

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1235, 1236, and 1237

[FDMS No. NARA-16-0002; NARA-2016-017]

RIN 3095-AB89

Records Management

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rules.

SUMMARY: NARA proposes to revise its records management regulations to reflect executive actions, statutory changes, advances in technology, and organizational changes. This is phase II of the revisions and includes changes to provisions in transferring records to the National Archives of the United States, managing electronic records, and managing audiovisual, cartographic, and related records.

DATES: Submit comments on or before September 12, 2016.

ADDRESSES: You may submit comments, identified by RIN 3095-AB89, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* Regulation_comments@nara.gov. Include RIN 3095-AB89 in the subject line of the message.

- *Fax:* 301-837-0319. Include RIN 3095-AB89 in the subject line of the fax cover sheet.

- *Mail* (for paper, disk, or CD-ROM submissions. Include RIN 3095-AB89 on the submission): Regulations Comment Desk (Strategy & Performance Division (SP)); Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740-6001

- *Hand delivery or courier:* Deliver comments to front desk at the address above.

Instructions: All submissions must include NARA's name and the regulatory information number for this

rulemaking (RIN 3095-AB89). We may publish any comments we receive without changes, including any personal information you include.

FOR FURTHER INFORMATION CONTACT:

Laura McCarthy, by email at regulation_comments@nara.gov, or by telephone at 301-837-3023. You may also find more information about records management at NARA on NARA's Web site at <http://www.archives.gov/records-mgmt/>.

SUPPLEMENTARY INFORMATION: The proposed revisions to the Federal records management regulations contained in 36 CFR Chapter XII, Subchapter B, affect Federal agencies' records management programs in the areas of permanent records and their transfer to the National Archives of the United States, electronic records management, and management of audiovisual, cartographic, and related records.

We are proposing changes to Federal records management regulations to incorporate recent executive actions, statutory changes, advances in technology, and NARA organizational changes.

The Presidential Memorandum—Managing Government Records (November 28, 2011) and subsequent implementing guidance (Office of Management and Budget Memorandum M-12-18, Managing Government Records Directive (August 24, 2012)) require NARA to modernize Federal records management practices, particularly with respect to electronic records. In 2014, the Presidential and Federal Records Act Amendments of 2014 (“FRA Amendments,” Pub. L. 113-187) modernized the definition of a Federal record, addressed electronic messaging, and required agencies to transfer electronic permanent records to NARA in an electronic format to the greatest extent possible. We propose revisions in this rulemaking to address the changes regarding the transfer of electronic records and electronic messaging: additional changes to the regulations to address policy and statutory changes will be addressed in future revisions.

We are also making administrative changes, such as updating office names and organizational codes, updating URLs, and adding new links to NARA's records management Web pages. We are removing repetitive definitions sections

from each part to a centralized definitions part (to come in part 1220) applying to all parts (streamlining under the Paperwork Reduction Act) and removing repetitive authorities sections from each part because authorities are noted under the table of contents (streamlining under the Paperwork Reduction Act). We are making other minor editorial changes for consistency among parts, and revising some language to comply with Plain Language requirements.

Discussion of Proposed Rule Provisions

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

This part establishes requirements for the transfer of permanent Federal records to the National Archives of the United States. Throughout part 1235, we have revised those sections referencing the paper transfer document, Standard Form 258 (SF-258), Agreement to Transfer Records to the National Archives of the United States, to add the electronic ERA Transfer Request, and other similar procedural items. ERA is the NARA system that Federal agencies use to request the transfer of permanent records to NARA.

Part 1235 is divided into three subparts. Subpart A, *General Transfer Requirements*, contains §§ 1235.1 through 1235.20 and prescribes the requirements that agencies must follow when they transfer permanent records to NARA. These sections remain largely unchanged from the current regulations with the exception of § 1235.20. We are proposing changes to § 1235.20 that would require agencies to review their historical records and remove any restrictions that no longer apply at time of transfer; provide additional information on any access and use restrictions that must remain; and identify classified records.

Our proposed revisions to Subpart B, *Administration of Transferred Records*, specifically § 1235.32, also provide for the removal of restrictions on transferred records when NARA believes it to be in the public interest.

Subpart C, *Transfer Specifications and Standards*, contains the specifications and requirements for agencies when transferring audiovisual, cartographic, and architectural records to NARA. We are proposing moving the transfer specifications and standards for

permanent analog and digital audiovisual, cartographic, and related records to Part 1237, Audiovisual, Cartographic, and Related Records.

Additionally, we are proposing to update our online transfer guidance to address electronic records and their formats and adding references to that guidance in the regulations so users can quickly access the latest updates. We are proposing adding two new sections, §§ 1235.52 and 1235.54, that contain the transfer specifications, standards, and procedures for transferring textual records into the National Archives of the United States.

Proposed Part 1236, Electronic Records Management

This part reflects an update in response to major developments in the area of electronic recordkeeping and electronic messaging and we have proposed several revisions to this part. These changes include provisions to reflect the 2014 FRA Amendments, a new section with Federal electronic messaging requirements, standards for internet message formats, new definitions for electronic messages and messaging accounts, and a requirement to associate proper names with email accounts.

Part 1236 is divided into three subparts. Subpart A, *General*, contains a new standard that we are proposing to incorporate by reference, RFC 5322, Internet Message Format (see: <http://www.rfc-base.org/txt/rfc-532>), that provides requirements for internet electronic message format; a detailed discussion of RFC 5322 is found below under the “Standards” heading. The 2014 FRA Amendments contained two new definitions that we propose adding to our definitions section: “electronic messages” and “electronic messaging account.”

Subpart B, *Records Management and Preservation Consideration for Designing and Implementing Electronic Information Systems*, remains largely unchanged.

Subpart C, *Additional Requirements for Electronic Records*, specifies recordkeeping requirements for electronic records and includes a proposed new section on additional recordkeeping requirements for electronic messaging records. In § 1236.21, we propose adding the following provisions regarding electronic messaging records:

- Use of a non-official electronic messaging account is permitted only when agency-administered systems are unavailable; and
- Any electronic messaging record created, sent, or received in an

unofficial account must be copied or forwarded to an agency-administered system within 20 days.

We are also adding language to § 1236.22 to specify that the proper name of the sender must either be captured with the email or the agency must maintain a record of the association between the email address and the employee, including any nicknames or aliases.

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

This proposed part expands and updates the audiovisual records management provisions in the existing part 1237 by removing the transfer specifications and requirements for permanent audiovisual, cartographic, and related records from part 1235 and merging these into § 1237.12, which prescribes the records elements agencies must create, preserve, and transfer with both analog and digital audiovisual, cartographic, and related records.

Standards

NARA’s current records management regulations incorporate by reference certain consensus standards developed by various organizations. The regulations in this proposed rule retain some previously approved standards incorporated by reference. In addition, this regulatory action proposes incorporating by reference the following standards (either updating current ones or adding new ones):

In 36 CFR 1235:

ISO 9660:1988(E), Information Processing—Volume and File Structure of CD-ROM for Information Exchange, First edition, as Corrected, 1988–09–01—Incorporated in § 1235.46

This is the same standard as is currently incorporated by reference. However, the ISO standard is now available from ANSI, as part of the DIN ISO 9660 (December 1990) version, so the description and availability information in § 1235.4 has been updated accordingly.

In 36 CFR 1236:

Request for Comment (RFC) 5322, Internet Message Format, 2008—Incorporated in § 1236.22

This standard provides requirements for internet electronic message format, including requirements for a message header, message header fields and syntax, and message body. NARA is incorporating this specification by reference in part 1236 to provide Federal agencies with clear minimum

requirements for email messages. RFC 5322 is available to the public at <http://tools.ietf.org/html/rfc5322>.

In 36 CFR 1237:

The following six standards are available through the American National Standards Institute (ANSI) at: American National Standards Institute; 25 West 43rd St., 4th Floor; New York, NY 10036, or online at <http://webstore.ansi.org>, and from Techstreet, a standards reseller, at Techstreet; 3916 Ranchero Drive; Ann Arbor, MI 48108, by phone at (800) 699–9277, or online at <http://www.Techstreet.com>.

ISO 2859–1: 1999 (“ISO 2859–1”), Sampling Procedures for Inspection by Attributes—Part I: Sampling Schemes Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection, Second Edition, November 15, 1999 (supplemented by Amendment 1, 2011)—Incorporated in § 1237.28(d)

This standard sets forth statistical methodologies and procedures for sampling plans devised for quality-control purposes, and keyed to calculations of “Acceptable Quality Limit” (AQL, the limit between acceptability and refusal with respect to defective products). The sampling plans are applicable to a variety of production and management processes, including systematic digitization projects involving substantial audiovisual holdings. Covered in the document are such key principles, steps, and calculations as: Expressions of non-conformity vis-à-vis product quality objectives; the AQL formulation; submission of products for sampling; acceptance and non-acceptance; drawing of samples; normal, tightened, and reduced inspection approaches; switching of sampling rules and procedures; sampling plan types; and determination of acceptability. The 1999 edition, supplemented by Amendment 1 from 2011, updates the original edition referenced in the present CFR. Changes introduce a greater measure of sampling flexibility and efficiency: A new procedure for switching from normal to reduced inspection; a new reference to “skip-lot” sampling as an alternative to reduced inspection; changes to double sampling plans to provide a smaller average sample size; reduction of multiple sampling plans from seven stages to five stages; and the addition of optional fractional acceptance number plans, among other revisions. We are incorporating the 1999 edition and 2011 amendment in part 1237 to provide agency personnel with the most rigorous, up-to-date guidance on how to monitor quality in processes profoundly

affecting the audiovisual records bound for NARA.

