A. RTC Interim Statement of Policy on Resolutions of Minority-Owned Depository Institutions.

B. RTC Interim Minority and Women Outreach Program Asset Management and Disposition Contracting.

The meeting will be held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Resolution Trust Corporation, at (202) 898-3604.

Dated: January 23, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,
Executive Secretary.

[FR Doc. 90-1916 Filed 1-24-90; 1:10 p.m.]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 29, 1990.

A closed meeting will be held on Tuesday, January 30, 1990, at 3:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 30, 1990, at 3:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive actions.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Holly Smith (202) 272-2100.

Dated: January 24, 1990.

Jonathan G. Katz,
Secretary.

[FR Doc. 90-1993 Filed 1-24-90; 4:04 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 55, No. 18
Friday, January 26, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 81015-9240]

RIN 0693-AA78

Approval of Federal Information Processing Standards Publication 21-3, COBOL

Correction

In notice document 90-817 beginning on page 1243 in the issue of Friday, January 12, 1990, make the following corrections:

1. On page 1244, in the table, the first entry, "Required Nucleus" should read "Nucleus" with the subheading *Required* appearing above it; and the ninth entry, "Optional Report Writer" should read "Report Writer" with *Optional* appearing as a subheading above it.

2. On page 1245, in the second column, under entry 12. *Waivers.*, the first sentence should read "Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS)".

BILLING CODE 1505-01-D

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Requirements for Child-Resistant Packaging; Proposed Requirements for Household Glue Removers Containing Acetonitrile and Home Cold Wave Permanent Neutralizers Containing Sodium Bromate or Potassium Bromate

Correction

In proposed rule document 90-409 beginning on page 1456 in the issue of Tuesday, January 16, 1990, make the following correction:

On page 1459, in the third column, in the first complete paragraph, in the fifth line, "18 days" should read "180 days".

BILLING CODE 1505-01-D

federal register

Friday
January 26, 1990

Part II

Supplement to the Guide to Record Retention Requirements in the CFR

Revised as of January 1, 1990

SUPPLEMENT TO THE GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR

This Supplement, published by the Office of the Federal Register, updates as of January 1, 1990, the edition of the Guide published in 1989.

The Guide to Record Retention Requirements in the CFR is a guide in digest form to the provisions of Federal regulations relating to the keeping of records by the public. It tells the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The Guide published in 1989 was revised as of January 1, 1989. This Supplement updates the Guide as of January 1, 1990. The publications should be used together.

The Supplement is derived from the regulations published by the various agencies in the **Federal Register** from January 1 through December 31, 1989. It was prepared under the direction of Richard L. Claypoole. Gladys Queen Ramey was chief editor. INQUIRIES, telephone 202-523-3187. SUGGESTIONS concerning this publication may be sent to Martha L. Girard, Director, Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408.

Coverage

In preparing both the Guide and the Supplement it was necessary to establish boundaries in order to keep them within their intended purpose.

The records covered are those that address categories of activities conducted by individuals, businesses, and organizations for which retention requirements are expressly stated in the Code of Federal Regulations .

In many regulations there is an implied responsibility to keep copies of reports and other papers furnished to Federal agencies. Such implied requirements have not been included in the Guide and the Supplement.

The following types of requirements also have been excluded:

(1) Requirements involving the furnishing of reports to Government agencies, the filing of tax returns, or the submission of supporting evidence with applications or claims.

(2) Requirements involving the display of posters, notices, or other signs in places of business.

(3) Requirements contained in individual Government contracts, unless the contract provisions are incorporated in the Code of Federal Regulations.

Arrangement

The arrangement and numbering system in the Supplement follows the numbering system established for the Guide. The numbering in the Guide corresponds to the numbering in the CFR.

For example, a record retention requirement relating to agriculture will be found in the Guide under Title 7, Agriculture, and, further, under the agency which administers and enforces the regulation in which the record retention requirement appears. The number to the left of the item is the part and section number in Title 7 of the CFR in which the text of the regulation is printed. Because not all sections of the CFR contain record retention requirements, the numbering in the Guide has gaps in the numerical sequence.

Citation: Citations to the Guide and to the CFR are the same. An example is 7 CFR 17.17. The record retention requirement involved can be checked in digest form in the Guide and in full text in the CFR.

Notice: The Guide to Record Retention Requirements and this Supplement do not have the effect of law, regulation, or ruling. They comprise a guide to legal requirements that appear to be in effect as of January 1, 1990.

LIST OF AGENCIES AND CFR TITLES APPEARING IN THIS SUPPLEMENT

Title 7—Agriculture

Agriculture Department
- Agricultural Marketing Service
- Agricultural Stabilization and Conservation Service
- Animal and Plant Health Inspection Service
- Commodity Credit Corporation
- Farmers Home Administration
- Federal Crop Insurance Corporation
- Food and Nutrition Service
- Rural Electrification Administration

Title 9—Animals and Animal Products

Agriculture Department
- Animal and Plant Health Inspection Service
- Packers and Stockyards Administration

Title 10—Energy

Energy Department

Nuclear Regulatory Commission

Title 12—Banks and Banking

Federal Housing Finance Board

Federal Reserve System

Treasury Department
- Thrift Supervision Office

Title 13—Business Credit and Assistance

Small Business Administration

Title 14—Aeronautics and Space

Transportation Department
- Office of the Secretary
- Federal Aviation Administration

Title 15—Commerce and Foreign Trade

Commerce Department
- Export Administration Bureau
- International Trade Administration
- National Oceanic and Atmospheric Administration

Title 17—Commodity and Securities Exchanges

Commodity Futures Trading Commission

Securities and Exchange Commission

Title 18—Conservation of Power and Water Resources

Energy Department
- Federal Energy Regulatory Commission

Title 20—Employees' Benefits

Labor Department
- Employment and Training Administration

Title 21—Food and Drugs

Health and Human Services Department
- Food and Drug Administration

Justice Department
- Drug Enforcement Administration

Title 22—Foreign Relations

State Department

Title 24—Housing and Urban Development

Housing and Urban Development Department

Title 26—Internal Revenue

Treasury Department
- Internal Revenue Service

Title 27—Alcohol, Tobacco Products and Firearms

Treasury Department
- Alcohol, Tobacco and Firearms Bureau

Title 29—Labor

Labor Department
- Occupational Safety and Health Administration
- Pension Benefit Guaranty Corporation
- Wage and Hour Division

Title 30—Mineral Resources

Interior Department
- Minerals Management Service

Labor Department
- Mine Safety and Health Administration

Title 31—Money and Finance: Treasury

Treasury Department
- Monetary Offices

Title 34—Education

Education Department

Title 38—Pensions, Bonuses, and Veterans' Relief

Veterans Affairs Department

Title 40—Protection of Environment

Environmental Protection Agency

Title 42—Public Health

Health and Human Services Department
Health Care Financing Administration
Public Health Service

Title 43—Public Lands: Interior

Interior Department
Office of the Secretary

Title 44—Emergency Management and Assistance

Federal Emergency Management Agency

Title 45—Public Welfare

Health and Human Services Department
Child Support Enforcement Office
Family Assistance Office

Title 46—Shipping

Transportation Department
Coast Guard

Title 47—Telecommunication

Federal Communications Commission

Title 48—Federal Acquisition Regulations System

Defense Department
General Services Administration
National Aeronautics and Space Administration

Title 49—Transportation

Interstate Commerce Commission
Transportation Department
Office of the Secretary
Federal Railroad Administration
National Highway Traffic Safety Administration
Research and Special Programs Administration

Title 50—Wildlife and Fisheries

Commerce Department
National Oceanic and Atmospheric Administration
Interior Department
Fish and Wildlife Service

AGRICULTURE DEPARTMENT

Food and Nutrition Service

7 CFR

225.6 State agencies participating in the summer food service program. [Added]

(a) To maintain the written records on each hearing for families wishing to appeal a denial of an application for free meals. Such records shall include the action being appealed, any documentary evidence and a summary of oral testimony presented at the hearing, the decision and the reasons for the decision, and a copy of the notice sent to the family.

Retention period: 3 years following the conclusion of the hearing during which it shall be available for examination by the family or its representatives at any reasonable time and place.

(b) To maintain on file documentation of site visits and reviews in accordance with 7 CFR 225.15(d)(2) and (3).

(c) To maintain all accounts and records pertaining to the Program. Such records and accounts shall be made available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place.

Retention period: 3 years after the end of the fiscal year to which records pertain, unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved.

225.6 Food service management companies participating in the summer food service program. [Added]

To maintain such records (supported by invoices, receipts, or other evidence) as the sponsor will need to meet its responsibilities under this Part 225.

Retention period: 3 years from date of receipt of final payment under the contract, except that if audit or investigation findings have not been resolved, such records shall be retained until all issues raised by the audit or investigation have been resolved.

225.8 State agencies participating in the summer food service program for children. [Added]

(a) To maintain complete and accurate current accounting records of Program operations which will adequately identify fund authorizations, obligations, unobligated balances, assets, liabilities, income, claims against sponsors and efforts to recover overpayments, and expenditures for administrative and operating costs.

Retention period: 3 years after the date of submission of the final Program Operations and Financial Status Report (SF-269), or beyond 3 years until resolution of any audit questions.

(b) To also retain a complete record of each review or appeal conducted as required under 7 CFR 225.13.

Retention period: 3 years following the date of the final determination on the review or appeal.

225.9 Service institutions participating in the summer food service program for children. [Revised]

To maintain records to support claims for reimbursement. See also 7 CFR 225.8.

225.10 State agencies participating in the summer food service program. [Revised]

To maintain records, including records of the receipt and expenditures of funds for audit and management evaluations.

Retention period: Until all issues raised by the audit and investigation have been resolved.

225.11 State agencies participating in the summer food service program. [Added]

To maintain in file all evidence relating to investigations of and actions on complaints received or irregularities noted in connection with the operation of the Program.

