of records storage services to the Federal government—to provide as much flexibility as possible to all commercial and agency records centers, including small businesses. To further minimize significant economic impact on small entities as much as possible, we are also adopting a procedure for granting a waiver from specific standards when a facility has an alternative that is equal or superior to the NARA requirement. We also believe that the 10-year period we provide for complying with certain requirements will moderate the impact on small businesses since they will be able to plan for the necessary modifications and implement them during normal maintenance, e.g., removing roof-mounted equipment when roof repairs or replacement is done. We have further clarified the accompanying rule, Storage of Federal Records, published elsewhere in this separate part of the **Federal Register**, to emphasize that a facility is in compliance with these standards if the facility does not yet meet the requirements that will go into effect in 2009.

NARA could not adopt an alternative that exempted small entities from the standards, given the objective of ensuring appropriate protection for Federal records when they leave agency office space. For the reasons discussed previously in this SUPPLEMENTARY INFORMATION section, we also could not adopt an alternative that required small entities to comply only with local building codes or NFPA codes governing sprinkler systems.

*Statement of Factual Basis for Certification*

Under the RFA, at the time it publishes a proposed rule in the **Federal Register**, an agency must either prepare and publish a regulatory flexibility analysis, or must publish a certification that the regulation will not have a significant economic impact on a substantial number of small entities. The certification must be accompanied, at either the proposed rule or final rule stage, with a statement providing the factual basis for such certification. The statement providing the factual basis for our certification is provided here.

Although the final rule may have a significant economic impact on a small number of small businesses that wish to store records for the Federal Governement and that are entering the records storage business for the first time, we believe that the rule will not have a significant economic impact on a substantial number of small entities for several reasons:

(1) The number of small businesses that currently provide or are likely to provide records storage services to the Federal government is low, as reflected in the agency responses that NARA received.

(2) Those small businesses that do provide records storage services can store up to 250,000 cubic feet of Federal records without having to construct interior fire walls. From the agency responses that NARA received, most agency contracts for commercial storage are well below 250,000 cubic feet per facility. Only one agency reported 250,000 cubic feet of records in a single facility, and that was a large business. Although construction of interior fire walls would be a significant expense for small businesses, the revised limit on the number of records that can be stored in a storage compartment and the removal of the implicit limit of 15 feet on shelving records have eliminated this as a source of significant economic impact.

(3) The agencies that use small businesses to provide their records storage report that those facilities fully or almost completely comply with the more restrictive existing NARA standards. Consequently, there should be no significant economic impact to bring these small businesses into compliance with the general facility standards in this final rule. Where NARA itself is imposing other new requirements, e.g., environmental controls for permanent paper and nontextual records, the requirements have either been in force elsewhere in NARA regulations for three or more years or are required to be phased in over a 10-year period. Additionally, the environmental controls requirements will apply to only a small percentage of Federal records that would be stored in records centers. Only that area of a records center that will contain these records must be adapted for environmental controls. Alternatively, a records center could choose to store only temporary paper records, and not incur these costs.

**List of Subjects in 36 CFR Part 1228**

Archives and records, Incorporation by reference.

For the reasons set forth in the preamble, NARA amends part 1228 of title 36, Code of Federal Regulations, as follows:

## PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

**Authority:** 44 U.S.C. chs. 21, 29, and 33.

2. Revise subpart K to read as follows:

**Subpart K—Facility Standards for Records Storage Facilities**

Sec.

**General**



**Facility Standards**



**Handling Deviations From NARA's Facility Standards**



**Facility Approval and Inspection Requirements**

## Subpart K—Facility Standards for Records Storage Facilities

### 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.

#### 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 September 30, 1999, 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.

## 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 though 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 that is separate from the remainder of the facility.

**§ 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 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 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.

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

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

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

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

(c) *Waiver of roof requirements for underground storage facilities.* NARA will normally grant the waiver and notify the requesting agency within 10 work days if the agency has not also requested a waiver of a different requirement under § 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 accordance 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.

(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.

3. Appendixes A and B are added to part 1228 to read as follows:

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

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Reproduced from Section 2.3 (pp. 2-6 through 2-9) of
U.S. Department of Justice, United States Marshals Service report
*Vulnerability Assessment of Federal Facilities*

## RECOMMENDED STANDARDS CHART

| PERIMETER SECURITY | LEVEL III |
|---|---|
| ***PARKING*** | |
| CONTROL OF FACILITY PARKING | ● |
| CONTROL OF ADJACENT PARKING | ▲ |
| AVOID LEASES WHERE PARKING CANNOT BE CONTROLLED | ▲ |
| LEASES SHOULD PROVIDE SECURITY CONTROL FOR ADJACENT PARKING | ▲ |
| POST SIGNS AND ARRANGE FOR TOWING UNAUTHORIZED VEHICLES | ● |
| ID SYSTEM AND PROCEDURES FOR AUTHORIZED PARKING (PLACARD, DECAL, CARD KEY, ETC.) | ● |
| ADEQUATE LIGHTING FOR PARKING AREAS | ● |
| ***CLOSED CIRCUIT TELEVISION (CCTV) MONITORING*** | |
| CCTV SURVEILLANCE CAMERAS WITH TIME LAPSE VIDEO RECORDING | ❍ |
| POST SIGNS ADVISING OF 24 HOUR VIDEO SURVEILLANCE | ❍ |
| ***LIGHTING*** | |
| LIGHTING WITH EMERGENCY POWER BACKUP | ● |
| ***PHYSICAL BARRIERS*** | |
| EXTEND PHYSICAL PERIMETER WITH BARRIERS (CONCRETE AND/OR STEEL COMPOSITION) | ▲ |
| PARKING BARRIERS | ▲ |
| **ENTRY SECURITY** | **LEVEL III** |
| ***RECEIVING/SHIPPING*** | |
| REVIEW RECEIVING/SHIPPING PROCEDURES (CURRENT) | ● |
| IMPLEMENT RECEIVING/SHIPPING PROCEDURES (MODIFIED) | ● |