ISO 18902: 2013 (“ISO 18902”), Imaging Materials—Processed Imaging Materials—Albums, Framing, and Storage Materials, Third Edition, July 1, 2013—Incorporated in §§ 1237.16(b) and 1237.22(f)

This standard establishes physical and chemical requirements for album, storage, and framing materials necessary to arrest the natural decomposition of photographic prints, negatives, and transparencies over time. Included are detailed requirements for paper and paperboard, plastics, metals, writing instruments, adhesives, tapes, self-adhesive labeling materials, stamping inks and pads, framing and glazing materials used in the construction of storage and display devices, and various types of printers. The 2013 edition updates the 2001 version (referenced in the present CFR) as well as the 2007 version; among other changes, the latest edition adds more specific reporting protocols for annual testing and evaluation of housing materials, and also expands the applicability of the standard to housing for digital prints. We are incorporating the 2013 revision in part 1237 to provide agencies with current guidance on what materials to use, and what materials to avoid, for optimal photo housing.

ISO 18911: 2010 (“ISO 18911”), Imaging Materials—Processed Safety Photographic Films—Storage Practices, Second Edition, September 1, 2010—Incorporated in §§ 1237.16(b), 1237.16(d), and 1237.18(a)

This standard provides detailed recommendations on storage conditions, enclosures, housing, environmental controls, fire protection measures, and identification, inspection, and handling procedures for all safety (non-nitrate) photographic films in roll, strip, aperture-card, or sheet format, regardless of size. These standards provide systematic guidance on temperature and relative humidity levels needed for medium-term (minimum 10 years) and extended-term (500 years) preservation of film in the major process categories: Black-and-white and color, acetate-base and polyester-base. The 2010 edition updates the 2000 version presently referenced in the CFR, and includes a fuller discussion (with greater sensitivity to digital scanning possibilities) concerning the establishment and maintenance of record version/reference version approaches designed to minimize the wear and tear on original (record

version) film. We are incorporating the 2010 edition in part 1237 to provide agencies with the most current guidance on what constitutes a “proper” approach to physical maintenance of historically valuable film-based photographic records. The latest authority also supports NARA’s emphasis on timely transfer of at-risk photographic film from sub-standard storage conditions to standards-compliant NARA facilities.

ISO 18920: 2011 (“ISO 18920”), Imaging Materials—Reflection Prints—Storage Practices, Second Edition, October 1, 2011—Incorporated in § 1237.18(a)

This standard provides detailed recommendations on storage facilities, storage enclosures and housing, environmental conditions, fire protection measures, and identification, handling, and inspection procedures for prints of all types and sizes. This standard includes prints on fiber-based or resin-coated paper and prints on plastic supports; black-and-white silver gelatin prints and multicolor and monochrome color prints; and products of thermal dye transfer printing and inkjet printing. This standard includes guidance on temperature and relative humidity levels appropriate for medium-term preservation (minimum 10 years) and extended-term preservation (no fixed-year definition, but one reference to hundreds of years). The 2011 edition updates the 2000 version presently referenced in the CFR, and provides more specificity on digital print types. We are incorporating the 2011 revision in part 1237 to provide agencies with current guidance on “best practices” for physical maintenance of historically valuable photographic prints. The latest authority also supports NARA’s emphasis on timely transfer of at-risk photographic film from sub-standard storage conditions to standards-compliant NARA facilities.

ISO 18925: 2013 (“ISO 18925”), Imaging Materials—Optical Disc Media—Storage Practices, Third Edition, February 1, 2013—Incorporated in § 1237.18(c)

This standard provides detailed recommendations for storage conditions, storage facilities, enclosures, and inspection procedures sufficient to prevent long-term deterioration of CDs, DVDs, and variant disc forms made for audio, video, photographic, and other electronic data applications. Included is guidance on environmental storage conditions, with an emphasis on temperature and humidity limits, dangers posed by contaminants and gaseous impurities, and the impact of magnetic fields. Also covered are

storage materials, enclosures, labeling, acclimatization, storage rooms and housing, fire protection measures, and identification, inspection, and cleaning procedures. The 2013 edition updates the 2002 version (referenced in the present CFR) and also the 2008 version. We are incorporating the 2013 revision in part 1237 to provide agency personnel with current guidance on the appropriate strategies for maximizing the useful life of optical discs.

NFPA 40–2011 (“NFPA 40–2011”), Standard for the Storage and Handling of Cellulose Nitrate Film, 2011—Incorporated in § 1237.30(a)

This standard provides detailed requirements relating to the many aspects of nitrate film storage and handling, including construction and arrangement of nitrate-storing buildings, environmental controls, fire protection measures, cabinets and vaults for extended term storage, containers for film transport and eventual disposal, and enclosed areas for nitrate film viewing. The 2011 edition updates the 2007 version referenced in the present CFR; among other changes, the new edition incorporates updated specifications for film vault fire protection and also adds an explanatory section on converting calculations based on roll film quantities to sheet film equivalencies. We are incorporating the 2011 revision in part 1237 to provide agency personnel with current guidance on safe storage and handling of nitrate film.

Regulatory Analysis

Review Under Executive Orders 12866 and 13563

Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (September 30, 1993), and Executive Order 13563, Improving Regulation and Regulation Review, 76 FR 23821 (January 18, 2011), direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This proposed rule is not “significant” under section 3(f) of Executive Order 12866 because it applies only to Federal agencies, and is updating the regulations, not establishing new programs. Although the proposed revisions change and add new requirements for agencies, the requirements are necessary to keep the existing regulations up-to-date and to ensure agencies are preserving records

for the United States as well as possible. The Office of Management and Budget (OMB) has reviewed this regulation.

Review Under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.)

This review requires an agency to prepare an initial regulatory flexibility analysis and publish it when the agency publishes the proposed rule. This requirement does not apply if the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 603). NARA certifies, after review and analysis, that this proposed rule will not have a significant adverse economic impact on small entities.

Review Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.)

This proposed rule does not contain any information collection requirements subject to the Paperwork Reduction Act.

Review Under Executive Order 13132, Federalism, 64 FR 43255 (August 4, 1999)

Review Under Executive Order 13132 requires that agencies review regulations for Federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, prepare a Federal assessment to assist senior policy makers. This proposed rule will not have any direct effects on State and local governments within the meaning of the Executive Order. Therefore, no Federalism assessment is required.

List of Subjects in 36 CFR Parts 1235, 1236 and 1237

Archives, Incorporation by reference, Records, Records management.

For the reasons stated in the preamble, NARA proposes to amend 36 CFR parts 1235, 1236, and 1237 as follows:

- 1. Revise part 1235 to read as follows:

PART 1235—TRANSFERRING PERMANENT RECORDS TO THE NATIONAL ARCHIVES OF THE UNITED STATES

Sec.

Subpart A—General Transfer Requirements

- 1235.3 What standards apply to this part?
 1235.4 What publication(s) are incorporated by reference into this part?
 1235.10 What records do agencies transfer to the National Archives of the United States?
 1235.12 When must agencies transfer records to the National Archives of the United States?

- 1235.14 May agencies retain records longer than the retention period established by the records schedule?
 1235.16 How does NARA respond to an agency's request to retain records?
 1235.18 How do agencies transfer records to the National Archives of the United States?
 1235.20 How do agencies indicate that records contain information that may be restricted from public access?
 1235.22 When does legal custody of records transfer to the National Archives of the United States?

Subpart B—Administration of Transferred Records

- 1235.30 Does NARA restrict access to transferred records?
 1235.32 How does NARA handle access restrictions on transferred records?
 1235.34 May NARA destroy transferred records?

Subpart C—Transfer Specifications and Standards

- 1235.40 What records are covered by additional transfer requirements?
 1235.42 What transfer specifications and standards apply to audiovisual, cartographic, and related records?
 1235.44 What general transfer requirements apply to electronic records?
 1235.46 What media or method may agencies use to transfer electronic records to the National Archives of the United States?
 1235.50 What transfer specifications and standards apply to electronic records?
 1235.52 What transfer specifications and standards apply to textual records?
 1235.54 How do agencies transfer permanent textual records to the National Archives of the United States?
 1235.56 How do agencies transfer permanent electronic records to the National Archives of the United States using the Electronic Records Archives (ERA)?

Authority: 44 U.S.C. 2107 and 2108.

Subpart A—General Transfer Requirements

§ 1235.3 What standards apply to this part?