225.13 State agencies participating in the summer food service program for children. [Added]

To maintain records regarding each appeal review. Such records shall document compliance with applicable regulations and shall include the basis for decision.

225.15 Service institutions participating in the summer food service program. [Revised]

(a) To maintain records of participation and of preparation of ordering of meals to demonstrate positive action toward meeting objective of providing only one meal per child at each meal service.

(b) To maintain accurate records which justify all costs and meals claimed.

Retention period: Records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and state agencies for a period of three years following the date of submission of the final claim for reimbursement for the fiscal year.

225.16 Service institutions participating in the summer food service program for children. [Revised]

(a) To maintain a copy of the documentation establishing the eligibility of each child receiving meals under the Program at camps.

(b) To maintain on file statements from a recognized medical authority recommending alternative foods for participating children who are unable, because of medical or other special dietary needs, to consumed approved meals.

225.19 Participants in the summer food service program for children. [Revised; new amendment contained no record retention requirements]

250.30 Distributing agencies, subdistributing agencies, or recipient agencies entering into contracts for the processing and labeling of donated foods. [Amended]

(a) To maintain documentation in accordance with 7 CFR 250.16 when substituting donated foods with commercial foods.

(b) To retain invoices from recipient agencies when end products are sold through a discount system.

274.3 State agencies participating in the food stamp program. [Added]

To maintain and keep current a master issuance file which is a composite of issuance records of all certified food stamp households.

Retention period: 3 years from the month of origination. The period may be extended at the written request of the Food and Nutrition Service.

274.6 State agencies participating in the food stamp program. [Added]

(a) To maintain the signed household statement of nonreceipt of authorization document or coupons in the case records.

(b) To maintain, in readily identifiable form, a record of the replacements granted to the household, the reason, the month, countable as defined in 7 CFR 274.6(b)(2)(iv). The record may be a case action sheet maintained in the case file, notations on master issuance file , if readily accessible, or a document maintained solely for this purpose.

Retention period: 3 years from the month of origination. This period may be extended at the written request of the Food and Nutrition Service.

274.7 State agencies participating in the food stamp program. [Revised]

To maintain records of (a) authorization document and coupons that are undeliverable or returned; (b) specimen coupon received; and (c) to retain a copy of the request to Food and Nutrition Service for permission to destroy unusable coupons.

274.7 States participating in temporary emergency food assistance for victims of major disasters. [Removed]

274.7 States participating in temporary emergency food assistance for victims of other than major disasters. [Removed]

274.11 State agencies participating in the food stamp program. [Added]

To maintain issuance and reconciliation records which include, at a minimum, notices of change, HIR cards, inventory documents, Forms FNS-250 and substantiating documents, cashiers daily reports, receptionist daily tally sheets, master issuance files, the records for-issuance for each month, and issuance systems.

Retention period: 3 years from the month of origination. The period may be extended at the written request of the Food and Nutrition Service.

276.2 State agencies participating in the food stamp program. [Added]

To maintain monthly records which detail the computation of reimbursement amounts reported on the Form FNS-209 for audit purposes.

Animal and Plant Health Inspection Service

7 CFR

318.13-4g Papaya irradiation processors. [Added]

To maintain records that include the lot identification, scheduled process, evidence of compliance with the scheduled process, ionizing energy source, source calibration, dosimetry, dose distribution in the product, and the date of irradiation.

Retention period: For a period of time that exceeds the shelf life of the irradiated food product by 1 year.

Federal Crop Insurance Corporation

7 CFR

401.117 Insured under FCIC (Soybean). [Amended]

For each proposed unit, to maintain written, verifiable records of planted acreage and harvested production.

Retention period: At least the previous crop year.

401.119 Insured under FCIC (Cotton). [Added]

To maintain written, verifiable records of planted acreage and harvested production.

Retention period: For at least the previous crop year.

401.120 Insured under FCIC (Rice). [Added]

To maintain written verifiable, records of planted acreage and harvested production.

Retention period: At least the previous crop year.

401.121 Insured under FCIC (Extra long staple cotton). [Added]

To maintain written, verifiable records of planted acreage and harvested production.

Retention period: For at least the previous crop year.

401.129 Insured under FCIC (Tobacco). [Added]

To maintain written verifiable, records of planted acreage and harvested production.

Retention period: For at least the previous crop year.

401.140 Insured under FCIC (Pear). [Added]

To maintain written verifiable, records of acreage and harvested production.

Retention period: For at least the previous crop year.

Agricultural Stabilization and Conservation Service

7 CFR

725.99 Warehousemen handling burley, fire-cured, dark air-cured, Virginia sun-cured cigar-binder, cigar-filler and binder; and flue-cured tobacco. [Amended]

(a)See 724.96.

(b) To record or have the dealer record on a Form MQ-79 the total purchases and resales made during each day at the warehouse.

725.100 Dealers handling burley, fire-cured, dark air-cured, Virginia air-cured, cigar-binder, cigar-filler and binder, and flue-cured tobacco. [Amended]

(a)See 724.97.

(b) To maintain records on a Form MQ-79 showing all purchases and resales excluding tobacco not in from normally marketed by producers as defined in 7 CFR 751.51(oo) and (oo-1).

726.93 Warehousemen handling burley, fire-cured, dark air-cured, Virginia sun-cured, cigar-binder, cigar-filler and binder; and fire-cured tobacco. [Amended]

See 725.99.

726.94 Dealers handling burley, fire-cured, dark air-cured, Virginia air-cured, cigar-binder, cigar-filler and binder, and flue-cured tobacco. [Amended]

See 725.100.

Agricultural Marketing Service

7 CFR

955.60 Vidalia onion handlers. [Added]

To maintain records of the Vidalia onions received and disposed of as may be necessary to verify reports submitted to the committee.

Retention period: At least 2 succeeding years.

982.453 Applicants (crushers, livestock feed manufacturers, and livestock feeders) purchasing substandard filberts/hazelnuts or filbert/hazelnut waste. [Added]

To maintain a record of receipts, holdings, and use of substandard filberts/hazelnuts available for examination by authorized representatives of the Board and the Department of Agriculture.

Retention period: 3 years after the end of the marketing year in which the recorded transactions are completed.

982.471 Filbert/hazelnut handlers. [Revised]

(a)To maintain complete and accurate records showing the receipt, shipment, and sale of all filberts/hazelnuts handled, used or otherwise disposed of.

(b) To also maintain a current record of all filberts/hazelnuts held in inventory.

Retention period: 2 years–period as prescribed in 7 CFR 982.71

998.43 Peanut handlers. [Added]

To maintain records of peanuts received, held and disposed of, as will substantiate any required reports and will show performance under marketing agreement.

Retention period: At least 2 years beyond the crop year of their applicability.

1210.350 Watermelon handlers. [Added]

To maintain a record with respect to each producer for whom watermelon were handled and produced.

Retention period: 2 years beyond the fiscal period of their applicability.

1210.351 Watermelon handlers. [Added]

To maintain such books and records as are necessary to carry out the provisions of the Research and Promotion Plan and applicable regulations, including such records as are necessary to verify any required reports.

Retention period: 2 years beyond the fiscal period of their applicability.

Commodity Credit Corporation

7 CFR

1475.13 Handlers, dealers, and warehousemen performing transactions with regard to delivery orders under the livestock feed program. [Redesignated as 1475.14]

1457.14 Handlers, dealers, and warehousemen performing transactions with regard to delivery orders under the livestock feed program. [Redesignated from 1475.13]

To maintain books and records which will permit verification of all transactions with regard to delivery orders.

Retention period: At least 3 full years following deliveries against delivery orders (or to be kept longer if requested by the Commodity Credit Corporation).

Rural Electrification Administration

7 CFR

1715.25 Borrowers of insured or guaranteed electric loans under the RE Act. [Added]

To maintain accurate records containing all investments, loans, and guarantees.

Retention period: Not specified.

Farmers Home Administration

7 CFR

Part 1944, Exhibit A Grantees conducting housing preservation programs benefiting very low-and low-income rural residents. [Removed]

1948.47 Rural development grantees. [Removed]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

9 CFR

2.35 Research facilities engaged in transportation, sale, and handling of certain warm blooded animals used for research, exhibition, or pet purposes. [Added]

To maintain Institutional Animal Care and Use Committee (IACUC) records, including minutes of the Committee meetings, records of any Committee activities and deliberations, records of proposed activities involving animals and proposed significant changes in those activities, the Committee's disposition of the proposed activity, and the Committee's reports of reviews and evaluation and any other records as specified in cited section.

Retention period: 3 years. Approved activity records–duration of the activity plus an additional 3 years after completion of the activity. All records must be available for inspection and copying by authorized APHIS or funding Federal agency representatives and must be retained pending completion of an investigation or proceeding under the Act.

2.75 Research facilities, exhibitors, operators of auction sales, carriers, intermediate handlers, and dealers engaged in transportation, sale, and handling of certain warm blooded animals used for research, exhibition, or pet purposes. [Revised]

To keep (a) records with respect to the purchase, sale, transportation, identification, and previous ownership; (b) records with respect to water quality tests for marine mammal facilities; and (c) necropsy reports and records for marine mammals that die in captivity.

Retention period: (a) 1 year or longer as may be required by any Federal, State, or local law; (b) 1 year; (c) 3 years.

2.76 Research facilities, exhibitors, operators of auction sales, carriers, intermediate handlers, and dealers engaged in transportation, sale, and handling of certain warm blooded animals used for research, exhibition, or pet purposes. [Revised]

See 2.75.

2.77 Research facilities, exhibitors, operators of auction sales, carriers, intermediate handlers, and dealers engaged in transportation, sale, and handling of certain warm blooded animals used for research, exhibition, or pet purposes. [Revised]

See 2.75.