● **REQUIRED** ❍ **RECOMMENDED** ▲ **DESIRABLE**

| ENTRY SECURITY, cont. | LEVEL III |
|---|---|
| *ACCESS CONTROL* | |
| EVALUATE FACILITY FOR SECURITY GUARD REQUIREMENTS | ● |
| SECURITY GUARD PATROL | ❍ |
| INTRUSION DETECTION SYSTEM WITH CENTRAL MONITORING CAPABILITY | ● |
| UPGRADE TO CURRENT LIFE SAFETY STANDARDS (FIRE DETECTION, FIRE SUPPRESSION SYSTEMS, ETC.) | ● |
| *ENTRANCES/EXITS* | |
| X-RAY & MAGNETOMETER AT PUBLIC ENTRANCES | ❍ |
| REQUIRE X-RAY SCREENING OF ALL MAIL/PACKAGES | ❍ |
| HIGH SECURITY LOCKS | ● |
| **INTERIOR SECURITY** | **LEVEL III** |
| *EMPLOYEE/VISITOR IDENTIFICATION* | |
| AGENCY PHOTO ID FOR ALL PERSONNEL DISPLAYED AT ALL TIMES | ❍ |
| VISITOR CONTROL/SCREENING SYSTEM | ● |
| VISITOR IDENTIFICATION ACCOUNTABILITY SYSTEM | ❍ |
| ESTABLISH ID ISSUING AUTHORITY | ❍ |
| *UTILITIES* | |
| PREVENT UNAUTHORIZED ACCESS TO UTILITY AREAS | ● |
| PROVIDE EMERGENCY POWER TO CRITICAL SYSTEMS (ALARM SYSTEMS, RADIO COMMUNICATIONS, COMPUTER FACILITIES, ETC.) | ● |
| *OCCUPANT EMERGENCY PLANS* | |
| EXAMINE OCCUPANT EMERGENCY PLANS (OEP) AND CONTINGENCY PROCEDURES BASED ON THREATS | ● |
| OEPs IN PLACE, UPDATED ANNUALLY, PERIODIC TESTING EXERCISE | ● |
| ASSIGN & TRAIN OEP OFFICIALS (ASSIGNMENT BASED ON LARGEST TENANT IN FACILITY) | ● |
| ANNUAL TENANT TRAINING | ● |

● **REQUIRED** ❍ **RECOMMENDED** ▲ **DESIRABLE**

| INTERIOR SECURITY, cont. | LEVEL III |
|---|---|
| ***DAYCARE CENTERS*** | |
| COMPARE FEASIBILITY OF LOCATING DAYCARE IN OUTSIDE LOCATIONS | ● |
| EVALUATE WHETHER TO LOCATE DAYCARE FACILITIES IN BUILDINGS WITH HIGH THREAT ACTIVITIES | ● |
| **SECURITY PLANNING** | **LEVEL III** |
| ***INTELLIGENCE SHARING*** | |
| ESTABLISH LAW ENFORCEMENT AGENCY/SECURITY LIAISONS | ● |
| REVIEW/ESTABLISH PROCEDURE FOR INTELLIGENCE RECEIPT/DISSEMINATION | ● |
| ESTABLISH UNIFORM SECURITY/THREAT NOMENCLATURE | ● |
| ***TRAINING*** | |
| CONDUCT ANNUAL SECURITY AWARENESS TRAINING | ● |
| ESTABLISH STANDARDIZED UNARMED GUARD QUALIFICATIONS/ TRAINING REQUIREMENTS | ● |
| ESTABLISH STANDARDIZED ARMED GUARD QUALIFICATIONS/ TRAINING REQUIREMENTS | ● |
| ***TENANT ASSIGNMENT*** | |
| CO-LOCATE AGENCIES WITH SIMILAR SECURITY NEEDS | ▲ |
| DO NOT CO-LOCATE HIGH/LOW RISK AGENCIES | ▲ |
| ***ADMINISTRATIVE PROCEDURES*** | |
| ESTABLISH FLEXIBLE WORK SCHEDULE IN HIGH THREAT/ HIGH RISK AREAS TO MINIMIZE EMPLOYEE VULNERABILITY TO CRIMINAL ACTIVITY | ▲ |
| ARRANGE FOR EMPLOYEE PARKING IN/NEAR BUILDING AFTER NORMAL WORK HOURS | ○ |
| CONDUCT BACKGROUND SECURITY CHECKS AND/OR ESTABLISH SECURITY CONTROL PROCEDURES FOR SERVICE CONTRACT PERSONNEL | ● |
| ***CONSTRUCTION/RENOVATION*** | |
| INSTALL MYLAR FILM ON ALL EXTERIOR WINDOWS (SHATTER PROTECTION) | ○ |
| REVIEW CURRENT PROJECTS FOR BLAST STANDARDS | ● |
| REVIEW/ESTABLISH UNIFORM STANDARDS FOR CONSTRUCTION | ● |
| REVIEW/ESTABLISH NEW DESIGN STANDARD FOR BLAST RESISTANCE | ● |
| ESTABLISH STREET SET-BACK FOR NEW CONSTRUCTION | ○ |