In addition to this part, you can find guidance and additional information about transferring permanent records to the National Archives of the United States on NARA's accessioning Web page at <http://www.archives.gov/records-mgmt/accessioning/>.

§ 1235.4 What publications are incorporated by reference into this part?

(a) NARA incorporates certain material by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish a document in the **Federal Register** and

must make the material available to the public. You may inspect all approved material incorporated by reference at NARA's textual research room, located at National Archives and Records Administration; 8601 Adelphi Road, Room 2000; College Park, MD 20740-6001. To arrange to inspect this approved material at NARA, contact NARA's Regulation Comments Desk (Strategy & Performance Division (SP)) by email at regulation_comments@nara.gov or by telephone at 301-837-3023. All approved material is available from the sources listed below. You may also inspect approved material at the Office of the Federal Register (OFR). For information on the availability of this material at the OFR, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) American National Standards Institute (ANSI). The following standards are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036, phone number (212) 642-4900, or online at <http://webstore.ansi.org>.

(1) ISO 9660-1990 ("ISO 9660"), *Information processing—Volume and File Structure of CD-ROM for Information Exchange*, First edition, as corrected, 1988-09-01. IBR approved for § 1235.46(b).

(2) [Reserved]

§ 1235.10 What records do agencies transfer to the National Archives of the United States?

Agencies must transfer to the National Archives of the United States those records that the Archivist of the United States has deemed to have sufficient historical value to warrant permanent preservation by the United States Government. This includes records that agencies have scheduled as permanent on a NARA-approved records schedule, records that a General Records Schedule (GRS) designates as permanent, and, when appropriate, records that are accretions to holdings (*i.e.*, continuations of series already transferred).

§ 1235.12 When must agencies transfer records to the National Archives of the United States?

Agencies must transfer permanent records to the National Archives of the United States when:

- (a) The records are eligible for transfer based on the transfer date in a NARA-approved records schedule; or
- (b) NARA has deemed the records to have sufficient historical value to warrant permanent preservation by the

United States Government and the records have existed for more than 30 years (see also § 1235.14).

§ 1235.14 May agencies retain records longer than the retention period established by the records schedule?

(a) Agencies may retain certain records longer than specified on a records schedule only with written approval from NARA. NARA will review requests as exceptions to an approved disposition authority (see part 1225 of this subchapter for more information about changing retention periods in an approved disposition authority).

(b) If an agency determines that it needs to keep certain records longer than scheduled to conduct regular business, the agency's Records Officer must submit a written request certifying continuing need to NARA by mail to National Archives and Records Administration; Office of the Chief Records Officer (AC); 8601 Adelphi Road; College Park, MD 20740–6001, or by email to permanentrecords@nara.gov. This certification must:

(1) Include a comprehensive description and location of the records;

(2) Cite the NARA-approved disposition authority;

(3) Describe the current business for which the agency needs the records;

(4) Estimate the length of time the agency needs the records (if the agency provides no date, any certification request NARA may approve is effective for a maximum of five years);

(5) Explain why agency needs cannot be met by NARA reference services or copies of records deposited in the National Archives of the United States; and

(6) If the agency retains the records to enable routine public access through the agency rather than through NARA, cite the statutory authority authorizing this agency activity.

§ 1235.16 How does NARA respond to an agency's request to retain records?

(a) NARA responds in writing to requests within 30 days of receiving them, whether approving or denying the request.

(b) NARA may deny requests to retain records in certain cases, including when the agency requests to retain the records primarily to:

(1) Provide access services to individuals outside the agency that can be provided by NARA; or

(2) Function as an agency archives, unless specifically authorized by statute or by NARA.

§ 1235.18 How do agencies transfer records to the National Archives of the United States?

Agencies transfer records by completing and submitting a Transfer Request (TR) in the Electronic Records Archives (ERA) or a signed Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States (if special circumstances merit use; see <http://www.archives.gov/records-mgmt/era/faqs.html> for more details). Each TR or SF 258 must correlate to a specific records series or other aggregation of records, as identified in an item on a records schedule or under circumstances noted in § 1235.10. The National Archives makes the final determination to accept transfers of permanent records.

§ 1235.20 How do agencies indicate that records contain information that may be restricted from public access?

Agencies should consider the historical nature of the records when indicating what restrictions may apply at the time of transfer to the National Archives of the United States. Agencies must conduct a review of restrictions on records and remove any restrictions that are not applicable at the time of transfer. In addition, agencies should consult NARA's accessioning Web page at: <http://www.archives.gov/records-mgmt/accessioning/>, and NARA's Transfer Guidance at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html> for information about documentation that agencies must transfer with electronic records.

(a) Agencies must indicate all restrictions on access and use of the records when completing Transfer Request (TR) in the Electronic Records Archives (ERA) or a signed Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States (see <http://www.archives.gov/records-mgmt/era/agency-user-manual.pdf> for NARA's ERA Agency User Manual, or the accessioning Web page at: <http://www.archives.gov/records-mgmt/accessioning/>, for further instructions).

(1) The TR or SF 258 must cite any Freedom of Information Act (FOIA) exemptions (5 U.S.C. 552(b)) that authorize the restrictions. When an agency cites Exemption 3, they must also cite the underlying statutory restriction.

(2) NARA may require additional information on access and use restrictions.

(3) If the Archivist of the United States agrees to the restrictions, NARA will place such restrictions on the records, until such time as NARA deems

it in the public interest to remove the restrictions.

(b) Agencies must include the Classified Records Transfer Check List, National Archives and Records Administration Form (NA Form) 14130 (<http://www.archives.gov/declassification/ndc/forms/na-14130.pdf>) as an attachment to the ERA TR or the SF 258 when classified and declassified records are ready for transfer to the National Archives.

(c) Agencies must use Standard Form (SF) 715, Government Declassification Review Tab, to tab and identify specific documents that contain classified information that:

(1) Is exempt or excluded from automatic declassification; or

(2) Requires referral to another agency. See 32 CFR part 2001 *Classified National Security Information*, and ISOO Notice 2009-02, at: <http://www.archives.gov/isoo/notices/notice-2009-02-sf715.pdf>, for further guidance.

§ 1235.22 When does legal custody of records transfer to the National Archives of the United States?

Legal custody of records passes from the agency to the National Archives of the United States when the appropriate NARA official signs the Electronic Records Archives (ERA) Legal Transfer Instrument (LTI) or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States (if special circumstances merit use).

Subpart B—Administration of Transferred Records

§ 1235.30 Does NARA restrict access to transferred records?

Consistent with NARA's General Restrictions (subpart D of part 1256 of this chapter) and with FOIA (5 U.S.C. 552(b)):

(a) NARA enforces restrictions on access to records in the National Archives of the United States. This applies to access by both Federal agencies and the public; and

(b) NARA regulations in subchapter C of this chapter apply to Federal agency personnel accessing transferred records for official Government purposes, and to the public at large.

§ 1235.32 How does NARA handle access restrictions on transferred records?

(a) *Records less than 30 years old.* NARA will apply the Freedom of Information Act (FOIA) exemptions cited on the Electronic Records Archives (ERA) Transfer Request or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States, where

appropriate, and conduct a FOIA review, where NARA deems it necessary, before releasing records to the public. NARA may relax, remove, or impose restrictions to serve the public interest.

(b) *Records more than 30 years old.* After records are more than 30 years old, NARA may lift restrictions, as appropriate, but may keep the restrictions in force for a longer period.

§ 1235.34 May NARA destroy transferred records?

NARA will only destroy records transferred to the National Archives of the United States' legal custody:

(a) With the written concurrence of the agency or its successor; or

(b) As authorized on an Electronic Records Archives (ERA) Legal Transfer Instrument (LTI) or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States.

Subpart C—Transfer Specifications and Standards

§ 1235.40 What records are covered by additional transfer requirements?

In addition to complying with subparts A and B of this part, agencies must follow the specifications and requirements in this subpart when transferring audiovisual, cartographic, architectural, and electronic records to the National Archives of the United States. In general, agencies must transfer such records to the National Archives of the United States as soon as they become inactive or whenever the agency cannot provide proper care and handling for the records, including adequate storage conditions (see parts 1236 and 1237 of this subchapter for storage information). For specific guidance about transferring permanent electronic records, see <http://www.archives.gov/records-mgmt/accessioning/electronic.html>.

§ 1235.42 What transfer specifications and standards apply to audiovisual, cartographic, and related records?

See § 1237.12 of this subchapter for specifications and standards for transfer of audiovisual, cartographic, and related records.

§ 1235.44 What general transfer requirements apply to electronic records?

(a) Each agency must retain a copy of permanent electronic records that it transfers to the National Archives of the United States until it receives official notification that NARA has assumed legal custody of the records.

(b) For guidance related to the transfer of electronic records other than those

covered in this subpart, the agency must consult with NARA by mail at National Archives and Records Administration; Electronic Records Division (RDE); 8601 Adelphi Road; College Park, MD 20740–6001, or by email atetransfers@nara.gov.