2.78 Research facilities, exhibitors, operators of auction sales, carriers, intermediate handlers, and dealers engaged in transportation, sale, and handling of certain warm blooded animals used for research, exhibition, or pet purposes. [Revised; new amendment contained no record retention requirements]

2.81 Research facilities, exhibitors, operators of auction sales, carriers, intermediate handlers, and dealers engaged in transportation, sale, and handling of certain warm blooded animals used for research, exhibition, or pet purposes. [Removed]

2.132 Dealers, exhibitors, research facilities, carriers, or intermediate handlers operating private or contract animal pounds or shelters. [Added]

To maintain accurate and complete records in accordance with 9 CFR 2.75 and 2.76, unless the animals are lost or stray. If animals are lost or stray, the pound or shelter records shall provide: (a) An accurate description of the animal; (b) how, where, from whom, and when the dog or cat was obtained; (c) how long the dog or cat was held by the pound or shelter before being transferred to the dealer; and (d) the date the dog or cat was transferred to the dealer.

Retention period: Not specified.

92.11 Operators of quarantine facilities for imported birds. [Amended]

To maintain daily log for each lot of birds, recording such information as general condition of birds each day, source of origin of each lot, total number in each lot when imported, date placed in quarantine, tests, laboratory findings, and such other information as specified in section cited.

Retention period: 1 calendar year following release of birds from quarantine.

Packers and Stockyards Administration

9 CFR

203.4 Packers, live poultry dealers or handlers, stockyard owners and market agencies, and dealers subject to the provisions of the Packers and Stockyards Act. [Amended]

To retain for the specified period of time the following records:

(a) Accounts, records and memoranda to fully and correctly disclose all transactions involved in business, including the true ownership of such business by stockholding or otherwise.

(b) Cutting tests; departmental transfers; buyers' estimates; drive sheets; scale tickets received from others; inventory and products in storage; receiving records; trial balances; departmental overhead or expense recapitulations; bank statements, reconciliations and deposit slips; production or sale tonnage report (including recapitulations and summaries of routes, branches, plants, etc.); buying or selling pricing instructions and price lists; correspondence, telegrams, teletype communications and memoranda relating to matters other than contracts, agreements, purchase or sales invoices, or claims or credit memoranda.

Retention period: (a) 2 years or longer if directed by the Administrator in writing, pending completion of any investigation or proceeding under the Act; (b) 1 year.

NUCLEAR REGULATORY COMMISSION

10 CFR

26.20 Licensees authorized to operate nuclear power industries; fitness-for-duty program. [Added]

To retain a copy of current written policy and procedures as a record.

Retention period: Until the Commission terminates each license for which the policy and procedures are superseded; superseded material must be retained for 3 years after each change.

26.29 Licensees authorized to operate nuclear power industries; fitness-for-duty program. [Added]

To maintain records (a system of files and procedures) on the protection of personal information.

Retention period: Until the Commission terminates each license for which the system was developed.

26.71 Licensees authorized to operate nuclear power industries (also each contractor and vendor implementing licensee approved program under the provision of 10 CFR 26.23); fitness-for-duty program. [Added]

(a) To retain records of inquiries conducted in accordance with 10 CFR 26.27(a) that result in the granting of unescorted access to protected areas.

Retention period: Until 5 years following examination of such access authorizations.

(b) To retain records of persons made ineligible for assignment to activities within the scope of Part 10 under the provisions of 10 CFR 26.27(b)(2), (3), (4) or (c).

Retention period: 3 years or longer or until the Commission terminates each license under which the records were created.

(c) To retain records of confirmed positive test results which are concurred in by the Medical Review Officer, and the related personnel actions.

Retention period: At least 5 years.

(d) To retain fitness–for–duty program performance data and analysis. Such data shall include random testing rate; drugs tested for and cut–off levels, including results of tests using lower cut–off levels and tests for other drugs; workforce populations tested; numbers of tests and results by populations; and such other information as specified in cited section.

Retention period: 3 years.

26.80 Licensees authorized to operate nuclear power industries; fitness-for-duty program. [Added]

To maintain documentation of the resolution findings and corrective actions on audit of the effectiveness of the program.

Retention period: 3 years.

70.32 Licensees acquiring, delivering, receiving, possessing, using, transferring or receiving title to own special nuclear material. [Amended]

To keep (a) such records of ownership, receipt, possession, use, and transfer of special nuclear material as may be incorporated as a condition or requirement in any license; (b) records of changes to the material control and accounting program made without prior Commission approval; (c) records of changes to the physical security plan made without prior Commission approval; (d) records of changes to licensee safeguards contingency plan made without prior Commission approval; (e) records of receipt, acquisition, or physical inventory of special nuclear material; (f) records of transfer of special nuclear material to other persons; (g) records of disposal of special nuclear material; (h) records of date and time of application of tamper-safing devices to containers or vaults; (i) material balance records for each material balance showing the quantity of element and fissile isotope in each component of the material balance; (j) a record summarizing the quantities of element and fissile isotope for ending inventory of material in process and additions and removals of material in process during material balance interval; (k) a record summarizing the quantities of element and fissile isotope in unopened receipts and ultimate products maintained under tamper-safing or in the form of sealed sources; (l) records needed to meet fundamental nuclear material controls requirements contained in 10 CFR 70.58, including (i) records which will provide information sufficient to locate special nuclear material and to close a measured material area and the total plant as specified in 10 CFR 70.51, (ii) records of results of review and audit of the nuclear material control system, and (iii) records of shipper-receiver difference evaluations, investigations, and corrective actions concerning special nuclear material received and shipped; (m) all data, information, reports, and documents generated by the measurement control program, including summary of error data utilized in limit of error calculations performed for each material balance period; and (n) records pertaining to training and qualification of personnel who perform measurement activities pursuant to 10 CFR 70.57(b)(7).

Retention period: (a) If not otherwise specified by regulation or license condition, until disposal is authorized by the Commission; (b) 3 years after they are superseded; (c) 3 years from date of change; (d) 3 years from date of change; (e) as long as licensee retains possession of special nuclear material and for 3 years following transfer of special nuclear material; (f) until disposal is authorized by the Commission, or for 3 years for records required by 10 CFR 70.51(e)(1)(v) to document transfers of special nuclear material between material balance areas; (g) until disposal is authorized by the Commission; (h) if not otherwise specified by regulation or license condition, until disposal is authorized by the Commission; (i) 3 years; (j) 3 years; (k) 3 years; (l) and (l)(i) if not otherwise specified by regulation or license condition, until disposal is authorized by the Commission; (l)(ii) 3 years; (l)(iii) 3 years; (m) 3 years; (n) 3 years.

ENERGY DEPARTMENT

10 CFR

430.62 Manufacturers of covered products subject to energy conversation standards. [Added]

To maintain records of the underlying test data for all certification testing. Such records should include the supporting test data associated with tests performed on and any test units to satisfy applicable requirements.

Retention period: 2 years from the date that production of the applicable model has ceased.

430.71 Manufacturers of covered products subject to energy conservation standards. [Added]

To maintain records that demonstrate that modifications have been made to all units of the new basic model prior to distribution in commerce to make noncompliance basic model comply with applicable performance standards.

Retention period: Not specified.

FEDERAL RESERVE SYSTEM

12 CFR

202.12 Federal Home Loan Bank members. [Amended]

In regards to business credit applications:

(a) To maintain in original form or a copy thereof: (1) Any written or recorded information concerning the adverse action and (2) any written statement submitted by the applicant alleging a violation of the Equal Opportunity Act.

(b) To retain records in accordance with the new law on credit applications involving businesses with gross revenue of $1 million or less.

Retention period: For 25 months (12 months for business credit) after the date that a creditor notifies an applicant of action taken on an application.

(c) To maintain at each association "decision center" loan application registers containing at a minimum certain data specified in the regulation.

Retention period: 25 months after date that a creditor notifies an applicant of action taken on the application.

TREASURY DEPARTMENT

Thrift Supervision Office

12 CFR

Note: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, abolished the Federal Home Loan Bank Board. At 54 FR 35453, August 28, 1989, the heading for 12 CFR Ch. V was revised.

571.19 Insured institutions. [Added]

To maintain records of securities in accordance with generally accepted accounting practices and to support via documentation the appropriate classification of and accounting for securities in accordance with generally accepted accounting principles. To also document investment policy and strategies.

FEDERAL HOUSING FINANCE BOARD

12 CFR

Note: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, abolished the Federal Home Loan Bank Board. At 54 FR 36758, Sept. 5, 1989, 12 CFR Ch. IX was established and certain regulations from 12 CFR Ch. V was redesignated to 12 CFR Ch. IX.

933.16 Federal Home Loan Bank members. [Redesignated from 523.13]

To maintain such records as may be required to verify compliance with liquidity requirements.

Retention period: Not specified.

933.31 Federal Home Loan Bank members other than FDIC savings banks. [Redesignated from 523.29]

To maintain, in connection with all loans secured by improved real estate or a mobile home, sufficient records to indicate the method used to determine whether such loans require flood insurance.

Retention period: Not specified.

937.7 Federal Home Loan Bank members participating in the housing opportunity allowance program. [Redesignated from 527.7]

To retain a copy of each allowance application and the originals of all other closing documents.

Retention period: Not specified.

938.8 Federal Home Loan Bank members. [Redesignated from 528.6]

See 202.12.

939.6 Federal Home Loan Bank members receiving Federal financial assistance from the Federal Home Loan Bank Board. [Redesignated from 529.6]

To keep such records as the Bank Board may determine to be necessary to enable it to ascertain whether the recipient is complying with the regulation.

Retention period: Not specified.

SMALL BUSINESS ADMINISTRATION

13 CFR

115.7 Preferred Surety Bond Program (PSB) sureties. [Added]

To maintain all information and certifications required by SBA including a contemporaneous record of the date of issuance of each bond, in its file, for inspection by SBA or its agents and for submission to SBA in connection with claims made under SBA's guarantee.

