

§ 1226.1

§ 1226.1 What are the general authorities for this part?

The statutory authorities are 44 U.S.C. 2107, 2111, 2904, 3102, 3301 and 3302.

§ 1226.2 What definitions apply to this part?

See §1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1226.

§ 1226.3 What standards are used as guidance for this part?

These regulations conform with guidance in ISO 15489-1:2001, Information and documentation—Records management, sections 8.3.7 (Retention and disposition), 8.5 (Discontinuing records systems), 9.2 (Determining how long to retain records), and 9.9 (Implementing disposition).

§ 1226.10 Must agencies apply approved schedules to their records?

The application of approved schedules is mandatory except as provided in §§1226.16 and 1226.18. Federal records must be retained as specified in the schedule to conduct Government business, protect rights, avoid waste, and preserve permanent records for transfer to the National Archives of the United States.

§ 1226.12 How do agencies disseminate approved schedules?

(a) Agencies must issue disposition authorities through their internal directives system within six months of approval of the SF 115 or GRS to ensure proper distribution and application of the schedule. The directive must cite the legal authority (GRS or SF 115 and item numbers) for each schedule item covering records.

(b) Agencies must send, via link or file, an electronic copy of each published agency schedule, directive, and other policy issuance relating to records disposition to NARA at RM.Communications@nara.gov when the directive, manual, or policy issuance is posted or distributed.

(c) The submission must include the name, title, agency, address, and phone number of the submitter. If the comprehensive records schedule or other policy issuance is posted on a publicly

36 CFR Ch. XII (7-1-14 Edition)

available Web site, the agency must provide the full Internet address (URL).

§ 1226.14 What are the limitations in applying approved records schedules?

Agencies must apply the approved records disposition schedules to their agency's records as follows

(a) Records described by items marked "disposition not approved" or "withdrawn" may not be destroyed until a specific disposition has been approved by NARA.

(b) Disposition authorities for items on approved SF 115s that specify an organizational component of the department or independent agency as the creator or custodian of the records may be applied to the same records after internal reorganization, but only if the nature, content, and functional importance of the records remain the same. Authority approved for items described in a functional format may be applied to any organizational component within the department or independent agency that is responsible for the relevant function.

(c) Disposition authorities approved for one department or independent agency may not be applied to records of another department or agency. Departments or agencies that acquire records from another department or agency, and/or continue creating the same series of records previously created by another department or agency through interagency reorganization must promptly submit an SF 115 to NARA for disposition authorization. Until the new records schedule is approved, the records are unclassified. See §1225.22 of this subchapter.

(d) Unless otherwise specified, newly approved disposition authorities apply retroactively to all existing records as described in the schedule.

(e) When required by court order (*i.e.*, order for expungement or destruction), an agency may destroy temporary records before their NARA-authorized disposition date. In accordance with §1230.14 of this subchapter, an agency must notify the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001,

National Archives and Records Administration

§ 1226.22

phone number (301) 837-1738, when permanent or unscheduled records are to be destroyed in response to a court order. If the records have significant historical value, NARA will promptly advise the agency of any concerns over their destruction.

§ 1226.16 Does NARA ever withdraw disposition authority?

(a) When required to ensure the preservation of Government records, or when required by an emergency, or to maintain efficiency of Government operations, NARA will withdraw disposal authorizations in approved schedules (44 U.S.C. 2909). This withdrawal may apply to particular items on agency schedules or may apply to all existing authorizations for a specified type of record in any or all agencies.

(b) To both impose and rescind the withdrawal, NARA will notify the affected agency or agencies in writing, either by letter or NARA bulletin.

§ 1226.18 When may agencies temporarily extend retention periods?

(a) Agencies may temporarily retain records approved for destruction beyond their NARA-approved retention period if special circumstances alter the normal administrative, legal, or fiscal value of the records.

(1) Agencies must not retain records whose disposal after a specified period is required by statute, unless retention is ordered by a Court.

(2) In determining whether or not to temporarily extend the retention period of records, agencies must ensure that the extension of retention is consistent with the requirement contained in 5 U.S.C. 552a (Privacy Act of 1974, as amended) that records concerning individuals are maintained only if relevant and necessary to accomplish a purpose of the agency that is required by law or Executive order.

(b) If the records that are to be temporarily retained beyond their approved destruction date have been transferred to records storage facilities, agencies must notify the facility.

(c) Once the special circumstances that require extended retention of records have elapsed, agencies must destroy the records in accordance with

the NARA-approved disposition instructions.

(d) Agencies must submit an SF 115 to NARA to change schedule provisions on a continuing basis in accordance with § 1225.26 of this subchapter. Agencies may retain records eligible for destruction until the new schedule is approved.

§ 1226.20 How do agencies temporarily extend retention periods?

(a) Agencies must secure NARA written approval to retain records series or systems that are eligible for destruction under NARA-approved schedules except when:

(1) The agency has requested a change in the records schedule in accordance with § 1225.26 of this subchapter, in which case the agency is authorized to retain records eligible for destruction until the new SF 115 is approved;

(2) The records will be needed for less than one year; or

(3) A court order requires retention of the records.

(b) To request an extension, agencies must send a letter to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738. Along with a justification, the request must include:

(1) A concise description of the records series for which the extension is requested.

(2) A citation to the agency records schedule or the GRS currently governing disposition of the records;

(3) A statement of the estimated period of time that the records will be required; and

(4) For records in the agency's custody, a statement of the current and proposed physical location of the records.

(c) Agencies must ensure that records in records storage facilities are retained for the duration of the extension.

§ 1226.22 When must agencies transfer permanent records?

All records scheduled as permanent must be transferred to the National Archives of the United States after the