● **REQUIRED** ○ **RECOMMENDED** ▲ **DESIRABLE**

Reproduced from Appendix B, *Details of Recommended Security Standards*
U.S. Department of Justice, United States Marshals Service report
*Vulnerability Assessment of Federal Facilities*

## B.1 Perimeter Security

| Parking | |
|---|---|
| **Term** | **Definition/Description** |
| **CONTROL OF FACILITY PARKING** | Access to government parking should be limited where possible to government vehicles and personnel. At a minimum, authorized parking spaces and vehicles should be assigned and identified. |
| **CONTROL OF ADJACENT PARKING** | Where feasible, parking areas adjacent to federal space should also be controlled to reduce the potential for threats against Federal facilities and employee exposure to criminal activity. |
| **AVOID LEASES WHERE PARKING CANNOT BE CONTROLLED** | Avoid leasing facilities where parking cannot be controlled. If necessary, relocate offices to facilities that do provide added security through regulated parking. |
| **LEASE SHOULD PROVIDE CONTROL FOR ADJACENT PARKING** | Endeavor to negotiate guard services as part of lease. |
| **POST SIGNS AND ARRANGE FOR TOWING UNAUTHORIZED VEHICLES** | Procedures should be established and implemented to alert the public to towing policies, and the removal of unauthorized vehicles. |
| **ID SYSTEM AND PROCEDURES FOR AUTHORIZED PARKING** | Procedures should be established for identifying vehicles and corresponding parking spaces (placard, decal, card key, etc.). |
| **ADEQUATE LIGHTING FOR PARKING AREAS** | Effective lighting provides added safety for employees and deters illegal or threatening activities. |

| Closed Circuit Television (CCTV) Monitoring | |
|---|---|
| **Term** | **Definition/Description** |
| **CCTV SURVEILLANCE CAMERAS WITH TIME LAPSE VIDEO RECORDING** | Twenty-four hour CCTV surveillance and recording is desirable at all locations as a deterrent. Requirements will depend on assessment of the security level for each facility. Time-lapse video recordings are also highly valuable as a source of evidence and investigative leads |
| **POST SIGNS ADVISING OF 24 HOUR VIDEO SURVEILLANCE** | Warning signs advising of twenty-four hour surveillance act as a deterrent in protecting employees and facilities. |

| Lighting | |
|---|---|
| **Term** | **Definition/Description** |
| **LIGHTING WITH EMERGENCY POWER BACKUP** | Standard safety code requirement in virtually all areas. Provides for safe evacuation of buildings in case of natural disaster, power outage, or criminal/terrorist activity. |

| Physical Barriers | |
|---|---|
| **Term** | **Definition/Description** |
| **EXTEND PHYSICAL PERIMETER, WITH BARRIERS** | This security measure will only be possible in locations where the Government controls the property and where physical constraints are not present. (barriers of concrete and/or steel composition) |
| **PARKING BARRIERS** | Desirable to prevent unauthorized vehicle access. |

**B.2 Entry Security**

| Receiving/Shipping | |
|---|---|
| **Term** | **Definition/Description** |
| **REVIEW RECEIVING/SHIPPING PROCEDURES (CURRENT)** | Audit current standards for package entry and suggest ways to enhance security. |
| **IMPLEMENT RECEIVING/SHIPPING PROCEDURES (MODIFIED)** | After auditing procedures for receiving/shipping, implement improved procedures for security enhancements. |

| Access Control | |
|---|---|
| **Term** | **Definition/Description** |
| **EVALUATE FACILITY FOR SECURITY GUARD REQUIREMENTS** | If security guards are required, the number of guards at any given time will depend on the size of the facility, the hours of operation, and current risk factors, etc. |
| **SECURITY GUARD PATROL** | Desirable for level I and II facilities and may be included as lease option. Level III, IV and V facilities will have security guard patrol based on facility evaluation. |
| **INTRUSION DETECTION SYSTEM WITH CENTRAL MONITORING CAPABILITY** | Desirable in Level I facilities, based on evaluation for Level II facilities, and required for Levels III, IV and V. |
| **UPGRADE TO CURRENT LIFE SAFETY STANDARDS** | Required for all facilities as part of GSA design requirements, (e.g. fire detection, fire suppression systems, etc.) |

| Entrances/Exits | |
|---|---|
| **Term** | **Definition/Description** |
| **X-RAY AND MAGNETOMETER AT PUBLIC ENTRANCES** | May be impractical for Level I and II facilities. Level III and IV evaluations would focus on tenant agencies, public interface, and feasibility. Required for Level V. |
| **REQUIRE X-RAY SCREENING OF ALL MAIL/PACKAGES** | All packages entering buliding should be subject to x-ray screening and/or visual inspection. |
| **HIGH SECURITY LOCKS** | Any exterior entrance should have a high security lock as determined by GSA specifications and/or agency requirements. |