Retention period: For the term of each bond, plus such additional time as may be required to settle claims for which the surety may seek recovery from SBA or attempt salvage or other recovery and for an additional 3 years thereafter.

115.17 Surety attorneys, contractors and subcontractors participating in the Surety Bond Guarantee (SBG) program. [Removed; record retention requirements now in 115.40]

115.18 Preferred Surety Bond Program (PSB) sureties. [Added]

To maintain all documents, files, books, records, tapes, disks, and other material relevant to the surety bond guarantee, commitments to guarantee a surety bond, or agreements to indemnify the surety and other information as specified in cited section.

Retention period: For the term of each bond, plus such additional time as may be required to settle claims for which the surety may seek recovery from SBA or attempt salvage or other recovery and for an additional three years thereafter.

115.40 Surety attorneys, contractors and subcontractors participating in the Surety Bond Guarantee (SBC) program. [Added]

To maintain (a) the bond agreements; (b) all documentation submitted by the principal in applying for the bond; (c) all information gathered by the surety in reviewing the principal's application; (d) all documentation of any breach by the principal; (e) all records of any transactions for which surety makes payment pursuant to the bond, including but not limited to, copies of all claims, bills, judgments, settlement agreements, and courts or arbitration decisions, contracts and receipts; (f) all documentation relating to efforts to mitigate losses; and (g) records of any accounts to which fees and funds obtained in mitigation of losses have been paid, and from which payments have been made pursuant to the bond.

Retention period: 3 years beyond the term of each bond, plus such additional time as may be required to settle claims for which the surety may seek recovery from SBA or attempt salvage or other recovery.

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

14 CFR

91.54 Lessees and conditional buyers of U.S. registered large civil aircraft other than a foreign air carrier or certificate holder under 14 CFR Parts 121, 123, 127, 135, or 141. [Removed]

91.173 Registered owners or operators of civil aircraft. [Revised; new amendment contained no record retention requirements; record retention requirements now in 91.417]

91.191 Operators of civil aircrafts of United States registry in Category II operation. [Added]

To keep a current copy of the approved manual at principal base of operations.

Retention period: See 14 CFR 91.417.

91.417 Registered owners or operators of civil aircraft. [Added]

To keep (a) records of maintenance, preventive and alterations, 100–hour, annual, and progressive inspections, and other required or approved inspections for each aircraft, and for each airframe, engine, propeller, rotor, and appliance of an aircraft including a description of the work performed, the date the work was completed, and signature and certificate number of the persons approving the aircraft for return to service and (b) records of total time in service of airframe; current status of life limited parts of each airframe, engine, propeller, rotor, and appliance; time since last overhaul of all items required to be overhauled on a specified time basis; identification of current inspection status of aircraft, including time since last inspection required by inspection program under which aircraft and its appliances are maintained, current status of applicable airworthiness directives, including method of compliance; and a list of current major alterations to each air frame, engine, propeller, rotor, and appliance.

Retention period: (a) Until the work is repeated or superseded by other work or for 1 year after the work is performed; (b) transferred with the aircraft at the time the aircraft is sold.

91.419 Owners or operators who sell U.S. registered aircrafts. [Added]

To maintain records specified in 14 CFR 91.417(a)(1) and (a)(2).

Office of the Secretary

14 CFR

221.260 Air carriers, foreign air carriers or tariff publishing agents. [Added]

To maintain all fares filed with the Department and all Departmental approvals, disapprovals, and other actions, as well as all Departmental notations concerning such approvals, disapprovals, or other actions, in the on–line–tariff database.

Retention period: For a period of 2 years after the fare becomes inactive.

COMMERCE DEPARTMENT

International Trade Administration

15 CFR

350.91 Individuals, corporations, partnerships, associations, or any other organized groups of persons participating in any transactions covered by the Defense Priorities and Allocation System. [Redesignated as 700.91]

Export Administration Bureau

15 CFR

700.91 Individuals, corporations, partnerships, associations, or any other organized groups of persons participating in any transactions covered by the Defense Priorities and Allocation System. [Redesignated from 350.91]

To maintain accurate and complete records of any transactions covered by this regulation (OMB No. 0625–0107) or an official action in sufficient detail to permit the determination, upon examination, or whether each transaction complies with the provisions of this regulation or any official action.

Retention period: At least three years.

National Oceanic and Atmospheric Administration

15 CFR

971.801 Licensees and permittees engaged in commercial recovery of deep seabed hard minerals. [Added]

To maintain records consistent with standard accounting principles as specified by the Administrator in the license or permit. Such records shall include information which will fully disclose expenditures for exploration for, or commercial recovery of hard mineral resources in the area under license or permit, and any other information which will facilitate an effective audit of these expenditures.

COMMODITY FUTURES TRADING COMMISSION

17 CFR

31.7 Leverage transaction merchants. [Added]

See 17 CFR 31.14.

SECURITIES AND EXCHANGE COMMISSION

17 CFR

240.15a–6 Registered brokers or dealers through which transactions with the U.S. institutional investors or major U.S. institutional investors are effected. [Added]

(a) To maintain required books and records relating to the transactions, including those required by Rules 17a–3 and 17a–4 under the Act (17 CFR 240.17a–3 and 240.17a–4).

(b) To maintain written records of the information and consents required and all records in connection with trading activities of the U.S. institutional investor or the major U.S. institutional investor involving the foreign broker or dealer.

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

18 CFR

161.3 Interstate pipelines. [Added]

To maintain and make available for copying on a daily basis a written log of waivers that the pipeline grants with respect to tariff provisions that provide for such discretionary waivers.

Retention period: From Sept. 12, 1989 until Dec. 31, 1991.

250.16 Interstate pipelines with marketing affiliates. [Amended]

To maintain a log on all requests for transportation service made by affiliated marketers or in which an affiliated marketer is involved.

Retention period: From the time the information required in cited section is received until Dec. 31, 1990.

LABOR DEPARTMENT

Employment and Training Administration

20 CFR

629.21 Recipients, SDA grant recipients, and other subrecipients under Titles I, II, and III of the Job Training Partnership Act. [Revised]

To maintain, in accordance with instructions from the Governor, documentation supporting the locally developed formula or procedure for needs-based payments, including maintenance of an individual record of the determination of the need for, and the amount of, any participant's needs-based payment.

Retention period: Not specified.

629.35 Recipients, SDA grant recipients, and other subrecipients under Titles I, II, and III of the Job Training Partnership Act. [Revised]

(a) To maintain records of each participant's enrollment in a JTPA program in sufficient detail to demonstrate compliance with the relevant eligibility criteria attending a particular activity and with the provision and duration of services and specific activities authorized by the Act.

(b) To also maintain records of such participant's information as may be necessary to develop and measure the achievement of performance standards established by the Secretary.

Retention period: 2 years from date of obligations of funds. Nonexpendable property–3 years after final disposition of the property. Records must be retained until litigation, audit, or claim has been resolved.

629.41 Recipients, SDA grant recipients and other subrecipients under Titles I, II, and III of the Job Training Partnership Act. [Revised]

To maintain, subject to the Secretary of Labor's rights to such property, accountability for personal and real property procured with JTPA funds or transferred from programs under the Comprehensive Employment and Training Act in accordance with State procedures and the records retention requirements of §629.35.

Retention period: 3 years from date of obligation of funds. Nonexpendable property—3 years after final disposition of the property. If litigation or audit is begun, records will be retained until litigation, audit or claim has been finally resolved.

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

21 CFR

107.280 Manufacturers of infant formula. [Added]

To establish and maintain records on distribution of the infant formula through any establishment owned or operated by the manufacturer as may be necessary to effect and monitor recalls of the formula.

Retention period: 1 year after the expiration of the shelf life of the infant formula.

291.505 Hospitals and other authorized dispensers of methadone. [Revised]

To maintain clinical record for each patient showing dates, quantity, and batch or code mark of drug dispensed.

Retention period: 3 years.

291.505 Manufacturers of methadone. [Revised]

To maintain signed invoices of methadone delivered to licensed practitioner.

Retention period: Not specified.

291.505 Sponsors of methadone maintenance programs. [Revised]

To maintain for each patient an admission evaluation and records consisting of personal and medical history, physical examination, and such other information as necessary.

Retention period: Not specified.

JUSTICE DEPARTMENT

Drug Enforcement Administration

21 CFR

1310.03 Regulated persons engaging in regulated transactions involving listed chemicals, tableting machines and encapsulating machines. [Added]

To maintain records and file reports of the transactions as specified in 21 CFR 1310.04 and 1310.06.

Retention period: (a) Records on listed precursor chemical, tableting machine, and encapsulating machine–4 years after the date of transaction.

(b) Records on listed essential chemicals–2 years after transaction.

1310.04 Regulated persons engaging in regulated transactions involving listed chemical, tableting machines, and encapsulating machines. [Added]

(a) Records required to be kept for a listed precursor chemical, a tableting machine, or an encapsulating machine–4 years after the date of the transaction.

(b) Records required to be kept for a listed essential chemical– 2 years after the date of the transaction.

1310.06 Regulated persons engaging in regulated transactions involving listed chemicals, tableting machines, and encapsulating machines. [Added]

To keep records containing the following information: (a) The name and address of each party to the regulated transaction; (b) the date of the regulated transaction; (c) the name, quantity and form of packaging of the listed chemical or a description of the tableting machine or encapsulating machine (including make, model and serial number); (d) the method of transfer (company truck, picked up by customer, etc.); and (e) the type of identification used by the purchaser and any unique number on that identification.

Retention period: See 21 CFR 1310.03.

STATE DEPARTMENT

22 CFR

122.5 Persons required to register as manufacturers or exporters of United States Munitions List articles. [Amended]

To maintain, subject to the inspection of the Secretary of State, or any persons designated by him, records on the exportation of articles enumerated in the United States Munitions List. Records shall contain all information pertinent to the transaction.