(c) When transferring digital photographs and their accompanying metadata, the agency must consult with NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at stillpix.accessions@nara.gov.

(d) Agencies should consult NARA's transfer guidance at <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>.

§ 1235.46 What media or method may agencies use to transfer electronic records to the National Archives of the United States?

(a) *General.* Agencies must use only sound and defect-free media for transfers to the National Archives of the United States. When permanent electronic records may be disseminated through multiple electronic media (e.g., magnetic tape, CD–ROM) or mechanisms (e.g., File Transfer Protocol (FTP)), the agency and NARA must agree on the most appropriate medium or method for transfer of the records to the National Archives of the United States.

(b) *Optical media (e.g., CD–ROM and DVD).* Agencies may use CD–ROMs and DVDs to transfer permanent electronic records to the National Archives of the United States.

(1) CD–ROMs used for this purpose must conform to ISO 9660 (incorporated by reference; see § 1235.4).

(2) Permanent electronic records must be stored in discrete files. Transferred CD–ROMs and DVDs may contain other files, such as software or temporary records, but all permanent records must be in files that contain only permanent records. Agencies must indicate at the time of transfer if a CD–ROM or DVD contains temporary records and where those records are located on the CD–ROM or DVD. The agency must also specify whether NARA should return the CD–ROM or DVD to the agency or dispose of it after copying the permanent records to an archival medium.

(c) *Remote or Internet-based File Transfers.* Agencies may use remote or network transfer methods (e.g., File Transfer Protocol (FTP)) to transfer permanent electronic records to the National Archives of the United States only with NARA's approval. Several important factors may limit the use of remote transfers, including the number

of records, record file size, and available bandwidth. Agencies must contact NARA to initiate the transfer discussions. Contact NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at stillpix.accessions@nara.gov (for digital photographs) or mopix.accessions@nara.gov (for electronic audiovisual records). For all other electronic records formats, contact NARA by mail at National Archives and Records Administration; Electronic Records Division (RDE); 8601 Adelphi Road; College Park, MD 20740–6001, or by email atetransfers@nara.gov.

Agencies must submit an approved Transfer Request (TR) in the Electronic Records Archives (ERA) (or an Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States if special circumstances merit use) prior to each transfer of electronic records via remote transfer.

(d) *Other Media.* NARA may accept records for transfer on media not specified in paragraph (b) of this section. This includes select magnetic tape formats and external hard drives. Contact NARA by mail at National Archives and Records Administration; Electronic Records Division (RDE); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at etransfers@nara.gov to ask if the National Archives is able to accept an alternate type of media.

§ 1235.50 What transfer specifications and standards apply to electronic records?

(a) *General.* Agencies must transfer all digital or electronic records to the National Archives of the United States in digital or electronic form. Agencies must transfer adequate documentation, including metadata, to identify, service, and interpret the permanent electronic records. See NARA's Transfer Guidance at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html> for information about adequate documentation for transferring electronic records.

(b) *Data files.* Documentation for data files and databases must include record layouts, data element definitions, and code translation tables (codebooks) for coded data. Data element definitions, codes used to represent data values, and interpretations of these codes must match the actual format and codes as transferred.

(c) *Digital geospatial data files.* Digital geospatial data files must include the documentation specified in paragraph (b) of this section. In addition, documentation for digital geospatial data files can include metadata that

conforms to the Federal Geographic Data Committee's Content Standards for Digital Geospatial Metadata, as specified in Executive Order 12906 of April 11, 1994 (3 CFR, 1995 Comp., p. 882). Federal geographic data standards are available at: http://www.fgdc.gov/standards/standards_publications.

§ 1235.52 What transfer specifications and standards apply to textual records?

(a) Whenever agencies transfer textual records to the National Archives of the United States, they must provide the following:

(1) A folder title list or equivalent detailed records description, attached to the Electronic Records Archives (ERA) Transfer Request (TR) or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States at time of submission to NARA; and

(2) Any indexes (textual or electronic) or other materials existing at the time of transfer that are used for finding, managing, or retrieving the records, and any other documentation needed or useful for identifying or using the records.

(b) Agencies must pack records in NARA-recognized/approved document storage containers (for further guidance, see <http://www.archives.gov/records-mgmt/accessioning/>).

§ 1235.54 How do agencies transfer permanent textual records to the National Archives of the United States?

(a) Agencies may transfer custody to the National Archives of the United States of permanent textual records that reach eligibility for disposition by submitting an Electronic Records Archive (ERA) Transfer Request (TR). NARA may choose to accept an Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States if special circumstances merit use. On all offers of permanent records, NARA determines whether requested restrictions are acceptable.

(b) If the agency stores permanent textual records at a Federal Records Center (FRC), the FRC Inter-Agency Agreement also governs the transfer of those permanent records.

§ 1235.56 How do agencies transfer permanent electronic records to the National Archives of the United States using the Electronic Records Archives (ERA)?

Once NARA approves a Transfer Request (TR) in ERA, agencies may ingest electronic records against that ERA TR. However, NARA encourages agencies to continue to provide electronic records to the National

Archives of the United States in accordance with format guidance at <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>. NARA can then review, process, and ingest the electronic records against the approved ERA TR on the agency's behalf. Agencies should ingest electronic records against an approved ERA TR only after consultation at etransfer@nara.gov.

PART 1236—ELECTRONIC RECORDS MANAGEMENT

Subpart A—[Amended]

■ 2. Revise the authority citation for part 1236 to read as follows:

Authority: 44 U.S.C. 2904, 2911, 3101, 3102, and 3105.

■ 3. Remove and reserve § 1236.1.

§ 1236.1 [Reserved]

■ 4. Revise § 1236.2 to read as follows:

§ 1236.2 What definitions apply to this part?

In addition to the definitions in part 1220 that apply to all of subchapter B, including this part, the following definitions apply only to part 1236:

Electronic information system means an information system that contains and provides access to electronic Federal records and other information.

Electronic messages means email and other electronic messages that are used for purposes of communicating between individuals.

Electronic messaging account means any account that sends or receives electronic messages.

Email system means a system used to create, receive, and transmit electronic messages and other digital or electronic documents. This definition does not include file transfer utilities (software that transmits files between users but does not retain any transmission data), data systems that collect and process data which has been organized into data files or databases on computers, and word processing or other digital or electronic documents not transmitted by email.

Unstructured electronic records means records created using office automation applications, such as word processing applications or presentation software.

■ 20. Revise § 1236.4 to read as follows:

§ 1236.4 What publications are incorporated by reference in this part?

(a) NARA incorporates certain material by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any

edition other than that specified in this section, NARA must publish a document in the **Federal Register** and the material must be available to the public. You may inspect all approved material incorporated by reference at NARA's textual research room, located at National Archives and Records Administration; 8601 Adelphi Road, Room 2000; College Park, MD 20740–6001. To arrange to inspect this approved material at NARA, contact NARA's Regulations Comment Desk (Strategy & Performance Division (SP)) by email at regulation_comments@nara.gov or by telephone at 301–837–3023. All approved material is available from the sources listed below. You may also inspect approved material at the Office of the Federal Register (OFR). For information on the availability of this material at the OFR, call 202–741–6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) Internet Engineering Task Force (IETF). The following standards are available from the Internet Engineering Task Force; c/o Association Management Solutions, LLC (AMS); 48377 Fremont Blvd., Suite 117; Fremont, CA 94538, (510) 492–4080.

(1) Request for Comments (RFC) 5322, Internet Message Format, October 2008. IBR approved for § 1236.22(b).

(2) [Reserved]

§ 1236.6 [Removed]

■ 5. Remove § 1236.6.

■ 6. Revise subpart B, Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems to read as follows:

Subpart B—Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems

Sec.

1236.10 What records management controls must agencies establish for records in electronic information systems?

1236.12 What records management and preservation considerations must agencies incorporate into the design and operation of electronic information systems?

1236.14 What must agencies do to protect records against technological obsolescence?

§ 1236.10 What records management controls must agencies establish for records in electronic information systems?

Agencies must incorporate records management controls into the electronic information system or integrate them into a recordkeeping system that is external to the information system itself

(see § 1236.20 of this part). The following types of records management controls ensure that Federal records in the electronic system provide adequate and proper documentation of agency business until the approved retention time is past:

(a) *Reliability*: Controls to ensure that the system keeps a full and accurate representation of all transactions, activities, or facts that occur in the system and that the agency can depend on the represented information in the course of subsequent transactions or activities;

(b) *Authenticity*: Controls to protect against unauthorized addition, deletion, alteration, use, and concealment of transactions, activities, information, or records;

(c) *Integrity*: Controls, such as audit trails, to ensure records are complete and unaltered;

(d) *Usability*: Mechanisms to ensure the agency can locate, retrieve, present, and interpret records;

(e) *Content*: Mechanisms to preserve the information contained within the record that the record's creator produced;

(f) *Context*: Mechanisms to cross-reference related records that show the record's organizational, functional, and operational circumstances. These will vary depending on the agency's business, legal, and regulatory requirements; and

(g) *Structure*: Controls to ensure the maintenance of the physical and logical format of the records and the relationships between the data elements.