## B.3 Interior Security

| Employee/Visitor Identification | |
|---|---|
| **Term** | **Definition/Description** |
| **AGENCY PHOTO ID FOR ALL PERSONNEL DISPLAYED AT ALL TIMES** | May not be required in smaller facilities. |

| Employee/Visitor Identification | |
|---|---|
| **Term** | **Definition/Description** |
| **VISITOR CONTROL/SECURITY SYSTEM** | Visitors should be readily apparent in Level I facilities. Other facilities may ask visitors to sign-in with a receptionist or guard, or require an escort, or formal identification/badge. |
| **VISITOR ID ACCOUNTABILITY SYSTEM** | Stringent methods of control over visitor badges will ensure that visitors wearing badges have been screened and are authorized to be at the facility during the appropriate time frame. |
| **ESTABLISH ID ISSUING AUTHORITY** | Develop procedures and establish authority for issuing employee and visitor IDs. |

| Utilities | |
|---|---|
| **Term** | **Definition/Description** |
| **PREVENT UNAUTHORIZED ACCESS TO UTILITY AREAS** | Smaller facilities may not have control over utility access, or locations of utility areas. Where possible, assure that utility areas are secure and that only authorized personnel can gain entry. |
| **PROVIDE EMERGENCY POWER TO CRITICAL SYSTEMS** | Tenant agency is responsible for determining which computer and communication systems require back-up power. All alarm systems, CCTV monitoring devices, fire detection systems, entry control devices, etc. require emergency power sources. (ALARM SYSTEMS, RADIO COMMUNICATIONS, COMPUTER FACILITIES, ETC.) |

| Occupant Emergency Plans | |
|---|---|
| **Term** | **Definition/Description** |
| **EXAMINE OCCUPANT EMERGENCY PLAN (OEP) AND CONTINGENCY PROCEDURES BASED ON THREATS** | Review and update current OEP procedures for thoroughness. OEPs should reflect the current security climate. |

| Occupant Emergency Plans | |
|---|---|
| **Term** | **Definition/Description** |
| **ASSIGN AND TRAIN OEP OFFICIALS** | Assignment based on GSA requirement that largest tenant in facility maintain OEP responsibility. Officials should be assigned, trained and a contingency plan established to provide for the possible absence of OEP officials in the event of emergency activation of the OEP. |
| **ANNUAL TENANT TRAINING** | All tenants should be aware of their individual responsibilities in an emergency situation. |

| Day Care Center | |
|---|---|
| **Term** | **Definition/Description** |
| **RE-EVALUATE CURRENT SECURITY AND SAFETY STANDARDS** | Conduct a thorough review of security and safety standards. |
| **ASSESS FEASIBILITY OF LOCATING DAY CARE WITHIN FEDERAL FACILITY** | If a facility is being considered for a day care center, an evaluation should be made based on the risk factors associated with tenants and the location of the facility. |

**B.4 Security Planning**

| Intelligence Sharing | |
|---|---|
| **Term** | **Definition/Description** |
| **ESTABLISH LAW ENFORCEMENT AGENCY/SECURITY LIAISONS** | Intelligence sharing between law enforcement agencies and security organizations should be established in order to facilitate the accurate flow of timely and relevant information between appropriate government agencies. Agencies involved in providing security must be part of the complete intelligence process. |
| **REVIEW/ESTABLISH PROCEDURES FOR INTELLIGENCE RECEIPT/DISSEMINATION** | Determine what procedures exist to ensure timely delivery of critical intelligence. Review and improve procedures to alert agencies and specific targets of criminal/terrorist threats. Establish standard administrative procedures for response to incoming alerts. Review flow of information for effectiveness and time critical dissemination. |

| Intelligence Sharing | |
|---|---|
| **Term** | **Definition/Description** |
| **ESTABLISH UNIFORM SECURITY/THREAT NOMENCLATURE** | To facilitate communication, standardized terminology for Alert Levels should be implemented. (Normal, Low, Moderate, and High - As recommended by Security Standards Committee) |

| Training | |
|---|---|
| **Term** | **Definition/Description** |
| **CONDUCT ANNUAL SECURITY AWARENESS TRAINING** | Provide security awareness training for all tenants. At a minimum, self-study programs utilizing videos, and literature, etc. should be implemented. These materials should provide up-to-date information covering security practices, employee security awareness, and personal safety, etc. |
| **ESTABLISH STANDARDIZED ARMED AND UNARMED GUARD QUALIFICATIONS/ TRAINING REQUIREMENTS** | Requirements for these positions should be standardized government wide. |

| Tenant Assignment | |
|---|---|
| **Term** | **Definition/Description** |
| **CO-LOCATE AGENCIES WITH SIMILAR SECURITY NEEDS** | To capitalize on efficiencies and economies, agencies with like security requirements should be located in the same facility if possible. |
| **DO NOT CO-LOCATE HIGH/LOW RISK AGENCIES** | Low risk agencies should not take on additional risk by being located with high risk agencies. |

