

## SUBCHAPTER E—PRESIDENTIAL RECORDS

### PART 1270—PRESIDENTIAL RECORDS

#### Subpart A—General Provisions

Sec.

- 1270.10 Scope of part.
- 1270.12 Application.
- 1270.14 Definitions.

#### Subpart B—Actions Taken on Behalf of Former Presidents

- 1270.20 Designation of person or persons to act for former President.
- 1270.22 When Archivist may act for former President.

#### Subpart C—Disposal of Presidential Records

- 1270.30 Disposal of Presidential Records by incumbent President.
- 1270.32 Disposal of Presidential Records in the custody of the Archivist.

#### Subpart D—Access to Presidential Records

- 1270.40 Identification of restricted records.
- 1270.42 Denial of access to public; right to appeal.
- 1270.44 Exceptions to restricted access.
- 1270.46 Notice of intent to disclose Presidential records.

#### Subpart E—Presidential Records Compiled for Law Enforcement Purposes

- 1270.50 Consultation with law enforcement agencies.

AUTHORITY: 44 U.S.C. 2201–2207.

SOURCE: 53 FR 50404, Dec. 15, 1988, unless otherwise noted.

#### Subpart A—General Provisions

##### § 1270.10 Scope of part.

These regulations implement the provisions of the Presidential Records Act of 1978, Pub. L. No. 95-591, 92 Stat. 2523–27, as amended by Pub. L. No. 98-497, sec. 107(b)(7), 98 Stat. 2287 (1984) (codified at 44 U.S.C. 2201-07), by setting forth the policies and procedures governing preservation, protection, and disposal of, and access to Presidential and Vice-Presidential records created during a term of office of the President or Vice President beginning on or after

January 20, 1981. Nothing in these regulations is intended to govern procedures for assertion of, or response to, any constitutionally based privilege which may be available to an incumbent or former President.

##### § 1270.12 Application.

(a) These regulations apply to all Presidential records created during a term of office of the President beginning on or after January 20, 1981.

(b) Vice-Presidential records shall be subject to the provisions of this part in the same manner as Presidential records. The Vice President's duties and responsibilities, with respect to Vice-Presidential records, shall be the same as the President's duties and responsibilities with respect to Presidential records. The Archivist's authority with respect to Vice-Presidential records shall be the same as the Archivist's authority with respect to Presidential records, except that the Archivist may, when he determines it to be in the public interest, enter into an agreement with a non-Federal archival repository for the deposit of Vice-Presidential records.

##### § 1270.14 Definitions.

For the purposes of this part—

(a) The terms *documentary material*, *Presidential records*, *personal records*, *Archivist*, and *former President* have the meanings given them by 44 U.S.C. 2201 (1)–(5), respectively.

(b) The term *agency* has the meaning given it by 5 U.S.C. 551(1) (A)–(D) and 552(f).

(c) The term *Presidential archival depository* has the meaning given it by 44 U.S.C. 2101(1).

(d) The term *Vice-Presidential records* means documentary materials, or any reasonably segregable portion thereof, created or received by the Vice President, his immediate staff, or a unit or individual of the Office of the Vice President whose function is to advise and assist the Vice President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional,

**§ 1270.20**

statutory, or other official or ceremonial duties of the Vice President. The term includes documentary materials of the kind included under the term *Presidential records*.

(e) The term *filed* means the date something is received in the office of the official to whom it is addressed.

**Subpart B—Actions Taken on Behalf of Former Presidents**

**§ 1270.20 Designation of person or persons to act for former President.**

(a) A President or former President may designate some person or persons to exercise, upon death or disability of the President or former President, any or all of the discretion or authority granted to the President or former President by chapter 22 of title 44 U.S.C.

(b) When a President or former President designates a person or persons to act for him pursuant to paragraph (a) of this section, this designation shall be effective only if the Archivist has received notice of the designation before the President or former President dies or is disabled.

(c) The notice required by paragraph (b) of this section shall be in writing, and shall include the following information:

(1) Name(s) of the person or persons designated to act for the President or former President;

(2) The current addresses of the person or persons designated; and

(3) The records, identified with reasonable specificity, over which the designee(s) will exercise discretion or authority.

**§ 1270.22 When Archivist may act for former President.**

In those instances where a President has specified, in accordance with 44 U.S.C. 2204(a), restrictions on access to Presidential records, but has not made a designation under § 1270.20 of this subpart, the Archivist shall, upon the death or disability of a President or former President, exercise the discretion or authority granted to a President or former President by 44 U.S.C. 2204.

**36 CFR Ch. XII (7–1–05 Edition)**

**Subpart C—Disposal of Presidential Records**

**§ 1270.30 Disposal of Presidential records by incumbent President.**

A President may, while in office, dispose of any Presidential records which in his opinion lack administrative, historical, informational, or evidentiary value if one of the following two sets of requirements is satisfied:

(a)(1) The President has obtained the written views of the Archivist concerning the proposed disposal; and

(2) The Archivist states in his written views to the President that he does not intend to request, with respect to the President's proposed disposal of Presidential records, the advice of the Committees on Rules and Administration and Governmental Affairs of the Senate, and the Committees on House Administration and Government Operations of the House of Representatives because he does not consider—

(i) The records proposed for disposal to be of special interest to the Congress; or

(ii) Consultation with the Congress concerning the proposed disposal to be in the public interest; or

(b)(1) The President has obtained the written views of the Archivist concerning the proposed disposal;

(2) The Archivist states in his written views either—

(i) That the records proposed for disposal may be of special interest to the Congress; or

(ii) That consultation with the Congress concerning the proposed disposal is in the public interest; and

(3) The President submits copies of the proposed disposal schedule to the Committees on Rules and Administration and Governmental Affairs of the Senate and the Committees on House Administration and Government Operations of the House of Representatives at least 60 calendar days of continuous session of Congress in advance of the proposed disposal date. For the purpose of this section, continuity of session is broken only by an adjournment of Congress *sine die*, and the days on which either House is not in session because of an adjournment of more than 3 days to