
CHAPTER 2. LEGAL AND ARCHIVAL STATUS OF MICROFILMED RECORDS

2-1 General. The legal status of microforms is governed by Federal and State statutes. In general, microforms and reproductions made from microforms are admissible evidence in judicial proceedings, provided that:

- A. The original microform was made in the regular course of business.
- B. The microform provides an accurate and durable medium for reproducing the original record.
- C. The microform must provide satisfactory identification of the records.
 - 1. The identification will be accomplished by use of a "certificate of authenticity" at the end of each roll of microfilm, or at the end of each series of records in unitized microforms.
 - 2. This certificate of authenticity should contain the following information: (See Appendix 3)
 - a. Organization;
 - b. Title of the records;
 - c. Arrangement of the records;
 - d. Starting and ending points of the records;
 - e. Disposition of original records; and
 - f. Location and date of microfilm creation.
- D. Disposition of all source documents must be coordinated with and approved by the Departmental Records Management Officer in accordance with current records control schedules and National Archives and Records Administration (NARA) policy.

2-2 Microfilm Prohibited by Federal or State Statutes. Certain documents may not be photographically copied, except by authorized activities, and such reproduction is generally prohibited by Federal or state statutes, as follows:

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- A. Automobile registration certificates, automobile titles, and drivers' licenses in certain states.
 - B. Certificates of citizenship or naturalization (18 U.S.C. Section 1426).
 - C. Government Transportation Requests (18 U.S.C. Section 509).
 - D. Immigration or nonimmigration visas, permits or other documents (18 U.S.C. Section 1546).
 - E. Obligations of any foreign government or bank (18 U.S.C. Section 481).
 - F. Obligations or securities of the United States Government, including: bonds; certificates of indebtedness; national bank currency; Federal Reserve notes; United States notes; Treasury notes; gold or silver certificates; certificates of deposit (18 U.S.C. Section 474).
 - G. Official badges, identification cards, and other insignia of the design prescribed by the head of any department or agency of the U.S. Government (18 U.S.C. Section 701).
 - H. Copyrighted material without consent of copyright owners (17 U.S.C.).

2-3 Statutes Relating to Legality of Microfilmed Records. These statutes are cited for general background information on legality of microfilm and reference. In case of doubt, consult legal counsel.

- A. 44 U.S.C. Section 2116, Legal Status of Reproductions.
- B. 44 U.S.C. Section 3312, Admissibility in evidence.
- C. 28 U.S.C. Section 1733, Government records and papers.
- D. 28 U.S.C. Section 1732, Records made in the regular course of business, photographic copies.
- E. Title 28, Federal Rules of Civil Procedures, Rule 44, Proof of Official Record.
- F. Title 18, Federal Rules of Criminal Procedures, Rule 27,

Proof of Official Record.

2-4 Legal Requirements for Archival Microform Records. A large percentage of all microfilming relates to the records retention requirements of the Department. The disposition of the Department's records is governed by policies and procedures contained in 41 CFR 201 Subtitle E, 36 CFR Chapter XII Parts 1228 and 1230, and Departmental Handbooks 2225.6 and 2228.2. The establishment and revision of all retention requirements for all categories of Departmental records must be coordinated with the Departmental Records Management Officer (DRMO), in the Headquarters Office of Administrative and Management Services. The following additional requirements apply to records in microform:

- A. Any microform scheduled for retirement shall be verified for completeness and accuracy. The microforms shall be transferred to the National Archives and Records Administration (NARA), or to an appropriate Federal Records Center (FRC), at the time prescribed in the approved records control schedule for the records that the microforms replace. The retired microforms shall consist of:
 - 1. Silver gelatin original or a silver gelatin duplicate microform record of archival quality, and
 - 2. One working copy (silver, diazo or vesicular).
- B. The microforms shall be accompanied by information identifying the Department; the title of the records; the identifying number on each unit of film; the security classification, if any; the inclusive dates, names or other data identifying the first and last records included on each unit of film; and a certification that the microforms are produced in the normal course of Departmental operations and that care was taken to ensure that the microforms are a complete and accurate copy of the original records. Recommended guidelines for information identification are contained in ANSI/AIIM MS19, Recommended Practice Identification of Microforms.