| Administrative Procedures | |
|---|---|
| **Term** | **Definition/Description** |
| **ESTABLISH FLEXIBLE WORK SCHEDULE IN HIGH THREAT/ HIGH RISK AREA TO MINIMIZE EMPLOYEE VULNERABLITY TO CRIMINAL ACTIVITY.** | Flexible work schedules can enhance employee safety by staggering reporting and departure times. As an example flexible schedules might enable employees to park closer to the facility by reducing the demand for parking at peak times of the day. |
| **ARRANGE FOR EMPLOYEE PARKING IN/NEAR BUILDING AFTER NORMAL WORK HOURS** | Minimize exposure to criminal activity by allowing employees to park at or inside the building. |
| **CONDUCT BACKGROUND SECURITY CHECKS AND/OR ESTABLISH SECURITY CONTROL PROCEDURES FOR SERVICE CONTRACT PERSONNEL** | Establish procedures to ensure security where private contract personnel are concerned. Procedures may be as simple as observation or could include sign-in/escort. Frequent visitors may necessitate a background check with contractor ID issued. |

| Construction/Renovation | |
|---|---|
| **Term** | **Definition/Description** |
| **INSTALL MYLAR FILM ON ALL EXTERIOR WINDOWS (SHATTER PROTECTION)** | Application of shatter resistant material to protect personnnel and citizens from the hazards of flying glass as a result of impact or explosion. |
| **REVIEW CURRENT PROJECTS FOR BLAST STANDARDS** | Design and construction projects should be reviewed if possible, to incorporate current technology and blast standards. Immediate review of ongoing projects may generate savings in the implementation of upgrading to higher blast standards prior to completion of construction. |
| **REVIEW/ESTABLISH UNIFORM STANDARDS FOR CONSTRUCTION** | Review, establish, and implement uniform construction standards as it relates to security considerations. |

| Construction/Renovation | |
|---|---|
| **Term** | **Definition/Description** |
| **REVIEW/ESTABLISH NEW DESIGN STANDARD FOR BLAST RESISTANCE** | In smaller facilities or those that lease space, control over design standards may not be possible. However, future site selections should attempt to locate in facilities that do meet standards. New construction of government controlled facilities should review, establish, and implement new design standards for blast resistance. |
| **ESTABLISH STREET SET-BACK FOR NEW CONSTRUCTION** | Every foot between a potential bomb and a building will dramatically reduce damage and increase the survival rate. Street set-back is always desirable, but should be used in conjunction with barriers in Level IV and V facilities. |

Excerpted from Appendix C, *Classification Table*
U.S. Department of Justice, United States Marshals Service report
*Vulnerability Assessment of Federal Facilities*

| LEVEL | TYPICAL LOCATION |
|---|---|
| III | Agency Mix:<br>Government Records |

BILLING CODE 7515–01–C

## Appendix B to Part 1228—Alternative Certified Fire-safety Detection and Suppression System(s)

1. *General.* This Appendix B contains information on the Fire-safety Detection and Suppression System(s) tested by NARA through independent live fire testing that are certified to meet the requirement in § 1228.230(s) for storage of Federal Records. Use of a system specified in this appendix is optional. A facility may choose to have an alternate fire-safety detection and suppression system approved under § 1228.242.

2. *Specifications for NARA facilities using 15 foot high records storage.* NARA fire-safety systems that incorporate all components specified in paragraphs 2.a. through o. of this appendix have been tested and certified to meet the requirements in § 1228.230(s) for an acceptable fire-safety detection and suppression system for storage of Federal records.

a. The records storage height must not exceed the nominal 15 feet (+/−3 inches) records storage height.

b. All records storage and adjoining areas must be protected by automatic wet-pipe sprinklers. Automatic sprinklers are specified herein because they provide the most effective fire protection for high piled storage of paper records on open type shelving.

c. The sprinkler system must be rated at no higher than 285 degrees Fahrenheit utilizing quick response (QR) fire sprinkler heads and designed by a licensed fire protection engineer to provide the specified density for the most remote 1,500 square feet of floor area at the most remote sprinkler head in accordance with NFPA 13 (1996), Standard for the Installation of Sprinkler Systems. For facilities with roofs rated at 15 minutes or greater, provide ½″ QR sprinklers rated at no higher than 285 degrees Fahrenheit designed to deliver a density of 0.30 gpm per square foot. For unrated roofs, provide 0.64″ QR ''large drop'' sprinklers rated at no higher than 285 degrees Fahrenheit. For facilities using 7 or 8 shelf track files, use QR sprinklers rated at no higher than 285 degrees Fahrenheit. For new construction and replacement sprinklers, NARA recommends that the sprinklers be rated at 165 degrees Fahrenheit. Installation of the sprinkler system must be in accordance with NFPA 13 (1996), Standard for the Installation of Sprinkler Systems.

d. Maximum spacing of the sprinkler heads must be on a 10-foot grid and the positioning of the heads must provide complete, unobstructed coverage, with a clearance of not less than 18 inches from the top of the highest stored materials.

e. The sprinkler system must be equipped with a water-flow alarm connected to an audible alarm within the facility and to a continuously staffed fire department or an Underwriters Laboratory approved central monitoring station (see UL 827, Central-Station Alarm Services (April 23, 1999)) with responsibility for immediate response.