§ 1236.12 What records management and preservation considerations must agencies incorporate into the design and operation of electronic information systems?

As part of the capital planning and systems development life cycle processes, agencies must:

(a) Plan and implement records management controls (see § 1236.10) in the system;

(b) Be able to retrieve and use all records in the system until the agency no longer needs them to conduct business and until the NARA-approved retention period expires. When agencies will need to retain records beyond the planned life of the system, they must also plan and budget for migration of records and their associated metadata. The migration plan must prevent loss of records due to media decay or technological obsolescence (see § 1236.14);

(c) Include contract provisions for the export of records at the end of a contract with third parties that have physical

custody of agency records (including a cloud-based environment); and

(d) Include processes for transferring permanent records to the National Archives of the United States in accordance with part 1235 of this subchapter.

§ 1236.14 What must agencies do to protect records against technological obsolescence?

To successfully protect records against technological obsolescence, regardless of the storage environment and media, agencies must:

(a) Determine if the NARA-approved retention period for the records will be longer than the life of the system. If so, agencies must migrate the records and their associated metadata before retiring the current system.

(b) Ensure hardware and software are able to retain the electronic records' functionality and integrity regardless of the storage environment. To retain functionality and integrity, agencies must:

(1) Keep the records in a usable format until their authorized disposition date. When the agency must convert records to migrate them, the agency must still be able to maintain and dispose of the records in the authorized manner after conversion;

(2) Convert storage media to provide compatibility with current hardware and software as necessary; and

(3) Maintain a link between records and their metadata when converting or migrating. This includes capturing all relevant associated metadata at the point of migration (for both the records and the migration process).

Subpart C—[Amended]

■ 7. Revise §§ 1236.20 through 1236.24 to read as follows:

§ 1236.20 What are appropriate recordkeeping systems for electronic records?

Recordkeeping functionality may be built into the electronic information system, including email or other electronic messaging systems, or records can be transferred to an electronic recordkeeping repository. The following functionalities are necessary for electronic recordkeeping, and may be achieved through a combination of management policies and system controls:

(a) *Store and preserve Federal records and associated metadata*. Allow the agency to retrieve and use all records in the system until the agency no longer needs them to conduct business and until the NARA-approved retention period expires. Include procedures to

migrate records and their associated metadata to new storage media or formats to avoid loss due to media decay or technology obsolescence;

(b) *Manage access and retrieval*. Establish appropriate user rights to access, search, and retrieve records, and prevent unauthorized access, modification, or destruction of records. Include appropriate audit trails to track use of the records;

(c) *Execute disposition*. Identify and transfer permanent records to the National Archives of the United States based on approved records schedules. Identify and destroy temporary records that are eligible for disposal. Apply records holds or freezes on disposition when required; and

(d) *Backup systems*. System and file backup processes and media that do not provide the appropriate recordkeeping functionalities must not be used as the agency electronic recordkeeping system.

§ 1236.21 In addition to recordkeeping system requirements, what additional requirements apply to managing electronic messaging records?

The additional requirements listed below apply to all electronic messaging records.

(a) Employees should use non-official electronic messaging accounts only when agency-administered systems are unavailable, and never as a routine business practice.

(b) Employees may not create or send a record using a non-official electronic messaging account unless the employee:

(1) Copies their official electronic messaging account when they originally create or transmit the record; or

(2) Forwards a complete copy of the record to their official electronic messaging account no later than 20 days after they originally create or transmit the record.

(c) When employees receive a record in a non-official electronic messaging account, they must forward a complete copy of the electronic message to their official electronic messaging account no later than 20 days after they receive the record.

(d) If employees intentionally fail to follow these requirements, they may face adverse disciplinary actions in accordance with 5 U.S.C. Ch. 75 (also see 44 U.S.C. 2911).

§ 1236.22 What are the additional requirements for managing email records?

(a) All Federal agencies must manage permanent and temporary email records in an electronic format with the capability to identify, retrieve, and use the records for as long as their disposition requires.

(b) Agencies must issue instructions for retaining and managing email records that include the following electronic recordkeeping requirements:

(1) Email messages must comply with the commonly accepted specifications outlined in Request for Comments (RFC) 5322, Internet Message Format (incorporated by reference, see § 1236.4). The record copy of the email message must include, at a minimum, subject, message body, address of sender and all addressee(s), and the time and date the message was sent and received;

(2) Associate nicknames or aliases of agency-created accounts with the proper name of the employee responsible for the agency-generated emails; if an agency does not capture these in the header section, it must maintain records that allow the agency to do so;

(3) Include the information necessary to identify, service, and interpret email records the agency transfers to the National Archives of the United States, in accordance with the requirements in paragraphs (b)(1) and (2) of this section and § 1235.50 of this subchapter;

(4) Preserve email message attachments that are part of the email record or linked to the email record with other related records; and

(5) If the email system identifies users by codes or nicknames or identifies addressees only by the name of a distribution list, retain the intelligent or full names on directories or distribution lists to identify the sender and addressee(s) of messages that are records.

(c) Agencies may elect to manage email records on the agency-administered email system itself, provided that:

(1) Users do not delete the messages before the NARA-approved retention period expires; and

(2) The system's automatic deletion rules ensure it preserves the records until the NARA-approved retention period expires.

§ 1236.24 In addition to recordkeeping system requirements, are there additional requirements for managing unstructured electronic records?

Agencies that manage unstructured electronic records must maintain the records in a recordkeeping system that meets the requirements in § 1236.10.

■ 8. Revise § 1236.26(a) to read as follows:

§ 1236.26 What actions must agencies take to maintain electronic information systems?

(a) Agencies must maintain inventories of electronic information systems and review the systems periodically for conformance to

established agency procedures, standards, and policies as part of the periodic reviews required by 44 U.S.C. 3506. The review should determine if the agency has properly identified and described the records, and if the records schedule descriptions and retention periods reflect the current content and use. If not, agencies must submit a records schedule through NARA's Electronic Records Archive (ERA) records schedule system in accordance with part 1225 of this subchapter.

* * * * *

■ 9. Revise § 1236.28(c) and (e) to read as follows:

§ 1236.28 What additional requirements apply to the selection and maintenance of electronic records storage media for permanent records?

* * * * *

(c) For additional guidance on maintaining and storing CDs and DVDS, agencies may consult the National Institute of Standards and Technology (NIST) Special Publication 500–252, Care and Handling of CDs and DVDs at: <http://www.itl.nist.gov/iad/894.05/publications.html>.

* * * * *

(e) Agencies must annually read a statistical sample of electronic storage media that contains the record copy and backups of permanent and unscheduled records. Agencies must read and correct as appropriate all other electronic storage media which might have been affected by the same cause (e.g., poor-quality tape, high usage, poor environment, improper handling).

(1) If agencies are maintaining magnetic computer tape libraries with 1800 or fewer tape media a 20 percent sample or a sample set of 50 media, whichever is larger, should be read.

(2) In magnetic computer tape libraries with more than 1800 media, agencies should read a sample of 384 media.

(3) Agencies should replace magnetic computer tape media with errors and, when possible, restore lost data.

* * * * *

■ 10. Revise part 1237 to read as follows:

PART 1237—MANAGING AUDIOVISUAL, CARTOGRAPHIC, AND RELATED RECORDS

Sec.

1237.1 What records management requirements apply to audiovisual, cartographic, and related records?

1237.3 What publications are incorporated by reference into this part?

1237.4 What definitions apply to this part?

1237.10 How must agencies manage their audiovisual, cartographic, and related records?

1237.12 What record elements must agencies create, preserve, and transfer for permanent audiovisual, cartographic, and related records?

1237.14 What are the additional scheduling requirements for audiovisual, cartographic, and related records?

1237.16 How do agencies store audiovisual records?

1237.18 What are the environmental standards for audiovisual records storage?

1237.20 How must agencies handle and maintain audiovisual records?

1237.22 How must agencies handle and maintain cartographic and related records?

1237.24 How must agencies handle and maintain aerial photographic records?

1237.26 What materials and processes must agencies use to create audiovisual records?

1237.28 How must agencies handle and maintain digital photographs?

1237.30 How must agencies handle and manage records on nitrocellulose-base and cellulose-acetate-base film?

Authority: 44 U.S.C. 2904 and 3101.

§ 1237.1 What records management requirements apply to audiovisual, cartographic, and related records?

Agencies must manage audiovisual, cartographic, and related records in accordance with the common records management requirements in parts 1220 through 1235 of this subchapter. In addition, this part prescribes requirements specific to managing audiovisual, cartographic, and related records to ensure adequate and proper documentation and authorized, timely, and appropriate disposition.

§ 1237.3 What publications are incorporated by reference into this part?