Retention period: 6 years, except that the Secretary may prescribe a longer or shorter period in individual cases as he deems necessary.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary

24 CFR

111.109 Agencies receiving support under the Fair Housing Assistance Program. [Added]

To maintain records determined appropriate by the Assistance Secretary.

111.121 Recipients under the Fair Housing Assistance Program. [Added]

To maintain records specified by the Assistant Secretary that clearly document performance under the award. Documents relevant to a recipient's program must be made available at the recipient's office during normal working hours for public review upon request, except that documents with respect to on-going fair housing complaint investigations will be exempt from public review. The Secretary, the Inspector General of HUD, and the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, reports, files, and opther papers of the recipients with respect to FHAP payments for surveys, audits, examinations, excerpts, and transcripts.

125.104 Recipients of funds under the Fair Housing Initiatives Program. [Added]

To maintain records determined appropriate by the Assistant Secretary.

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR

200.182 Assisted housing owners or mortgagees under the National Housing Act. [Removed]

201.2 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.4 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.6 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.8 Lending agencies—title 1. [Removed]

201.8 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.10 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.11 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.22 Lenders of Title I Property Improvement and Manufactured Home Loans. [Added]

To maintain in the loan file all documentation supporting determination of solvency of borrower and any co-maker or co-signer and relating to review of the credit of the borrower and of any co-maker and co-signer and any other information regarding credit application of the borrower.

201.23 Lenders of Title I Property Improvement and Manufactured Home Loans. [Added]

To maintain in the loan file, documentation of any required down payment.

201.26 Lenders of Title I Property Improvement and Manufactured Home Loans. [Added]

To maintain in the loan file documentation of the site-of-placement inspection results.

201.27 Lenders of Title I Property Improvement and Manufactured Home Loans. [Added]

To maintain on each approved dealer a file which contains the executed dealer approval form and supporting information together with documentation of the lender's experience with Title I loans involving the dealer. Such documentation shall include information about borrower defaults on such loans over time, records of completion or site-of-placement inspections conducted by the lender or its agent, copies of letters concerning borrowers' complaints and their resolution, and records of the lender's periodic review visits to dealer premises.

201.50 Lenders of Title I Property Improvement and Manufactured Home Loans. [Removed]

201.171 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.520 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.525 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.545 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.570 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.575 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.595 Lending agencies—title 1. [Removed]

201.605 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.610 Lending agencies with respect to property improvement and mobile home loans. [Removed]

201.665 Lending agencies with respect to property improvement and mobile home loans. [Removed]

Office of Assistant Secretary for Community Planning and Development

24 CFR

576.87 Grantees under the Emergency Shelter Grants Program: Stewart B. McKinney Homeless Assistance Act. [Revised]

To maintain records that are necessary to document compliance with applicable regulations.

Retention period: 3 years period.

577.305 Recipients of assistance under the Transitional Housing Program. [Added]

To keep any records that HUD may require.

577.335 Recipients of assistance under the Transitional Housing Programs. [Added]

To keep a copy of each lead-based paint inspection report.

Retention period: At least 3 years.

578.305 Recipients of assistance under the Permanent Housing for Handicapped Homeless Persons Program. [Added]

To keep any records that HUD may require.

579.305 Recipients of the supplemental assistance for facilities to assist the homeless. [Added]

To maintain any records that HUD may require.

579.325 Recipients of the supplemental assistance for facilities to assist the homeless. [Added]

(a) To keep a copy of each lead-based paint inspection report.

Retention period: At least 3 years.

(b) To keep the test results and, if applicable, the certification of treatment indefinitely if a unit requires testing, or treatment of chewable surfaces based on the testing.

590.25 Local urban homesteading agencies. [Revised]

To maintain adequate financial records, property disposition documents, supporting documents, statistical records and all other records pertinent to the local urban homesteading program until fee simple title has been conveyed to all homesteaders, generally a five-year period. To also maintain current and accurate data on the race and ethnicity of program beneficiaries.

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR

885.740 Borrowers; Section 202 Projects for Nonelderly Handicapped Families and Individuals-Section 162 Assistance. [Added]

(a) To keep a copy of each lead-based paint surface inspection report.

Retention period: 3 years.

(b) To keep a record of the test results if a unit requires testing or treatment of chewable surfaces based on the testing, and if applicable, the certification of treatment indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated.

885.950 Borrowers: Section 202 Projects for Nonelderly Handicapped Families and Individuals-Section 162 Assistance. [Added]

To maintain records on applicants and approved eligible families which provide racial, ethnic, gender, and place of previous residency data required by HUD.

Retention period: 3 years.

885.972 Borrowers; Section 202 Projects for Nonelderly Handicapped Families and Individuals-Section 162 Assistance. [Added]

To maintain records of the amount in a segregated interest-bearing account that is attributable to each family in residence in the project.

Office of the Assistant Secretary for Public and Indian Housing

24 CFR

968.110 Public Health Agencies (PHAs) receiving assistance under the Comprehensive Improvement Assistance Program (CIAP). [Added]

To maintain books, documents, papers, or other records that are pertinent to program activities in order to make audit examinations, excerpts, and transcripts.

Retention period: Not specified.

968.226 Public Health Agencies (PHAs) receiving assistance under the Comprehensive Improvement Assistance Program (CIAP). [Added]

To retain in its file for inspection by HUD the signed agreement from each participating homebuyer family that it will amend its homebuyer upon approval of the application.

Retention period: Not specified.

Office of Assistant Secretary for Housing—Federal Housing Commission

24 CFR

1710.15 Developers of multiple site divisions (fewer than 100 lots). [Added]

To maintain a copy of the written Lot Information Statement Acknowledgement.

Retention period: 3 years.

TREASURY DEPARTMENT

Internal Revenue Service

26 CFR

1.936-10T Qualified recipients and financial intermediaries investing in Qualified Caribbean Basin Countries. [Added]

To maintain all necessary books and records that are sufficient to verify that the funds were used for investment in active business assets or development projects in conformity with the terms of the loan agreement.

5h.6 Electing owners, issuers, purchasers, and all successors in interest to the electing owners or purchasers; Technical Miscellaneous Revenue Act of 1988. [Added]

(a) To retain the original election document or a copy thereof in its records.

Retention period: Until 6 years after the later of the date the last bond that is part of the issue is retired or the date such owner, purchaser or successor in interest ceases to own the facilities.

(b) To retain a copy of the election.

Retention period: Until 6 years after the date the last bond that is part of the issue is retired.

35a.3406-1 Payors to backup withhold due to notification of an incorrect taxpayer identification number. [Added]

To maintain sufficient records to determine whether the payor has received notification of two incorrect taxpayer identification numbers within a 3-year period.

TREASURY DEPARTMENT

Bureau of Alcohol, Tobacco and Firearms

27 CFR

270.183 Manufacturers of tobacco products. [Amended]

See 270.181.

296.177 Persons holding pipe tobacco for sale, including those holding pipe tobacco exempt from the $1000 floor stock tax. [Added]

To maintain inventory records of the pipe tobacco floor stocks tax liability required to be shown on the floor stocks tax return.

Retention period: As prescribed in 27 CFR 296.178.

296.178 Persons liable for floor stocks tax. [Added]

To keep a copy of the floor stocks tax return and inventory record at the place of business covered thereby. In the case of a consolidated return, or when one return is filed on behalf of a controlled group, the return shall be kept at the taxpayer's principal place of business with a copy of each inventory record supporting the tax return, and a copy of the inventory record shall also be kept at the specific place of business to which the inventory pertains.

Retention period: At least 3 years after the date of filing of the floor stocks tax return, and shall be available for inspection by ATF officers. The Regional Director (Compliance) may require an additional 3 years if retention is deemed to be necessary or desirable.

LABOR DEPARTMENT

Wage and Hour Division

29 CFR

524.10 Employers subject to Fair Labor Standards Act employing handicapped workers. [Removed]

525.13 Sheltered workshops (as defined in 29 CFR 525.2(b)). [Revised; record retention requirements now in 525.16]

525.16 Employers, referring agencies or facilities of workers employed under special minimum wage certificates. [Added]

To maintain records indicating (a) verification of the workers' disabilities; (b) evidence of the productivity of each worker with a disability gathered in a continuing basis or at periodic intervals (not to exceed six months in the case of employees paid hourly wage rates); (c) the prevailing wages paid workers not disabled for the job performed who are employed in industry in the vicinity for essentially the same type of work using similar methods and equipment as that used by each worker with disabilities employed under a special minimum wage certificate; (d) the production standards and supporting documentation for nondisabled workers for each job being performed by workers with disabilities employed under special certificates; and (e) certain records required under all of the applicable provisions of 29 CFR Part 526.

Retention period: See 29 CFR Part 516.

Occupational Safety and Health Administration

29 CFR

1910.66 Building owners of all powered platform installations. [Added]

To maintain certification record which contains the date the work was performed, the signature of the person who performed the work, and an identifier for the equipment or installation which was tested or inspected. Records shall be kept readily available for review by the Assistant Secretary's representatives and by the employee.

1910.120 Employers engaged in the hazardous waste operations and emergency response operations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 USC 9601 et. seq.). [Revised; effective March 6, 1990]

To maintain records of the medical surveillance of (a) all employees who are or may be exposed to hazardous substances or health hazards at or above the established permissible exposure limits for these substances, without regard to the use of respirators, for 30 days or more a year; (b) all employees who wear a respirator; and (c) HAZMAT employees engaged in hazardous waste operations.

Retention period: As specified in 29 CFR 1910.20.

1926.550 Employers subject to crane and derrick standards. [Amended]

To maintain on file the most recent certification records which include date the crane items were inspected; the signature of the person who inspected the crane items; and a serial number or other identifier, for the crane inspected.

Retention period: Until a new certification is prepared.

1926.652 Employers subject to the excavation occupational safety and health standards. [Added]

To maintain at the jobsite one copy of the tabulated data which identifies the registered professional engineer who approved the data and at least one copy of the design.