f. A manual fire alarm system must be provided with a Underwriters Laboratory approved (grade A) central monitoring station service or other automatic means of notifying the municipal fire department. A manual alarm pull station must be located adjacent to each exit. Supplemental manual alarm stations are permitted within the records storage areas.

g. All water cutoff valves in the sprinkler system must be equipped with automatic closure alarm (tamper alarm) connected to a continuously staffed station, with responsibility for immediate response. If the sprinkler water cutoff valve is located in an area used by the public, in addition to the tamper alarm, the valves must be provided with frangible (easily broken) padlocks.

h. A dependable water supply free of interruption must be provided including a continuous site fire loop connected to the water main and sized to support the facility with only one portion of the fire loop operational. This normally requires a backup supply system having sufficient pressure and capacity to meet both fire hose and sprinkler requirements for 2-hours. A fire pump connected to an emergency power source must be provided in accordance with NFPA 20 (1996), Standard for the Installation of Centrifugal Fire Pumps, when adequate water pressure is not assured. In the event that public water mains are not able to supply adequate volumes of water to the site, on-site water storage must be provided.

i. Interior fire hose stations equipped with a 1½ inch diameter hose may be provided in the records storage areas if required by the local fire department, enabling any point in the records storage area to be reached by a 50-foot hose stream from a 100-foot hose lay. If provided, these cabinets must be marked ''For Fire Department Use Only.''

j. Where fire hose cabinets are not required, fire department hose outlets must be provided at each floor landing in the building core or stair shaft. Hose outlets must have an easily removable adapter and cap. Threads and valves must be compatible with the local fire department's equipment. Spacing must be so that any point in the record storage area can be reached with a 50-foot hose stream from a 100-foot hose lay.

k. In addition to the designed sprinkler flow demand, 500 gpm must be provided for hose stream demand. The hose stream demand must be calculated into the system at the base of the main sprinkler riser.

l. Fire hydrants must be located within 250 feet of each exterior entrance or other access to the records storage facility that could be used by firefighters. Each required hydrant must provide a minimum flow capacity of 500 gpm at 20 psi. All hydrants must be at least 50 feet away from the building walls and adjacent to a roadway usable by fire apparatus. Fire hydrants must have at least two, 2½ inch hose outlets and a pumper connection. All threads must be compatible with local standards.

m. Portable water-type fire extinguishers (2½ gallon stored pressure type) must be provided at each fire alarm striking station. The minimum number and locations of fire extinguishers must be as required by NFPA 10 (1994), Standard for Portable Fire Extinguishers.

n. Single level catwalks without automatic sprinklers installed underneath may be provided in the service aisles if the edges of all files in the front boxes above the catwalks are stored perpendicular to the aisle (to minimize files exfoliation in a fire). Where provided, the walking surface of the catwalks must be of expanded metal at least .09-inch thickness with a 2-inch mesh length. The surface opening ratio must be equal or greater than 0.75. The sprinkler water demand for protection over bays with catwalks where records above the catwalks are not perpendicular to the aisles must be calculated hydraulically to give .30 gpm per square foot for the most remote 2,000 square feet.

Dated: November 23, 1999.

**John W. Carlin,**

*Archivist of the United States.*

**Note:** The following appendix will not appear in the Code of Federal Regulations

## Appendix A to the Preamble—Analysis of Cost Estimate

This appendix provides a detailed discussion of the cost estimate submitted by PRISM International as part of its comments on the Initial Regulatory Flexibility Analysis, published September 15, 1999. The cost estimate was prepared by Hanscomb, an international construction consulting firm, for a hypothetical new commercial records center located in Dulles, VA built to comply with the NARA proposed standards. Hanscomb stated that the ''base'' commercial records facility is an ''industry standard commercial records facility.'' In this appendix we refer to this facility as the ''base facility'' and to the facility that would be built to Hanscomb's interpretation of NARA specifications as the ''proposed facility.'' We refer to NARA recalculations based on correction of errors as ''NARA'' estimates.

Description of base facility. Hanscomb describes the base facility as a 73,442 square foot building that has no compartmentalization or interior fire walls. The capacity of the building is 1,000,000 cubic feet of records (total building volume 2,864,238 cubic feet) with a storage height of 39 feet.

Description of proposed facility. Hanscomb describes the proposed facility as having storage compartments of 250,000 cubic feet, in storage areas not exceeding 12,500 square feet with a 15 foot storage height. To provide a comparable records storage capacity to the base facility, the square footage of the proposed building would be increased to 188,700 square feet. (We note that the final rule clearly does not limit shelving to 15 feet. We are currently sponsoring live fire testing to demonstrate that the 300 cubic foot loss per incident level of protection can be achieved in 28-foot high shelving with in-shelf sprinklers. However, for the purpose of evaluating Hanscomb's estimate, we are only addressing clear errors in their estimate. We are also assuming that the proposed facility would store only Federal records, which is the most conservative assumption that can be made.)

Errors in cost estimate. The Hanscomb cost estimate contains several significant misinterpretations of the NARA standards contained in the proposed rule.