(a) NARA incorporates certain material by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish a document in the **Federal Register** and must make the material available to the public. You may inspect all approved material incorporated by reference at NARA's textual research room, located at National Archives and Records Administration; 8601 Adelphi Road, Room 2000; College Park, MD 20740–6001. To arrange to inspect this approved material at NARA, contact NARA's Regulation Comments Desk (Strategy & Performance Division (SP)) by email at regulation_comments@nara.gov or by telephone at 301–837–3023. All approved material is available from the sources listed below. You may

also inspect approved material at the Office of the Federal Register (OFR). For information on the availability of this material at the OFR, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) American National Standards Institute (ANSI). The following standards are available from American National Standards Institute; 25 West 43rd St., 4th Floor; New York, NY 10036, or online at: <http://webstore.ansi.org>.

(1) ANSI/AIIM TR34: 1996 (“ANSI/AIIM TR34”), Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management and Micrographic Systems, May 13, 1996. IBR approved for § 1237.28(d).

(2) ISO 2859-1: 1999 (“ISO 2859-1”), Sampling Procedures for Inspection by Attributes—Part 1: Sampling Schemes Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection, Second Edition, November 15, 1999 (supplemented by Amendment 1, 2011). IBR approved for § 1237.28(d).

(3) ISO 18902: 2013 (“ISO 18902”), Imaging Materials—Processed Imaging Materials—Albums, Framing, and Storage Materials, Third Edition, July 1, 2013. IBR approved for §§ 1237.16(b) and 1237.22(f).

(4) ISO 18906: 2000 (“ISO 18906”), Imaging Materials—Photographic Films—Specifications for Safety Film, First Edition, December 15, 2000. IBR approved for § 1237.26(a).

(5) ISO 18911: 2010 (“ISO 18911”), Imaging Materials—Processed Safety Photographic Films—Storage Practices, Second Edition, September 1, 2010. IBR approved for §§ 1237.16(b) and (d) and 1237.18(a).

(6) ISO 18920: 2011 (“ISO 18920”), Imaging Materials—Reflection Prints—Storage Practices, Second Edition, October 1, 2011. IBR approved for § 1237.18(a).

(7) ISO 18923: 2000 (“ISO 18923”), Imaging Materials—Polyester-Base Magnetic Tape—Storage Practices, First Edition, June 1, 2000. IBR approved for § 1237.18(b).

(8) ISO 18925: 2013 (“ISO 18925”), Imaging Materials—Optical Disc Media—Storage Practices, Third Edition, February 1, 2013. IBR approved for § 1237.18(c).

(c) National Fire Protection Association (NFPA). The following standards are available from the National Fire Protection Association; 1 Battery March Park; Quincy, MA 02269, by phone at (800) 344-3555, or online at: <http://www.nfpa.org>.

(1) NFPA 40-2011 (“NFPA 40-2011”), Standard for the Storage and

Handling of Cellulose Nitrate Film, 2011. IBR approved for § 1237.30(a).
(2) [Reserved]

§ 1237.4 What definitions apply to this part?

In addition to the definitions in part 1220 that apply to all of subchapter B including this part, the following definitions apply only to part 1237:

Aerial photographic records means film-based images of the surface of the earth, of other planetary bodies, or of the atmosphere that have been taken from airborne vehicles or satellites. These records include:

(1) Vertical and oblique aerial negative film as well as copy negatives, internegatives, rectified negatives, and annotated and other prints from these negatives;

(2) Infrared, ultraviolet, multispectral, video, and radar imagery that has been converted to a film base; and

(3) The relevant index system in whatever form it may exist, such as mosaics, flight-line overlays or annotated maps, or electronic databases capturing the latitude and longitude (or other coordinate-based location data) of individual aerial photographic center points.

Architectural and engineering records means graphic records that depict the proposed and actual construction of stationary structures (e.g. buildings, bridges, and canals) or movable objects (e.g., ships, aircraft, vehicles, weapons, machinery, and equipment). These records are also known as design and construction drawings and include closely-related indexes and written specifications.

Audiovisual means any pictorial or aural means of communicating information (e.g., photographic prints, negatives, slides, digital images, sound recordings, and moving images).

Audiovisual equipment means equipment used to record, produce, duplicate, process, broadcast, distribute, store, or exhibit audiovisual materials or to provide any audiovisual services.

Audiovisual production means an organized and unified presentation, developed according to a plan or script, containing visual imagery, sound, or both, and used to convey information. An audiovisual production generally is a self-contained presentation.

Audiovisual records means records in pictorial or aural form, including still photographs and motion media (i.e., moving images whether on motion picture film or as video recordings), sound recordings, graphic works (e.g., printed posters), mixed media, and related finding aids and production files.

Cartographic records means graphic representations drawn to scale of selected cultural and physical features of the surface of the earth, of other planetary bodies, and of the atmosphere. They include maps, charts, photomaps, orthophotomaps and images, atlases, cartograms, globes, and relief models. Related records are those that are integral to the map-making process, such as field survey notes, geodetic controls, map history case files, source material, indexes, and finding aids.

§ 1237.10 How must agencies manage their audiovisual, cartographic, and related records?

Each Federal agency must manage its audiovisual, cartographic, and related records as required in parts 1220 through 1235 for all records. In addition, for these types of records, agencies must:

(a) Prescribe the types of audiovisual, cartographic, and related records the agency creates and maintains;

(b) Create and maintain current inventories showing the location of all generations of audiovisual records and all cartographic and related records, especially those not maintained centrally by the agency; and

(c) For permanent electronic records, consult NARA’s transfer guidance at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>.

§ 1237.12 What record elements must agencies create, preserve, and transfer for permanent audiovisual, cartographic, and related records?

In general, the physical types described below comprise the minimum record elements that agencies must provide for future preservation, duplication, and reference.

(a) *Motion pictures*.

(1) For agency-sponsored or produced motion picture films (e.g., public information films), whether for public or internal use:

(i) Original negative or color original plus separate optical sound track;

(ii) Intermediate master positive or duplicate negative plus optical sound track; and

(iii) Sound projection print and video recording, if one exists.

(2) For agency-acquired motion picture films: two projection prints in good condition or one projection print and one videotape.

(3) For unedited footage, other outtakes, and trims (the discards of film productions), which the agency must properly arrange, label, and describe, and which show un-staged, unrehearsed events of historical interest or historically significant phenomena:

(j) Original negative or color original; and

(ii) Matching print or videotape.

(4) *For digital cinema records:* See NARA's transfer guidance relating to digital moving image files copied from analog film at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>.

(b) *Video recordings.*

(1) *For videotape:* The original or earliest generation videotape and a copy for reference. Agencies must comply with requirements in § 1237.26(c) for original videotapes, although agencies may transfer VHS, DVD, or other digital files as reference copies.

(2) *For video discs:* The premaster videotapes used to manufacture the video disc and two copies of the disc. Agencies must consult NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740-6001, or by email at mopix.accessions@nara.gov, before initiating transfers of video discs that depend on interactive software or non-standard equipment.

(3) *For digital video records:* See NARA's transfer guidance relating to born-digital video files, or digital video files copied from analog video at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>.

(c) *Still pictures.*

(1) *For analog black-and-white photographs:* An original negative and a captioned print. The agency may maintain captioning information in hard copy or electronic form, such as a database or spreadsheet, if the agency ensures the caption-image number correlation is clear. If the original negative is on nitrate, or unstable acetate film base, the agency should also transfer a duplicate negative on a polyester base or a digital copy that meets, at minimum, the photographic scanning standards in NARA's Digital Photographic Transfer Guidance referenced in paragraph (d) of this section. NARA prefers that whenever possible, the digital copy meet the highest-level NARA Lab Services standards set forth at: <https://www.archives.gov/preservation/products/definitions/photo-def.html>.

(2) *For analog color photographs:* The original color negative, color transparency, or color slide; a captioned print of the original color negative; a duplicate negative, slide, or transparency, if it exists; and, where the caption does not appear directly with the image, captioning information maintained in another file presenting a clear caption-image number correlation.

(3) *For slide sets:* The original and a reference set, and the related audio recording (in accordance with paragraph (e) of this section) and script.

(4) *For other pictorial records, such as posters, original art work, and filmstrips:* The original and a reference copy. Please note the National Archives of the United States is not the appropriate repository for original physical artwork (e.g., paintings and sculptures). Agencies may, however, transfer to the National Archives of the United States analog or digital photographic reproductions of the artwork meeting the requirements for analog photographs, listed above, or digital photographs, listed below.

(d) *Digital photographic records.* See NARA's transfer guidance for digital photographic records at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>. See also § 1237.14 (for transfer timing) and § 1237.28 (for making imagery transferable).

(e) *Sound recordings.*

(1) *For digital recordings:* The origination recording regardless of form and a subsequent generation copy for reference.

(2) *For analog disc recordings:* The master tape and two disc pressings of each recording (typically a vinyl copy for playback at 33 $\frac{1}{3}$ revolutions per minute (rpm)).

(3) *For analog audio recordings on magnetic tape (open reel, cassette, or cartridge):* The original tape, or the earliest available generation of the recording, and a subsequent generation copy for reference.

