

Destruction of Records Containing Social Security Numbers

On December 23, 2008, new regulations became effective regarding the destruction of records containing Social Security numbers (17VAC15-120-10). Recently, questions have arisen regarding some of the provisions of the regulations. This document answers the most commonly asked questions and also clarifies terms used in the regulations.

According to a recently released white paper by a private records storage and destruction vendor, at least 29 states now have regulations that provide guidance for the destruction of records containing private information. State agencies and localities alike have a responsibility to practice due diligence not only in regard to these regulations, but in all provisions of the *Virginia Public Records Act*. Agencies are also reminded to be aware of the Code of Virginia's requirement that records containing "identifying information" "...be destroyed within six months of the expiration of the records retention period." (COV § 42.1 -86.1).

FAQ's

Q: I don't have a shredder that meets the new specifications. What can I do?

A: Although you may not have a cross cut, 3/8 inch shredder, as long as the shredded records are pulped or incinerated, or baled to be pulped or incinerated, it meets the requirements of the regulations that the social security numbers in the records be made, "...unreadable or undecipherable by any means."

Q: Who must witness the destruction of the records?

A A representative of the contracting agency must witness the destruction. Other than the custodian (the owner of the records), any government agency, private vendor, or other entity destroying the records is regarded as the "contracting agency" and also serves as the witness to destruction.

Q: Who needs to be bonded in order to destroy the records?

A: State employees are covered by a commonwealth surety bond. Private or commercial vendors must be bonded. Localities doing their own shredding are responsible for verifying their bonding status.

Q: What about hard drives containing social security numbers? Can I overwrite the hard drive? What about degaussing the hard drive?

A: Hard drives may be either overwritten or degaussed. An overwritten hard drive can be used again to store data but a degaussed hard drive is exposed to a strong magnetic field, leaving the hard drive permanently unusable.