

National Archives and Records Administration

§ 1229.12

§ 1228.14 How will NARA handle a loan request?

(a) NARA will review the request and, if it is approved, return the signed agreement to the agency within 30 days.

(b) NARA will deny the request within 30 days if the records are due or past due to be transferred to the National Archives of the United States in accordance with part 1235 of this subchapter, if the loan would endanger the records, or if the loan would otherwise violate the regulations in 36 CFR chapter XII, subchapter B. NARA will notify the agency in writing if it disapproves the loan and the reasons for the disapproval of the loan.

§ 1228.16 When must agencies retrieve records that have been loaned?

An agency must contact the recipient of loaned permanent or unscheduled records 30 days prior to the expiration of the loan period (as stated in the loan agreement) to arrange for the return of the records. If the agency extends the duration of the loan, it must notify NARA (see § 1228.12(b)) in writing, specifying the reason for the extension and providing the new expiration date of the loan.

PART 1229—EMERGENCY AUTHORIZATION TO DESTROY RECORDS

Sec.

1229.1 What is the scope of this part?

1229.2 What are the authorities for this part?

1229.3 What definitions apply to this part?

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

1229.12 What are the requirements during a state of war or threatened war?

AUTHORITY: 44 U.S.C. 3310 and 3311.

SOURCE: 74 FR 51014, Oct. 2, 2009, unless otherwise noted.

§ 1229.1 What is the scope of this part?

This part describes certain conditions under which records may be destroyed without regard to the provisions of part 1226 of this subchapter.

§ 1229.2 What are the authorities for this part?

The statutory authorities for this part are 44 U.S.C. 3310 and 3311.

§ 1229.3 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used in part 1229.

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

When NARA and the agency that has custody of them jointly determine that records in the custody of an agency of the U.S. Government are a continuing menace to human health or life, or to property, NARA will authorize the agency to eliminate the menace immediately by any method necessary:

(a) When an agency identifies records that pose a continuing menace to human health or life, or to property, the records officer or other designee must immediately notify the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. The notice must specify the description of the records, their location and quantity, and the nature of the menace. Notice may be given via e-mail to *RM.Communications@nara.gov*, or via phone, (301) 837-1738, or fax, (301) 837-3698, to NWM or the NARA Regional Administrator.

(b) If NARA concurs in a determination that the records must be destroyed, NARA will notify the agency to immediately destroy the records.

(c) If NARA does not concur that the menace must be eliminated by destruction of the records, NARA will advise the agency on remedial action to address the menace.

§ 1229.12 What are the requirements during a state of war or threatened war?

(a) Destruction of records outside the territorial limits of the continental United States is authorized whenever, during a state of war between the United States and any other nation or when hostile action appears imminent, the head of the agency that has custody of the records determines that

their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient administrative, fiscal, legal, historical, or other value to warrant their continued preservation.

(b) Within six months after the destruction of any records under this authorization, the agency official who directed the destruction must submit to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738, a written statement explaining the reasons for the destruction and a description of the records and how, when, and where the destruction was accomplished.

PART 1230—UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

Sec.

1230.1 What are the authorities for part 1230?

1230.2 What standards are used as guidance for this part?

1230.3 What definitions apply to this part?

1230.10 Who is responsible for preventing the unlawful or accidental removal, defacing, alteration, or destruction of records?

1230.12 What are the penalties for unlawful or accidental removal, defacing, alteration, or destruction of records?

1230.14 How do agencies report incidents?

1230.16 How does NARA handle allegations of damage, alienation, or unauthorized destruction of records?

1230.18 What assistance is available to agencies to recover unlawfully removed records?

AUTHORITY: 44 U.S.C. 3105 and 3106.

SOURCE: 74 FR 51014, Oct. 2, 2009, unless otherwise noted.

§ 1230.1 What are the authorities for part 1230?

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

§ 1230.2 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489-1:2001, par. 6.3 (Responsibilities), 7.2 (Characteris-

tics of a record), 8.2 (Records systems characteristics), and 8.3 (Designing and implementing records systems).

§ 1230.3 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1230.

(b) As used in part 1230—

Alteration means the unauthorized annotation, addition, or deletion to a record.

Deface means to obliterate, mar, or spoil the appearance or surface of a record that impairs the usefulness or value of the record.

Removal means selling, donating, loaning, transferring, stealing, or otherwise allowing a record to leave the custody of a Federal agency without the permission of the Archivist of the United States.

Unlawful or accidental destruction (also called *unauthorized destruction*) means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records.

§ 1230.10 Who is responsible for preventing the unlawful or accidental removal, defacing, alteration, or destruction of records?

The heads of Federal agencies must:

(a) Prevent the unlawful or accidental removal, defacing, alteration, or destruction of records. Section 1222.24(a)(6) of this subchapter prohibits removing records from the legal custody of the agency. Records must not be destroyed except under the provisions of NARA-approved agency records schedules or the General Records Schedules issued by NARA;

(b) Take adequate measures to inform all employees and contractors of the provisions of the law relating to unauthorized destruction, removal, alteration or defacement of records;

(c) Implement and disseminate policies and procedures to ensure that records are protected against unlawful