Retention period: During the construction of the protective system and after that time the data and design may be stored off the jobsite, but a copy shall be made available to the Secretary upon request.

1926.800 Employers subject to underground construction standards. [Revised]

(a) To maintain record of all air quality tests above ground at the workshop and make available these records to the Secretary upon request. The records shall include the location, date, time, substance and amount monitored.

Retention period: Until completion of the project.

(b) To maintain records of exposures to toxic substances in accordance with 29 CFR 1910.20.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR

2610.11 Pension plan administrators (with respect to plan years beginning on or after Jan. 1, 1988). [Revised]

To retain certain documentation (all plan records including calculations and other data prepared by an enrolled actuary or, for a plan described in section 412(i) of the Code, by the insurer from which the insurance contracts are purchased) needed to support or to validate premium payments. Records must include but not be limited to records that establish the number of plan participants, that reconcile the calculation of the plan's unfunded vested benefits with the actuarial valuation upon which the calculation was based, and for plans that assert entitlement to the reduction in the cap on the variable rate portion of the premium that demonstrate the methods and assumptions used by the plan during the base period with respect to calculating its maximum deductible contribution pursuant to section 404 of the Code.

Retention period: For a period of 6 years after the premium due date.

LABOR DEPARTMENT

Mine Safety and Health Administration

30 CFR

25.10 Applicants authorize to use multiple-shot blasting units in coal mines. [Removed; effective Jan. 22, 1991]

INTERIOR DEPARTMENT

Minerals Management Service

30 CFR

206.253 Lessees of Federal coal leases and Indian (Tribal and allotted) coal leases (except leases on the Osage Indian Reservation, Osage Co., Okla.). [Added]

To maintain accurate records to determine to which individual Federal or Indian lease coal in the waste pit or slurry pond should be allocated.

Retention period: Not specified.

212.200 Lessees, operators, revenue payors, or other persons holding offshore and onshore Federal and Indian oil and gas leases. [Amended]

See 212.51.

282.29 Lessees performing operations in the Outer Continental Shelf for minerals, other than oil, gas, and sulphur. [Added]

(a) To maintain records that include logs of all strata penetrated and conditions encountered, such as minerals, water, gas, or unusual conditions, and copies of analysis of all samples analyzed.

(b) To maintain records in which will be kept an accurate account of all ore and rock mined; all mineral products sold, transferred, used, or otherwise disposed of and to whom sold or transferred, and the inventory weight, assay value, moisture content, base sales price, dates, penalties, and price received.

TREASURY DEPARTMENT

Monetary Offices

31 CFR

103.33 All financial institutions. [Amended]

To maintain either the original or a copy of records of (a) extensions of credit exceeding $10,000, except those secured by real property; and (b) advice, request, or instruction, received or given to another financial institution or person, regarding a transaction resulting in the transfer of more than $10,000 to a person, account, or place outside the United States.

Retention period: 5 years.

103.36 Casinos subject to the Bank Secrecy Act. [Amended]

To maintain a record of social security number of the person involved when funds are deposited; account is opened or credit is extended; and other such records as specified in section cited.

Retention period: 5 years.

103.38 All financial institutions.[Amended]

To keep records as specified in 31 CFR Part 103.

Retention period: 5 years.

129.3 Persons subject to the portfolio investment survey regulations. [Revised]

To maintain all information required by the International Investment and Trade in Services Survey Act (22 USC 3104(b)(1).

Retention period: 3 years from the date of submission of any reports or other information required pursuant to the Act, or for such shorter period as may be specified in the reporting form and/or accompanying instructions.

EDUCATION DEPARTMENT

34 CFR

200.43 State educational agencies and other agencies receiving funds to meet the special educational needs of educationally deprived children (Part A, Chapter 1). [Added]

To maintain annual records documenting compliance with the comparability of services requirements.

200.71 State educational agencies and other agencies receiving funds to meet the special educational needs of educationally deprived children (Part A, Chapter 1). [Added]

To maintain contemporaneous time distribution records reflecting the actual amount of time the employee spends on the program.

204.10 State educational agencies and other agencies receiving funds under Chapter 1 of the Education Consolidation and Improvement Act of 1981. [Amended]

(a) To maintain records of the amount and disposition of all Chapter 1 funds, including records that show the share of the cost provided from non-Chapter 1 sources.

(b) To maintain other records that are needed to facilitate an effective audit of Chapter 1 project and that show compliance with Chapter 1 requirements; and

(c) To maintain evaluation data collected under Chapter 1.

Retention period: 5 years, or until all audit findings have been resolved.

VETERANS AFFAIRS DEPARTMENT

38 CFR

17.51] Privately or publicly-owned community residential care facilities. [Added]

To maintain records on each resident in a secure place. Such records must include (a) a copy of all signed agreements with the resident; (b) emergency notification procedures; and (c) a copy of the statement of needed care.

Retention period: Not specified.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR

35.6250 Recipients of CERCLA-funded cooperative agreements and Superfund State Contracts. [Added]

(a) To maintain a recordkeeping system that consists of complete site-specific files containing documentation of costs incurred.

(b) To maintain records to comply with the requirements of 40 CFR 35.6700, 35.6705, and 35.6710 and requirements of source documentation described in 40 CFR 31.20(b)(6).

Retention period: 10 years following submission of the final Financial Status Report for the site, or until resolution of all issues arising from litigation, claim, negotiation, audit, cost recovery, or other actions, whichever is later. Written approval must be obtained from the EPA award official before destroying any records.

35.6700 Recipients of CERCLA-funded cooperative agreements and Superfund State Contracts. [Added]

(a) To maintain project records by site and activity.

(b) To maintain property, financial and procurement records.

(c) To maintain time and attendance records and supporting documentation; documentation of compliance with statutes and regulations that apply to the project; and the number of site-specific technical hours spent to complete each pre-remedial product.

Retention period: 10 years following submission of the final Financial Status Report for the site, or until resolution of all issues arising from litigation, claim, negotiation, audit, cost recovery or other actions, whichever is later. Written approval must be obtained from the EPA award official before destroying any records.

35.6705 Recipients of CERCLA-funded cooperative agreements and Superfund State Contracts. [Added]

To maintain all financial and programmatic records, supporting documents, statistical records, and other records which are required by 40 CFR 35.6700, program regulations, or the cooperative agreement, or are otherwise reasonably considered as pertinent to program regulations or the cooperative agreement.

Retention period: 10 years following submission of the final Financial Status Report for the site, or until resolution of all issues arising from litigation, claim, negotiation, audit, cost recovery, or other actions, whichever is later. Written approval must be obtained from EPA award official before destroying any records.

60.49b Owners or operators of industrial-commercial-institutional steam generating facilities. [Amended]

(a) If monitoring of steam generating unit operating condition plan is approved, to maintain records of predicted nitrogen oxide emission rates and the monitored operating conditions, including steam generating unit load, identified in the plan

(b) To maintain records of the amounts of all fuels fired during each day and calculate the annual capacity factor individually for coal, distillate oil, residual oil, natural gas, wood, and municipal-type solid waste for each calendar year.

(c) To maintain records of the nitrogen content of the oil residual combusted in the affected facility and calculate the average fuel nitrogen content on a per calendar quarter basis.

(d) To maintain records of opacity for facilities subject to the opacity standard under 40 CFR 60.43b.

(e) To maintain records on the calendar date, the average hourly nitrogen oxides emission rates measured or predicted and other information as specified in section cited for each steam generating unit operating day for facilities subject to nitrogen oxide standards under 40 CFR 60.44(b).

Retention period: 2 years following date of record.

(f) To maintain records of the following information for each steam generating unit operating day: (1) Calendar date; (2) the number of hours of operation; and (3) a record of the hourly steam load.

60.545 Owners or operators of tread end cementing operation and green tire spraying operation using water-based cements or sprays containing less than 1.0 percent by weight of VOC. [Added]

To maintain records of formulation data or the results of Method 24 analysis conducted to verify the VOC contents of the spray.

Retention period: Not specified.

60.744 Owners or operators of new, modified and reconstructed facilities that perform polymeric coating of supporting substrates. [Added]

To maintain records of the measurements and calculations required in 40 CFR 60.743 and 60.744.

Retention period: For at least 2 years following the date of the measurements anbd calculations.

60.747 Owners or operators of new, modified and reconstructed facilities that perform polymeric coating of supporting substrates. [Added]

To maintain records documenting compliance by the methods described in 40 CFR 60.743(a)(1), (a)(2), (a)(4), (b), or (c).

Retention period: At least 2 years.

61.25 Owners or operators of underground uranium mines. [Added]

To maintain records documenting the source of input parameters including the results of all measurements upon which they are based, the calculations and/or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. In addition, the documentation should be sufficient to allow an independent auditor to verify the accuracy of the determination made concerning the facility's compliance with the standard.

Retention period: 5 years and records must be made available for inspection by the Administrator or his authorized representative.

61.26 Owners or operators of underground uranium mines. [Revised; record retention requirements now in 61.25]

61.123 Owners and operators of calciners and nodulizing kilns at elemental phosphorous plants. [Revised; record retention requirements now in 61.124]

61.124 Owners or operators of calciners and nodulizing kilns at elemental phosphorus plants. [Added]

See 40 CFR 61.25.

61.138 Owners or operators of coke by-product recovery plants. [Added]

(a) To maintain records pertaining to the design of control equipment installed to comply with 40 CFR 61.132 through 6.134.

(b) To maintain records pertaining to sources subject to 40 CFR 61.132 and 61.133. Such records shall contain the date of the inspection and the name of the inspector; a brief description of each visible defect in the source or control equipment and the method and date of repair of the defect; the date of attempted and actual repair and method of repair of the leak; and a brief description of any system abnormalities found during the annual maintenance inspection, the annual maintenance inspection, the repairs made, the date of attempted repair, and the date of actual repair.