- The NARA standard limits the volume of records stored in a single fire chamber to

250,000 cubic feet of Federal records, not a total room volume of 250,000 cubic feet as Hanscomb assumes. Using the NARA standard, the total room size would be ca. 800,000 cubic feet or 40,000 square feet, which represents a storage capacity of 250,000 cubic feet of records, the required service aisles, and the space between the top of the records and the roof. Hanscomb's proposed facility is over-sized by at least 28,700 square feet. A typical NARA records center layout, with 15 foot high shelving and compartmentalization, is 160,000 square feet. The error also grossly overstates the amount of interior fire barrier walls required (proposed 2,158 linear feet versus NARA's 800 linear feet), and overstates the number of connecting fire-rated doors (proposed facility's 10 versus NARA's 4). The error also overstates the electrical feed cost, which is based on square footage. Adjusting for the error in sizing the proposed building would lower the cost of the proposed facility by at least $1,381,387 as shown below:

| | Hanscomb proposed facility cost | NARA adjusted cost |
|---|---|---|
| General construction [1] | $2,415,036 | $1,700,254 |
| Interior fire walls @ $450/sq.ft. | 971,100 | 360,000 |
| Interior fire doors @ $5,000 each | 50,000 | 20,000 |
| Electrical—double primary feed | 47,175 | 21,640 |

[1] NARA adjusted cost multiplied Hanscomb unit costs in category 1 by 86,558 square feet instead of 115,258 square feet (Corrected increased proposed building size of 160,000 square feet minus base facility square footage of 73,442 square feet).

• Hanscomb assumes that Federal seismic requirements would add two pounds of steel tonnage per square foot to brace the building, at a cost of $180,000. The actual requirement, in both the proposed and final rule, is that "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, tornadoes, hurricanes and other potential natural disasters." (§ 1228.228(d)). We believe that the base facility, if built to regional building code requirements, would have the necessary bracing. We also have clarified § 1228.228(i)(1) to reflect this requirement to adhere to the applicable regional building code.

• Hanscomb also has added $150,000 for a mechanical room for equipment and boilers. The proposed and final NARA rule does not require an additional mechanical room. We do require that the mechanical room with the boiler(s) be separated from the storage area by a 4-hour rated fire barrier wall. NFPA 101, Life Safety Code, requires a 1-hour rated fire barrier wall, so we have adjusted the Hanscomb cost to reflect the additional cost of the NARA 4-hour fire barrier wall requirement, at $14,000.

• Hanscomb further assumes that the entire facility would be required to have HVAC systems designed for the storage of permanent records, even if the vast majority of the records were temporary, "as mix of records types would be unknown." The NARA standard has no requirement for HVAC for the storage of temporary records. Because Federal agencies are required to separate their records by retention authority prior to transferring the records to a records center, segregating boxes of permanent records from boxes of temporary records is not a problem. The permanent records would always be retired to the records center in separate accessions. Based on NARA holdings of agency records in our records centers, less than 5 percent of the Federal records that might be retired to a records center are permanent. If the proposed facility wished to store both permanent and temporary records, it could provide office-level HVAC for a much smaller area than Hanscomb estimates. If 5 percent of the 1.0 million cubic feet storage capacity of the base facility is devoted to permanent records, the proposed facility would need to provide HVAC to a 10,000 square foot compartment holding 50,000 cubic feet of permanent records. This scenario would cost $150,000 rather than the $2,830,000 in the Hanscomb estimate.

• The Hanscomb estimate misinterprets several of the NARA fire protection requirements. The estimate for the proposed facility assumes that additional upright sprinklers would be required to protect the roof. This would be necessary if the roof was constructed of wood trusses and decking, but Hanscomb specifies metal decking and sheet metal roofing. This represents an additional $94,350 that is not actually required by the proposed NARA regulation. Hanscomb also assumes incorrectly that the trusses, as well as the columns, must be four-hour rated. The actual requirement where lightweight steel roof support members are used is to either provide a 10-minute fire resistive coating to the top chords of the joists, or to use large-drop sprinklers. We estimate that this misunderstanding added at least $250,000 to Hanscomb's estimate. We also find Hanscomb's estimate of $98,100 for providing two exterior walls with a maximum one-hour fire rating to be unsupported. We assume that any exterior wall would require column footings and columns, so those additional costs are inappropriate. We fail to recognize that applicability of "Fire Protection 4 hr, 12040 sq.ft at $5.00 per sq.ft." to the NARA requirement that at least one exterior wall have a maximum (not minimum) fire rating of one hour. Adjusting the costs of the proposed facility to correct these errors would lower the cost of the proposed facility by at least $442,450.

• Hanscomb estimates that the fire suppression costs due to NARA requirements are $180,000 for a 10-foot by 10-foot grid. Hanscomb's estimate includes both an overstatement of the size of the facility and an arithmetical error (188700 square feet @ $0.50 does not equal $180,000.) We are unable to evaluate Hanscomb's fire detection and suppression system costs to determine what, if any, of the costs are attributable to NARA requirements and not NFPA or local code requirements. NFPA 231C (1998) and NFPA 13 (1999) provide multiple different ways to protect "rack" or "high piled" storage, and it is simply impossible to compare without knowing what was installed in the Hanscomb facility. Storage height, aisle width, levels of in-rack sprinklers, type of sprinkler (ordinary spray, quick response, etc) all impact on the design, and thus the costs. However, both standards require a sprinkler system that exceeds the minimum for "Ordinary Hazard, Class III" commodities when the storage height exceeds 15 feet. Adjusting only for the sizing and arithmetical errors would reduce the cost of the proposed facility by $100,000.[1]

• Hanscomb further attributes costs to the proposed facility that are in fact required by other Federal requirements (security system—$160,000 [2] and pest control prevention—$20,000).

