

Requirements for Federal Records Management Facilities: 36 Code of Federal Regulations Part 1228, Subpart K and How It Applies to All Federal Contractors, Agencies

Disclaimer:

This White Paper summarizes information related to the storage for federal records, but should not be construed or interpreted as legal advice. If the reader has specific questions regarding the application of Part 1228 Subpart K of the CFR to records in its custody, specific advice should be obtained.

OVERVIEW

Pursuant to authority delegated by Congress in the Federal Records Act, the National Archives and Records Administration (NARA)¹ has issued guidance, directives, and facility surveys to government entities to ensure that records storage facilities containing Federal Records comply with the standards set forth in 36 Code of Federal Regulations (CFR) Part 1228, Subpart K.²

The CFR requirements apply to all Federal Records stored by federal executive branch departments and agencies, certain legislative and judicial branch entities, and federal government corporations. In addition, businesses that serve the federal government, including system integrators and other federal contractors that create, manage and/or archive information in the form of Federal Records on behalf of the federal government may be required to comply with these obligations.

DEFINITION OF A FEDERAL RECORD

A Federal Record is defined by the Federal Records Act³ as any document—including books, papers, maps, photographs, machine-readable materials (e.g., emails and computer files) or other documentary materials, regardless of physical form or characteristic—that meets the following two criteria:

- The document was created or received by a federal agency (or a contractor working for that agency) under federal law or in the course of federal government business.
- The document is appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational value of data in it.⁴

Federal Records that must be stored in CFR-compliant facilities can be either in digital form—as database records, emails, PDFs, Word documents or other electronic files—or in hardcopy form, such as books, papers or other physical matter.

AN OVERVIEW OF 36 CFR PART 1228, SUBPART K

Federal law requires that all Federal Records, regardless of format, be stored in CFR-compliant facilities, whether existing or new, although facilities in existence on September 28, 2005 have until October 1, 2009 to meet NARA requirements.⁵

The CFR-compliant facility requirements can be categorized into three major areas:

- Facility requirements
- Security requirements
- Auditing requirements

Facility requirements. CFR requirements for records storage facilities dictate an array of factors related to facilities' physical environment. If agencies and/or their contractors manage records in-house, significant ongoing capital investments—related to location, fire safety, flood risk, and other factors—may be required to ensure that an existing facility in existence in September, 2005 is properly upgraded to comply with CFR.

CFR requirements delineate dozens of specifications, including but not limited to:

- How fire detection and suppression systems are verified,
- The materials with which the facility must be constructed,
- Specifications for running piping through the records-storage areas of the site,
- Specifications for shelving to provide seismic bracing in the event of an earthquake, and
- Pest management procedures.

1. National Archives and Records Administration (NARA), www.nara.gov

2. <http://www.archives.gov/about/regulations/part-1228/k.html>

3. <http://www.archives.gov/records-mgmt/bulletins/1999/99-04-a.html>

4. NARA's statutory definition of a Federal Record is contained in 44 U.S.C. 3301 and is included in §1220.14.

Read here for more information: <http://www.archives.gov/about/regulations/part-1222.html#parta>(www.archives.gov/about/regulations/part-1220.html#parta)

5. See <http://www.archives.gov/about/regulations/part-1228/k.html#gen> for the complete list of requirements; scroll down to "Facility Standards"

Security requirements. Part 1228, Subpart K details a comprehensive list of security requirements that a records storage facility containing Federal Records must meet. Both existing facilities and new ones must adhere to a series of security-related requirements, including:

- An anti-intrusion alarm system that meets the requirements of Underwriters Laboratory Standard 1076, Proprietary Burglar Alarm Units and Systems (February 1, 1999), Level AA,
- Procedures in place to monitor the alarm system, per additional UL specifications, and
- Compliance with requirements for a Level III facility as defined by the U.S. Department of Justice in a five-level rating system (Note that specific agencies may require compliance with Level IV or Level V requirements for certain types of information).

Auditing requirements. All agencies and/or contractors storing Federal Records must be able to demonstrate that their protection and storage facilities meet the 36 CFR Part 1228, Subpart K standard. CFR requires that they meet the specified facility approval, inspection, and reporting requirements. In addition, agencies and their contractors must ensure that the requirements are met whenever they acquire or use new or contracted storage services.

Once a federal agency or department has submitted a request to establish a government-owned agency records center, NARA may conduct an inspection of the proposed facility to ensure that the facility complies fully with CFR requirements.⁶

If an agency utilizes a commercial records center, the agency must ensure that agency and NARA officials have the right to inspect the facility to ensure that such facility fully complies with NARA's requirements. The regulations require that the agency, not NARA, must be responsible for paying any fee or charge assessed by the commercial records storage facility for an inspection conducted by NARA.

A detailed checklist of CFR regulations for records management facilities is available at www.archives.gov/records-mgmt/bulletins/2005/2005-07a.pdf.

6. <http://www.archives.gov/records-mgmt/bulletins/2005/2005-07a.pdf>

7. Read the complete text of Federal Preparedness Circular 65, with detailed COOP planning guidance at http://www.fema.gov/txt/government/coop/fpc65_0604.txt

FEDERAL RECORDS AND CONTINUITY OF OPERATIONS

In addition, the NARA guidelines overlap with guidelines for vital-records management set forth in the federal government's program for ensuring Continuity of Operations (COOP) in its departments and agencies in the event of a natural or manmade disaster. All agencies' COOP plans must include detailed strategies for identifying, protecting and making available vital electronic and physical records, in addition to selecting alternate facilities to carry out their COOP plan.⁷ Those individuals involved in the chain-of-custody—which delineates all the necessary steps to keep Federal Records safe and secure as they move through stages on their way to permanent storage—must be equipped with the proper tools, skills and supplies to ensure the records are properly managed.

In addition, agencies' and departments' ongoing COOP planning requires testing, training and execution of these strategies for management of Federal Records—before a natural or manmade event occurs.

IRON MOUNTAIN: MEETING CFR REQUIREMENTS

Meeting the facility requirements set forth by NARA may require substantial capital investments to ensure that physical environments are in compliance with requirements; that adequate security systems are in place; and that facilities are ready to withstand a NARA audit.

For peace of mind that these conditions are being met, many federal contractors, departments and agencies turn to Iron Mountain. By working with Iron Mountain, a trusted partner, agencies and businesses holding Federal Records are ensured that facilities meet NARA guidelines today. As a result, the federal agency personnel and contractors are able to focus on the mission of the agency.

For more information about how Iron Mountain can help you meet agency compliance goals, contact Iron Mountain—the industry leader in information protection and storage agency-wide, nation-wide, and worldwide—at federal@ironmountain.com today.



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