



**BILLING CODE 7515-01U**

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

**36 CFR Part 1258**

**[FDMS No. NARA-18-0001; NARA-2018-019]**

**RIN 3095-AB96**

**Fees**

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Direct final rule.

**SUMMARY:** NARA is amending our Fees regulation to shorten the period in which people who request copies of archival records may request a refund. This shorter period is in line with other similar research and archival institutions and is designed to reduce the administrative costs of processing a large number of refund requests that fall outside the permitted bases.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless we receive adverse written comment that warrants revision by [INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will publish a timely withdrawal of the direct final rule in the *Federal Register*.

**ADDRESSES:** You may submit comments, identified by RIN 3095-AB95, by email at [regulation\\_comments@nara.gov](mailto:regulation_comments@nara.gov), or by mail to the External Policy Program Manager; Strategy Division (MP), Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740-6001.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Keravuori, by email at [regulation\\_comments@nara.gov](mailto:regulation_comments@nara.gov), or by telephone at 301-837-3151.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

NARA is authorized by 44 U.S.C. 2116(c) to charge reproduction fees when it reproduces documents for non-Federal individuals or entities. This includes official reproductions with the Archives' seal, reproductions of archival holdings, and reproductions of operational records. The statute authorizes NARA to recoup its costs, equipment fees, and similar expenses, and to retain the fees as part of the National Archives Trust Fund (NATF). NARA promulgated regulations at 36 CFR part 1258 to notify users of the fee structure and processes. Among these regulations is a section addressing refunds of these fees (36 CFR 1258.16). It is this provision that we are revising with this rulemaking.

Due to various factors, it is occasionally difficult for us to make a legible reproduction, particularly of old documents. We notify customers if we anticipate the reproduction will have questionable legibility and request the customer's approval to proceed with the reproduction—and the fee charges. As a result, we do not provide refunds except in special cases; primarily if we have somehow processed an order incorrectly or it contains errors. However, the regulation's refund request period is of such a length (120 days) that the NATF has been receiving a significant number of refund requests for orders that contain no errors and were processed correctly, which is causing the NATF administrative processing burdens. As a result, we are now reducing the refund request period to 30 days, which we believe will reduce the number of these other types of refund requests. A 30-day refund period is also in line with similar deadlines at other research and archival institutions that allow refund requests, such as the Library of Congress. Many such organizations do not permit refunds at all (e.g., USCIS Genealogy Program). We would like to continue permitting refunds when there has been an error, but we

believe the shorter period will still provide sufficient time in which to request a refund while reducing the inappropriate refund requests and NARA's administrative costs.

### **Regulatory review information**

This rule is not a significant regulatory action for the purposes of E.O. 12866 and a significance determination was requested from the Office of Management and Budget (OMB). It is also not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking. As a result, this rule is also not subject to deregulatory requirements contained in E.O. 13771. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities; it simply shortens the period in which people may request refunds of reproduction fees. This rule also does not have any Federalism implications.

This rule is effective upon publication for good cause as permitted by the Administrative Procedure Act (5 U.S.C. 553(d)(3)). NARA believes that a public comment period is unnecessary as this rule merely shortens the recently added refund request period to bring it in line with similar periods at other research and archival institutions, such as the Library of Congress.

### **List of Subjects in 36 CFR Part 1258**

Archives and records.

For the reasons stated in the preamble, NARA amends 36 CFR part 1258 as follows:

1. The authority citation for part 1258 continues to read as follows:

**Authority:** 44 U.S.C. 2126(c) and 44 U.S.C. 2307.

2. Amend §1258.16 by revising the sixth sentence to read as follows:

**§1258.16 What is NARA's refund policy?**

\* \* \* If you feel we processed your order incorrectly or it contains errors, please contact us within 30 days of your delivery date to have your issue verified. \* \* \*

David S. Ferriero,

Archivist of the United States.

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