Other issues. The NARA requirement for a secondary water supply exists only in those cases where the public main is dead-ended rather than looped or where there is no public fire main and the water is taken from a reservoir or natural lake. The majority of municipal water mains are "looped." Dead-ends on fire mains are most likely to occur in more rural areas. For purposes of this cost estimate, we accepted Hanscomb's estimate of $25,000 as appropriate.

We also note that if the owner of a new records storage facility chose to use a shelving configuration other than 15 feet high, as permitted in the NARA rule, there would be significant cost savings from the Hanscomb estimate for general construction costs. While there would be some additional costs for the fire suppression system and for obtaining Fire Protection Engineer Certification of the system, these would be significantly less than the adjusted general construction costs of $1,700,254 for a proposed facility with 15-foot-high shelving.

A summary of the Hanscomb total added costs due to the proposed NARA requirements and NARA's adjustments follow:

[1] NARA adjusted cost multiplied Hanscomb unit cost ($0.50) by 160,000 square feet instead of 188,700 square feet.

[2] This estimate appears over-stated, as the typical records center has very few exterior doors to monitor, and the open aisle allow for the use of beam detectors. We have also adjusted the cost to reflect a 160,000 sq. ft. building.

| | Hanscomb estimated cost [1] | NARA adjusted cost (15′ shelving) |
|---|---|---|
| Current cost of base building | $3,543,540 | $3,543,540 |
| Added “NARA” Requirements | $7,637,361 * | 2,508,293 |
| Added Govt.-Wide Requirements | *The $388,700 government-wide requirement costs are incorporated in Added “NARA” Requirements. | 180,000 |
| Cost of building With NARA Req. | $11,180,901 | 6,051,834 |
| % Increase | 216% | 71% |

[1] These numbers reflect the costs presented in the original submission from PRISM International. We have not adjusted Hanscomb's arithmetical errors here.

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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:** Final rule.

**SUMMARY:** NARA is amending 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 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).

**EFFECTIVE DATE:** January 3, 2000.

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

**SUPPLEMENTARY INFORMATION:** NARA published a notice of proposed rulemaking on April 30, 1999, at 64 FR 23510. We considered all comments that were received through July 7, 1999, the closing date for comments on a related proposed rule, Agency Records Centers. We received comments from 7 Federal agencies, the Society of American Archivists, a commercial records center vendor, and a records management consultant. Following is a discussion of these comments and the changes that we made to the proposed rule.

**Section 1220.18**

One agency recommended that we modify § 1220.18 to allow agency-owner to inspect its records regardless of physical location (inspect in FRCs). The cited provision deals with NARA access to records for inspection for appraisal and evaluation purposes. The appropriate vehicle for the provision recommended by the agency is the contract with a commercial storage facility or the interagency agreement with NARA or another agency operating an agency records center.

**Section 1228.50(a)(1)**

One agency found the discussion of published schedules confusing. We have revised the paragraph to define what a published schedule contains before noting what is not included in the published schedule.

**Sections 1222.50(c) and 1228.154(f)**

Three agencies offered comments on § 1222.50(c). One agency asked that we clarify that agencies did not have to remove records from facilities if the noncompliance relates to a standard which must be phased in during the next 10 years, and we have done so. Two agencies stated that 6 months was not sufficient time to move records from noncompliant facilities. One of the agencies recommended allowing at least one year. The other agency, citing procurement lead times, recommended moving permanent records if the facility is not brought up to standards within 6 months and moving the remaining records within another year. We have changed the requirement to provide that agencies must initiate removal of records from a noncompliant center within 6 months and complete removal within 18 months after initial discovery of the deficiencies. We have also modified § 1228.154(f) to conform with this change.

**Section 1228.54**

One agency asked that this section be modified to allow agencies to retain records needed under court order or agency imposed moratorium for longer than one year without NARA approval. Another agency questioned the need for NARA approval of requests for extension of retention periods for records stored in centers other than NARA's and objected to the requirement that agencies provide NARA with copies of formal instructions that extend retention periods. We have not changed this section. Agencies are reminded that 44 U.S.C. 3303a makes retention periods in approved agency records schedules mandatory unless the Archivist of the United States, under his authority in 44 U.S.C. 2909, permits the agency to retain the records longer upon submission of evidence of need.

Another agency recommended that this section address situations where NARA determines that records are no longer permanent but the custodial agency wants to keep them permanently or to donate them to a non-profit organization. Section 1228.60, which is not revised in this rule, does provide for donation of temporary records, which include those records previously appraised as permanent by NARA but subsequently found to be disposable.

**Section 1228.152 Chart**

The Office of the Secretary, Department of Defense (DOD) noted that NARA has determined that Official Military Personnel Files (OMPFs) are permanent records and stated that they should be included with other permanent records on the chart. A commercial records center vendor also recommended that OMPFs be permitted in any records storage facility. We have adopted DOD's comment. We caution