(f) *Finding aids and production documentation.* Agencies must transfer the following records to the National Archives of the United States with the audiovisual records to which they pertain:

(1) Existing finding aids such as data sheets, shot lists, continuities, review sheets, catalogs, indexes, assignment logs, lists of captions, and other documentation needed or useful to identify or retrieve still images, graphic materials (posters), or audiovisual (moving and sound) records. Contact NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740-6001, or by email at mopixaccessions@nara.gov (for audiovisual records) and stillpix.accessions@nara.gov (for digital still photographs) for information on transferring finding aids that do not meet the requirements of this part; and

(2) Production case files or similar files that include copies of production contracts, scripts, transcripts, and

appropriate documentation bearing on the origin, acquisition, release, and ownership of the production (including, among other examples, licensing agreements and use permission forms).

(g) *Maps and charts.* This includes:

(1) Manuscript maps; printed and processed maps on which manuscript changes, additions, or annotations have been made for record purposes or which bear manuscript signatures to indicate official approval; and single printed or processed maps that have been attached to or interfiled with other documents of a record character or in any way made an integral part of the record;

(2) Master sets of printed or processed maps issued by the agency. A master set must include each edition of a printed or processed map issued;

(3) Paper versions of computer-related and computer-plotted maps that can no longer be reproduced electronically;

(4) Index maps, card indexes, lists, catalogs, or other finding aids that may be helpful in using the transferred maps; and

(5) Records related to preparing, compiling, editing, or printing maps, such as manuscript field notebooks of surveys, triangulation and other geodetic computations, and project folders containing agency specifications for creating the maps.

(h) *Aerial photography and remote sensing imagery.* This includes:

(1) Vertical and oblique negative aerial film;

(2) Annotated copy negatives, internegatives, rectified negatives, and glass plate negatives from vertical and oblique aerial film;

(3) Annotated prints from aerial film;

(4) Infrared, ultraviolet, multispectral (multiband), video, imagery radar, and related tapes, converted to a film base; and

(5) Indexes and other finding aids in the form of photo mosaics, flight line indexes, coded grids, and coordinate grids. (Note that, with respect to aerial imagery on nitrate or unstable acetate-based film, the same agency copying requirements apply as those cited above under still pictures, paragraph (c)(1) of this section).

(i) *Architectural and related engineering drawings.* This includes:

(1) Design drawings, preliminary and presentation drawings, and models that document the evolution of the design of a building or structure;

(2) Master sets of drawings that document both the initial design and construction and subsequent alterations of a building or structure. This category includes final working drawings, "as-built" drawings, shop drawings, and repair and alteration drawings;

(3) Drawings of repetitive or standard details of one or more buildings or structures;

(4) “Measured” drawings of existing buildings and originals or photocopies of drawings reviewed for approval; and

(5) Related finding aids and specifications to be followed.

(j) *Digital geospatial formats and Computer Aided Design (CAD)*. See NARA’s transfer guidance for digital geospatial formats and CAD at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>.

§ 1237.14 What are the additional scheduling requirements for audiovisual, cartographic, and related records?

For better preservation and access, schedule audiovisual records for as short a retention period as possible to meet agency business needs. Agencies should schedule permanent audiovisual records for transfer to the National Archives of the United States:

(a) Within 5–10 years after creation, in the case of unrestricted analog records or within 3–5 years after creation, in the case of unrestricted digital records (see 36 CFR part 1235 of this subchapter); and

(b) In the case of restricted analog or digital records, agencies should consult with NARA regarding transfers at etransfer@nara.gov.

§ 1237.16 How do agencies store audiovisual records?

Agencies must maintain appropriate storage conditions for permanent, long-term temporary, or unscheduled audiovisual records:

(a) Ensure that audiovisual records storage facilities comply with part 1234 of this subchapter;

(b) Use audiovisual storage containers or enclosures made of non-corroding metal, inert plastics, paper products, and other safe materials recommended in ISO 18902 and ISO 18911 (incorporated by reference; see § 1237.3) to store permanent, long-term temporary, or unscheduled records;

(c) Store originals and copies for use (e.g., negatives and prints) separately whenever practicable. Store distinct audiovisual record series separately from textual series (e.g., store poster series separately from other kinds of agency publications, or photographic series separately from general reference files). Retain intellectual control through finding aids, annotations, or other descriptive mechanisms;

(d) Store series of permanent and unscheduled x-ray films (i.e., x-rays that are not interspersed among paper records (case files)) in accordance with § 1238.20 of this subchapter. Store series

of temporary x-ray films under conditions that ensure they are preserved for their full scheduled retention period, in accordance with ISO 18911 (incorporated by reference; see § 1237.3);

(e) Store posters and similar oversized graphic works in map cases, hanging files, or other enclosures that are sufficiently large or flexible to accommodate the records without rolling, folding, bending, or other treatment that compromises image integrity and stability; and

(f) Store optical discs in individual containers and use felt-tip, water-based markers to label the discs.

§ 1237.18 What are the environmental standards for audiovisual records storage?

(a) *Photographic film and prints*. The requirements in this paragraph apply to permanent, long-term temporary, and unscheduled audiovisual records:

(1) Store polyester-base black-and-white film, and black-and-white photographic prints, in a climate-controlled environment at a constant temperature and humidity; as a best practice, at maximum 65 degrees Fahrenheit and between 30 and 40 percent relative humidity; and

(2) Keep all non-polyester black-and-white film, color film on any base, and color photographic prints in climate-controlled cold storage, in order to retard fading of color images and deterioration of acetate-base film. Maintain cold storage area at a constant temperature and humidity; as a best practice, at maximum 35 to 40 degrees Fahrenheit with 30 to 40 percent relative humidity. For more detailed, format- and process-specific requirements, see ISO 18911 and ISO 18920 (incorporated by reference; see § 1237.3). See also NARA Directive 1571, Archival Storage Standards, at: www.archives.gov/foia/directives/nara/1571.pdf.

(b) *Analog, digital records on magnetic tape*. For analog audio and video recordings and digital images stored on magnetic tape, keep in an area maintained at a constant temperature range of 62 to 68 degrees Fahrenheit, with constant relative humidity from 35 to 45 percent. See also the requirements for electronic records storage in § 1236.28 of this subchapter.

(c) *Digital images on optical media*. For permanent, long-term temporary, or unscheduled digital images maintained on optical media (e.g., CDs, DVDs), use the storage temperature and humidity levels stated in ISO 18925 (incorporated by reference; see § 1237.3).

§ 1237.20 How must agencies handle and maintain audiovisual records?

Agencies must:

(a) Protect audiovisual records, including those recorded on digital media or magnetic sound or video media, from being accidentally or deliberately altered or erased;

(b) If different versions of audiovisual productions (e.g., short and long versions or foreign-language versions) are prepared, keep an unaltered copy of each version for record purposes;

(c) Link audiovisual records with their finding aids, including captions and published and unpublished catalogs, inventories, assignment logs, indexes, production files, and similar documentation created in the course of audiovisual production. Establish and communicate agency-wide, clear-captioning standards, procedures, and responsibilities;

(d) Maintain current documentation identifying creators of audiovisual products, their precise relationship to the agency, and the nature and status of copyright or other rights affecting the present and future use of items acquired from sources outside the agency (see § 1222.32 of this subchapter for requirements to ensure agency ownership of contractor-produced records);

(e) For each audiovisual record, create unique identifiers that clarify connections and correlations between related elements (e.g., photographic prints and corresponding negatives, original analog photographs and corresponding digital versions, original edited masters and corresponding dubbing for video and audio recordings). Unique identifiers must also associate records with the relevant creating, sponsoring, or requesting offices. The caption-image numbering correlation must be clear and facilitate precise and efficient access (i.e., for digital files, use file naming conventions that ensure non-repetition across directory structures);

(f) Maintain temporary and permanent audiovisual records separately; and

(g) Require that personnel wear white, lint-free cotton gloves (or other approved gloves, such as un-powdered nitrile) when handling film and photographic prints.

(h) For more technical information on preservation strategies and options, consult with NARA at National Archives and Records Administration; Preservation Programs Division (RX) or Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001.

§ 1237.22 How must agencies handle and maintain cartographic and related records?

Agencies must:

(a) Maintain permanent and unscheduled cartographic, architectural, and engineering records in environments appropriate for the type of materials they are made of. Optimum environment for paper-based materials does not exceed 65 to 70 degrees Fahrenheit, with relative humidity under 50 percent. For film-based materials, see the targets in § 1237.24(e), below. See also NARA Directive 1571, Archival Storage Standards, at: www.archives.gov/foia/directives/nara/1571.pdf.

(b) Create an identification scheme for each series and assign unique identification designations to each item within a series;

(c) Maintain lists or indexes for each series with cross-references to related textual records;

(d) Avoid interfile separate series of maps, charts, or drawings;

(e) File permanent cartographic and architectural records separately from temporary series, except that the agency may systematically file hand-corrected versions with other published maps in a central or master file;

(f) Avoid rolling and folding maps and drawings. Store permanent maps and drawings flat in shallow-drawer map cases in acid-free folders compliant with ISO 18902 (incorporated by reference; see § 1237.3); and

(g) Not laminate original oversized records. Consult NARA by mail at National Archives and Records Administration; Preservation Programs Division (RX); 8601 Adelphi Road; College Park, MD 20740–6001, for preservation, storage, and treatment options.