Retention period: 2 years following each semiannual (and other) inspection and each annual maintenance inspection.

61.204 Owners and operators of the phosphogypsum that is produced as a result of phosphorus fertilizer production and all that is contained in existing phosphogypsum stacks. [Added]

See 40 CFR 61.25.

61.224 Owners and operators of all sites that are used for the disposal of uranium mill tailings. [Added]

See 40 CFR 61.25.

61.246 Owners or operators of sources intended to operate in volatile hazardous air pollutant (VHAP) service. [Added]

(a) To keep records in a log of each leak as specified in 40 CFR 61.242–2, 61.242–3, and 61.242–7.

Retention period: 2 years.

(b) To maintain records, in a log, pertaining to all equipment subject to the requirements in 40 CFR 61.242–1 to 40 CFR 61.242–11 and all other records as specified in cited section.

61.255 Owners or operators of facilities byproduct materials during and following the processing of uranium ores, commonly referred to as uranium mills and their associated tailings. [Added]

See 40 CFR 61.25

61.276 Owners or operators with a storage vessel subject to the national emission standard for benezene emissions. [Added]

(a) To keep readily accessible records showing the dimensions of the storage vessel and an analysis showing the capacity of the storage vessel.

Retention period: As long as the storage vessel is in operation.

(b) To keep records pertaining to closed vent system and control devices in a readily accessible location.

Retention period: 2 years.

80.27 Distributors, resellers, carriers, retailers, and wholesale purchaser-consumers of gasoline and alcohol blends volatility. [Added]

To maintain each invoice, loading ticket, bill lading, delivery ticket and other documents which accompany the shipment of such gasoline. Such documents shall be available for inspection by the Administrator or authorized representative during such period.

Retention period: 1 year.

82.13 Importers of certain chlorofluorocarbons (CFC's) and brominated compounds (halons) to reduce the risk of stratospheric ozone depletion. [Amended]

To maintain records on (a) the quantity of each controlled substances imported, either alone or in mixtures; (b) the quantity of each controlled substances were imported; (c) the port of entry through which the controlled substances passed; (d) the country from which the imported controlled substances were imported; the port of exit; and other information as specified in cited section.

Retention period: 3 years.

86.090–14 Small-volume manufacturers of light-duty vehicles, light-duty trucks, and heavy-duty engines subject to air pollution controls. [Added]

To maintain records of all the information required by 40 CFR 86–090–21.

86.090–24 Manufacturers of new motor vehicles and new motor vehicle engines subject to air pollution controls. [Added]

To maintain and make available to EPA Administrator upon request, the engineering evaluation, including any test data used to support the deletion of optional equipment from the test vehicles.

86.090–26 Manufacturers of light-duty vehicles subject to air pollution controls. [Added]

(a) To maintain and provide to EPA Administrator, a record of the rationale used in making for engine family, the mileage at which the engine–steam combination is stabilized for emission–data testing determination.

(b) To retain records of all information concerning all emission tests and maintenance, including vehicle alterations to represent other vehicle selections whenever a manufacturer intends to operate and test a vehicle which may be used for emission or durability data.

86.107–90 Manufacturers of petroleum-fueled and methanol-fuel light-duty vehicles and light-duty trucks. [Added]

(a) To maintain permanent records of results at the initiation and termination of each diurnal or hot soak in measuring hydrocarbon (hydrocarbons plus methanol as appropriate).

(b) For the methanol sample to maintain permanent records of the following: (1) The volumes of deionized water introduced into each impinger; (2) the rate and time of sample collection; (3) the volumes of each sample introduced into the gas chromatograph; (4) the flow rate of carrier gas through the carrier; and (5) the chromatogram of the analyzed sample.

86.142–90 Manufacturers of 1977 and later motor year new light-duty vehicles and new light-duty trucks subject to emission test procedures. [Added]

To maintain for each test: (a) Test number; (b) system or device tested (brief description); (c) date and time of day for each part of the test schedules; (d) instrument operated; (e) driver or operator; (f) vehicle ID number, manufacturer, model year, standard, engine family, evaporative emissions family, basic engine description; and such other information as cited in section.

86.605 Manufacturers of new gasoline-fueled and diesel light-duty vehicles and new gasoline-fueled and diesel light-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Amended]

To maintain general and individual records relating to vehicle emission tests performed pursuant to test orders as specified in the section cited.

Retention period: 1 year after completion of tests.

86.608–88 Manufacturers of new gasoline-fueled and diesel light-duty vehicles and new gasoline-fueled and dieseled light-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Added]

To maintain equivalency documentation if using an equivalent method when measuring the temperature of the test fuel at other than the approximate mid-volume of the fuel tank and when draining the test fuel from other than the lowest point of the tank.

Retention period: 1 year after completion of all testing in response to a test order.

86.1005-84 Manufacturers of new gasoline-fueled and diesel heavy-duty vehicles and new gasoline-fueled and diesel heavy-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Redesignated as 86.1005-88 and amended]

To maintain general and individual records relating to vehicle emission tests performed pursuant to test orders as specified in the section cited.

Retention period: 1 year after completion of tests.

86.1005-90 Manufacturers of new petroleum-fueled or methanol-fueled heavy duty or engine or light-duty trucks. [Added]

To maintain testing and auditing records as specified in section cited.

Retention period: 1 year after completion of all testing in response to a test order.

86.1008-88 Manufacturers of new gasoline-fueled and diesel heavy-duty vehicles and new gasoline-fueled and diesel heavy-duty trucks subject to selective enforcement auditing procedures required by air pollution control regulations. [Added]

See 40 CFR 86.608-88.

86.1008-90 Manufacturers of new petroleum-fueled or methanol-fueled heavy-duty engines or light-duty trucks. [Revised]

To maintain and make available to the EPA Administrator upon request, equivalency test documentation.

86.1242-90 Manufacturers of new gasoline-fueled and methanol-fueled heavy duty vehicles. [Added]

See 40 CFR 86.142-90.

122.21 Persons holding or applying for permits to discharge wastes pursuant to the national pollutant discharge elimination program. [Amended]

To maintain records of all information resulting from monitoring activities and relating to all sludge-related application data and other such information as indicated in section cited.

Retention period: 5 years (or longer as required by 40 CFR Part 403), except for records of monitoring information- 3 years.

142.14 State agencies having primary enforcement responsibilities over public water. [Revised]

To maintain records of tests, measurement, analyses, decisions, and determinations performed on each public water system to determine compliance with applicable provisions of State primary drinking water regulations.

Retention period: (a) Records of turbidity measurements-for less than 1 year; (b) records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness and applicable reporting requirements-not less than 1 year; (c) records of decisions-40 years or until 1 year after the decision is reversed or revised; (d) records of any determination that a public water system supplied by a surface water source or a ground water source under the direct influence of surface water is not required to provide filtration treatment-40 years or until withdrawn; (e) records of analyses for contaminants other than microbiological contaminants (including total coliform, fecal coliform, and hetertrophic plate concentration, other parameters necessary to determine disinfection effectiveness (including temperature and pH measurements) and turbidity- 40 years; (f) records of microbiological analyses of repeat or special samples-1 year in the form of actual laboratory reports or in an appropriate summary form; and (g) records of decisions made pursuant to the total coliform provisions of 40 CFR Part 141-5 years.

160.29 Testing facilities conducting studies that support applications for research or marketing permits for pesticides regulated by EPA. [Revised]

To maintain a current summary of training and experience and job description for each individual engaged in or supervising the conduct of a study.

Retention period: 5 years.

160.63 Testing facilities conducting studies that support applications for research or marketing permits for pesticides regulated by EPA. [Revised]

To maintain written records of all inspection, maintenance, testing, calibrating, and/or standardizing operations. Also to maintain written records of nonroutine repairs performed on equipment as a result of failure and malfunction.

Retention period: 2 years.

160.81 Testing facilities conducting studies that support applications for research or marketing permits for pesticides regulated by EPA. [Added]

To maintain historical file of standard operating procedures and all revisions thereof, including the dates of such revisions.

Retention period: In accordance with 40 CFR 160.195.

160.120 Testing facilities conducting studies that support applications for a research or marketing permits for pesticides regulated by EPA. [Added]

To maintain with the protocol records of all changes in or revisions of an approved protocol and the reasons therefore.

Retention period: In accordance with 40 CFR 160.195.

160.195 Testing facilities conducting studies that support applications for research or marketing permits for pesticides regulated by EPA. [Added]

(a) To maintain documentation records, raw data, and specimens pertaining to a study and required to be retained.

Retention period: (1) In the case of a study used to support an application for a research or marketing permit approved by EPA, the period during which the sponsor holds any research or marketing permit to which the study is pertinent.(2) A period of at least 5 years following the date on which the results of the study are submitted to the EPA in support of an application for research marketing year. (3) In other situations (e.g. where the study does not result in the submission of the study in support of an application for a research or marketing permit), a period of at least 2 years following the date on which the study is completed, terminated, or discontinued.

(b) Wet specimens, samples of test, control, or reference substances, and specially prepared material which are relatively fragile and differ markedly in stability land quality during storage shall be retained only as long as the quality of the preparation affords evaluation.

(c) To maintain the master schedule sheet, copies of protocols and records of quality assurance inspections in accordance with 40 CFR 160.195(b).

(d) To maintain summaries of training and experience and job description in accordance with 40 CFR 160.195(b).

259.54 Generators of medical waste, including generators of less than 50 pounds per months. [Added]

(a) To keep a copy of each tracking form signed in accordance with 40 CFR 259.52

Retention period: For at least 3 years from the date the waste was accepted by the initial transporter.

(b) To retain a copy of all exception reports required to be submitted under 40 CFR 259.55.

(c) To maintain a shipment log at the original generation point.

Retention period: For a period of 3 years from the date the waste was shipped.