§ 1237.24 How must agencies handle and maintain aerial photographic records?

Agencies must:

(a) Mark each aerial film container with a unique identification code to facilitate identification and filing;

(b) Mark aerial film indexes with the unique aerial film identification codes or container codes for the aerial film that they index. Also, file and mark the aerial indexes in such a way that the agency can easily retrieve them by area covered;

(c) Store aerial film negative rolls in inert plastic containers upright on shelves, and assign identification codes to each roll of film;

(d) Wear white, lint-free cotton gloves (or other approved gloves, such as unpowdered nitrile) to handle film; and

(e) Store film in a climate-controlled environment at a constant temperature and humidity, ideally:

(1) Maximum 65 degrees Fahrenheit and between 30 and 40 percent relative humidity for polyester-base black-and-white film; and

(2) Maximum 35 to 40 degrees Fahrenheit and between 30 and 40 percent relative humidity for acetate-base film and color film on any base. For more detailed, format- and process-specific requirements, see ISO 18911 (incorporated by reference; see § 1237.3). See also NARA Directive 1571, Archival Storage Standards, at: www.archives.gov/foia/directives/nara/1571.pdf.

§ 1237.26 What materials and processes must agencies use to create audiovisual records?

(a) For still picture and motion picture preprints (e.g., negatives, masters, and all other copies) of permanent, long-term temporary, or unscheduled records, use polyester-base media, and process in accordance with the industry standards in ISO 18906 (incorporated by reference; see § 1237.3).

(b) When reproducing excerpts or stock footage, avoid using motion pictures in a final “A & B” format (i.e., two precisely matched reels designed to be printed together).

(c) Use only industrial- or professional-grade photographic cameras and equipment, video and audio recording equipment, new and previously unrecorded magnetic tape stock, blank optical media (e.g., DVD and CD), or magnetic media (hard drives) for the record copy of all permanent, long-term temporary, or unscheduled imagery and recordings. Limit the use of consumer formats to distribution or reference copies or to subjects scheduled for destruction. Avoid using videocassettes in the VHS format as originals for permanent or unscheduled records.

(d) Record permanent, long-term temporary, temporary, or unscheduled audio recordings on optical media from major manufacturers. Avoid using cassettes as originals for permanent records or unscheduled records (although agencies may use them for reference copies).

(e) For born-digital or scanned digital images that are scheduled as permanent or unscheduled, a record (or master) version of each image must be comparable in quality to a 35mm film negative or better. The Tagged Image File Format (TIFF) and the JPEG File Interchange Format (JFIF, JPEG) are well-established examples of formats appropriate for saving permanent and unscheduled digital photographs.

(f) As a general rule, create such images at a resolution reaching or approximating at least 3000 pixels on the longest dimension.

(g) For temporary digital photographs, agencies select formats they deem most suitable to fulfill business needs.

(h) For further information about preferred and acceptable formats and versions, see NARA’s transfer guidance at: <http://www.archives.gov/records-mgmt/policy/transfer-guidance.html>.

§ 1237.28 How must agencies handle and maintain digital photographs?

Digital photographs, either originating in digital form (“born-digital”) or scanned from photographic prints, slides, and negatives, are subject to the provisions of this part and the requirements of part 1236 of this subchapter. Agencies must:

(a) Schedule digital photographs and related databases as soon as possible for the minimum retention period the agency requires to meet its business needs, and transfer records promptly according to the disposition instructions on the records schedule;

(b) Select image management and related database management software and hardware that meet long-term archival requirements, National Archives and Records Administration’s transfer standards, and business needs. Agencies must be able to export images and related data in formats compatible with NARA systems. For additional information and assistance, contact NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at stillpix.accessions@nara.gov;

(c) Build redundancy into storage systems (i.e., back up image files through on-line, off-line, or combination approaches) when developing digital image storage strategies (see electronic storage requirements in § 1236.28 of this subchapter);

(d) Document the quality control inspection process the agency employs when scanning digital images of photographic prints, slides, and negatives that are scheduled as permanent or are unscheduled. As part of the process:

(1) Visually inspect a sample of the images for defects, evaluate finding aid accuracy, verify file header information and file name integrity; and

(2) Conduct the sample using a volume sufficiently large to yield statistically valid results, in accordance with one of the quality sampling methods presented in ANSI/AIIM TR34 and ISO 2859–1 (incorporated by reference; see § 1237.3);

(e) Periodically inspect born-digital images scheduled as permanent, long-term temporary, or unscheduled, using sampling methods or more comprehensive verification systems (e.g., checksum programs), to evaluate image file stability, documentation quality, and finding aid reliability. Agencies must also establish procedures to refresh digital data (recopying) and to migrate files, especially for images and databases retained for five years or longer;

(f) Designate a record set of images to maintain separately from other versions. Do not subject record sets of permanent or unscheduled images that have already been compressed once (e.g., compressed TIFF or first-generation JPEG) to further changes in image size;

(g) Organize record images in logical series. Group permanent digital images separately from temporary digital images or designate images as permanent or temporary in a metadata field designed for that purpose;

(h) Document information about digital photographic images as the agency produces them. Embed descriptive elements in each permanent or unscheduled image's file header or capture descriptive elements in a separate database accompanying the image series. Descriptive elements must include:

(1) A unique identification number;

(2) Information about image content (i.e., basic "who," "what," "where," "when," "why" captioning data);

(3) Photographer's identity and organizational affiliation;

(4) Existence of any copyright or other potential restrictions on image use; and

(5) Technical data, including file format and version, bit depth, image size, camera make and model, compression method and level, and custom or generic color profiles (ICC/ ICM profile), among other elements. In this regard, verify the extent of the Exchangeable Image File Format (EXIF) information embedded automatically by digital cameras and scanners;

(i) Provide a unique file name to identify the digital image; and

(j) Develop finding aids sufficiently detailed to ensure the agency can efficiently and accurately retrieve images. Ensure that the agency can use indexes, caption lists, and assignment logs to identify and chronologically cut off blocks of images for transfer to the National Archives of the United States.

§ 1237.30 How must agencies handle and manage records on nitrocellulose-base and cellulose-acetate-base film?

(a) The nitrocellulose base, a substance akin to gun cotton, is

chemically unstable and highly flammable. Agencies must handle nitrocellulose-base film (used in the manufacture of sheet film, 35mm motion pictures, aerial and still photographs into the 1950s) as specified below:

(1) Segregate nitrocellulose film materials (e.g., 35mm motion picture film and large series of still pictures) from other records in storage areas;

(2) Immediately notify NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740-6001, or by email at stillpix.accessions@nara.gov (for still photographs) or mopix.accessions@nara.gov (for motion picture film). If NARA appraises nitrate film materials as disposable and the agency wishes to retain them, the agency must follow the standard NFPA 40-2011 (incorporated by reference; see § 1237.3); and

(3) Follow the packing and shipping standards for nitrate film as specified in Department of Transportation regulations (49 CFR 172.101, Hazardous materials table; 172.504, Transportation; 173.24, Standard requirements for all packages; and 173.177, Motion picture film and X-ray film—nitrocellulose base). Carry out nitrate film disposal in accordance with the relevant hazardous waste disposal regulations in 40 CFR, parts 260 through 282.

(b) Inspect cellulose-acetate film periodically (at least once every five years) for acetic odor, wrinkling, or crystalline deposits on the edge or surface of the film, which indicate deterioration. Agencies must notify NARA about deteriorating permanent or unscheduled audiovisual records composed of cellulose acetate immediately after inspection, so the agency can copy the records prior to transferring the original and duplicate film to the National Archives of the United States. Notify NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740-6001, or by email at stillpix.accessions@nara.gov (for still photographs) or mopix.accessions@nara.gov (for motion picture film).

Dated: June 28, 2016.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2016-15848 Filed 7-12-16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA-R04-OW-2016-0356; FRL-9948-90-Region 4]

Ocean Dumping: Modification of an Ocean Dredged Material Disposal Site Offshore of Charleston, South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a modification of the ocean dredged material disposal site (ODMDS) site offshore of Charleston, South Carolina pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The primary purpose for the site modification is to serve the long-term need for a location to dispose of material dredged from the Charleston Harbor federal navigation channel, and to provide a location for the disposal of dredged material for persons who have received a permit for such disposal. The modified site will be subject to ongoing monitoring and management to ensure continued protection of the marine environment.

DATES: Written comments must be received on or before August 12, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OW-2016-0356, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments and accessing the docket and materials related to this proposed rule.
- *Email:* collins.garyw@epa.gov.
- *Mail:* Gary W. Collins, U.S.

Environmental Protection Agency, Region 4, Water Protection Division, Marine Regulatory and Wetlands Enforcement Section, 61 Forsyth Street, Atlanta, Georgia 30303.

Instructions: Direct your comments to Docket ID No. EPA-R04-OW-2016-0356. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or email, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an "anonymous access" system, which