(d) To maintain a shipment log at each central collection point and other such records as specified in cited section.

Retention period: For a period of 3 years from the date that regulated medical waste was accepted from each original generation point.

259.76 Transporters of medical waste. [Added]

To retain a copy of each tracking form in accordance with 40 CFR 259.77.

259.77 Transporters of regulated medical waste. [Added]

(a) To keep a copy of the tracking form signed by the generator, himself, the previous transporter (if applicable), and the next party, which may be one of the following: Another transporter or the owner or operator of an intermediate handling facility, or destination facility.

Retention period: For a period of 3 years from the date the waste was accepted by the next party.

(b) For regulated medical waste that is not accompanied by a generator—initiated tracking form, to retain a copy of all transporter-initiated tracking forms and consolidation logs.

Retention period: For a period of 3 years from the date the waste was accepted by the transporter.

(c) For any regulated medical waste that was received by the transporter accompanied by a tracking form and consolidated by a tracking form and consolidated or remanifested by the transporter to another tracking form, to retain (1) a copy of the generator-initiated tracking form signed by the transporter; (2) a copy of the transporter-initiated tracking form signed by the intermediate handler or destination facility.

Retention period: (1) 3 years from the date the waste was accepted by the transporter; and (2) 3 years from the date the waste was accepted by the intermediate handler or destination facility.

(d) To retain a copy of each transporter report required by 40 CFR 259.78.

Retention period: 3 years after the date of submission.

259.81 Owners or operators of facilities including destination and intermediate facilities receiving regulated medical waste generated in a Covered State.[Added]

(a) To retain a copy of each tracking form in accordance with 40 CFR 259.83

(b) To retain a copy of the tracking form or shipping papers if signed in lieu of the tracking form.

Retention period: For at least 3 years from the date of acceptance of the regulated medical waste.

259.83 Owners or operators of destination facilities or intermediate handlers receiving regulated medical waste generated in a Covered State.[Added]

(a) To maintain (1) copies of all tracking forms and logs; (2) the name and State permit or identification number of each generator who delivered waste to the destination facility or intermediate handler, if the State does not issue permit or identification numbers then the generator's address; and (3) copies of all discrepancy reports.

(b) To maintain the following information for each shipment of regulated medical waste accepted: (1) The date the waste was accepted; (2) the name and State permit or identification number of the generator who originated shipment. If the State does not issue permit or identification numbers, then the generator's address; (3) the total weight of the regulated medical waste accepted from the originating generator; and (4) the signature of the individual accepting the waste.

Retention period: 3 years from the date the waste was accepted.

259.90 Persons engaged in rail transportation of regulated medical waste generated in a Covered State. [Added]

To retain a copy of the tracking forms and rail shipping papers in accordance with 40 CFR 259.77.

501.15 Applicants for the State sludge management program. [Added]

To maintain records of all data used to complete permit applications and any supplemental information.

Retention period: 5 years from the date the application is signed or as required by 40 CFR Part 503.

501.15 Persons holding permits under the State Sludge Management Program. [Added]

To retain records of all monitoring information, copies of all reports required by the permit, and records of all data used to complete the application for the permit.

Retention period: At least 5 years from the date of the sample, measurement, report or application, or longer as required by 40 CFR Part 503.

This period may be extended by request of the Director at any time.

721.17 Manufacturers, importers, and processors of chemical substances which EPA has determined are significant new uses under certain provisions of the Toxic Substances Control Act. [Added]

To maintain documentation of information contained in that person's significant new use notice.

Retention period: For a period of 5 years from the date of the submission of the significant new use notice.

721.72 Manufacturers, importers, and processors of substances; significant new use rules. [Added]

To maintain records documenting establishment and implementation of a hazard communication program. The hazard communication program will, at a minimum, describe how the requirements of this section for labels, MSDs, and other forms of warning material will be satisfied.

Retention period: 5 years from the date of creation.

721.125 Manufacturers, importers, and processors of substances; significant new use rules. [Added]

(a) To maintain records documenting the manufacture and importation volume of the substance and the corresponding dates of manufacture and import.

(b) To maintain records documenting volumes of the substance purchased in the United States by processors of the substance, names, and addresses of suppliers, and corresponding dates of purchases.

(c) To maintain records documenting establishing and implementation of a program for the use of any applicable personal protective equipment required under 40 CFR 721.63.

Retention period: 5 years from the date of their creation.

721.557 Manufacturers, importers, and processors of mixture of 1, 3-benzenediamine, 2-methyl-4,6-bis (methylthio)- and 1,3- benzenediamine, 4-methyl-2,6-bis (methylthio); significant new uses; Toxic Substances Control Act. [Added]

In addition to the requirements of 40 CFR 721.17, to maintain the following records: (a) Any determination that gloves are impervious to the substance; (b) names of persons who have attended safety meetings; the dates of such meetings, and copies of any written information provided; copies of any MSDs used, names and addresses of all persons to whom the PMN substance is sold or transferred including shipment destination address if different, the date of each sale or transfer, and the quantity of substance sold or transferred on such date; copies of any labels used; and other information as specified in cited section.

Retention period: 5 years after the date the records are created.

761.180 Owners or operators of facilities used to dispose of PCBs. [Amended]

To maintain annual records on disposal, storage, chemical waste landfills, incineration, high efficiency broilers, and other documentation as specified in section.

Retention period: 3 years; chemical waste landfill data 20 years.

761.209 Transporters of PCB waste. [Added]

To maintain a copy of the manifest signed by the generator, transporter, and the next designated transporter, if applicable, or the owner or operator of the designated commercial storage or disposal facility.

Retention period: 3 years from the date the PCB waste was accepted by the initial transporter. Record retention period may be extended automatically during the course of any outstanding enforcement action regarding the regulated activity.

761.209 Generators of PCB waste. [Added]

To keep a copy of each manifest signed until a signed copy from the designated commercial storage or disposal facility which received the PCB waste is received.

Retention period: 3 years from the date the PCB waste was accepted by the initial transporter. Record retention period may be extended automatically during the course of any outstanding enforcement action regarding the regulated activity.

761.209 Water (bulk shipment) transporters of PCB waste. [Added]

To retain a copy of the shipping papers for shipments of PCB waste delivered to designated commercial storage or disposal facility by water (bulk shipment).

Retention period: 3 years from the date the PCB waste was accepted by the initial transporter. Record retention period may be extended automatically during the course of any outstanding enforcement action regarding the regulated activity.

761.209 Initial rail transporters of PCB waste. [Added]

To maintain a copy of the manifest and the shipping paper required to accompany the PCB waste.

Retention period: 3 years from the date the PCB waste was accepted by the initial transporter. Record retention period may be extended during the course of any outstanding enforcement action regarding the regulated activity.

761.209 Final rail transporters of PCB waste. [Added]

To keep a copy of the signed manifest, or the required shipping paper if signed by the designated facility in lieu of the manifest.

Retention period: 3 years from the date the PCB waste was accepted by the initial transporter. Record retention period may be extended automatically during the course of any outstanding enforcement action regarding the regulated activity.

760.218 Disposal facilities, generators and commercial storers of PCB waste. [Added]

To keep a copy of each Certificate of Disposal.

Retention period: See 40 CFR 761.180.

763.178 Persons producing an asbestos-containing product that is subject to a labeling requirements. [Added]

To maintain a copy of the label used in compliance.

Retention period: 3 years after the effective date of the ban on distribution in commerce for the product which the labeling requirements apply.

763.178 Persons producing an asbestos-containing product that is subject to a manufacture, importation and/or processing ban. [Added]

To maintain the results of the inventory for the banned product.

Retention period: 3 years after the effective date of the ban on manufacture, importation, and processing.

763.178 Persons whose asbestos-producing activities are subject to the manufacture, importation, processing and distribution in commerce bans. [Added]

To maintain all commercial transactions regarding the product including the date of purchases and sale and the quantities purchased or sold.

Retention period: 3 years after the effective date of the ban on distribution in commerce for a product.

792.29 Toxic substances control testing facilities. [Revised]

To maintain a current summary of training and experience and job description for each individual engaged in or supervising the conduct of a study.

Retention period: 10 years.

792.31 Toxic substances control testing facility management. [Revised]

To document and maintain such action as raw data, records on the replacement of the study director if it becomes necessary to do so during the conduct of a study.

Retention period: 10 years.

792.33 Toxic substances control testing facilities study directors.[Revised]

To maintain and verify (a) all experimental data, including observations of unanticipated responses of test systems; (b) notes on unforseen circumstances that may affect the quality and integrity of the study when they occur; and (c) documentation of the corrective action taken.

Retention period: In accordance with 40 CFR 792.195.

792.35 Toxic substances control testing facility quality assurance units. [Revised]

To maintain a copy of a master schedule sheet of all studies conducted at the testing facility; copies of all protocols pertaining to all studies for which the unit is responsible; and copies of written and properly signed records of each periodic inspection.

Retention period: Indefinitely.

792.63 Toxic substances control testing facility quality assurance units. [Revised]

To maintain records of all inspection, maintenance, testing, calibrating, standardizing operations, and nonroutine repairs performed on equipment as a result of failure and malfunction.

Retention period: 10 years.

792.81 Toxic substances control testing facilities. [Revised]

To maintain a historical file of standard operating procedures and all revisions thereof, including the dates of such revisions.

Retention period: In accordance with 40 CFR 792.195.

792.90 Toxic substances control testing facilities. [Revised]

To maintain as raw data documentation of the analyses of feed and water used for the animals to ensure that contaminants known to be capable of interfering with the study and reasonably expected to be present in such feed or water are not present at levels above those specified in protocol and to maintain documentation of any use of pest control materials.

Retention period: In accordance with 40 CFR 792.195.

792.105 Toxic substances control testing facilities. [Revised]

(a) For each batch, to maintain documentation on the indentity, strength, purity, and composition or other characteristics which will appropriately define the test or control substance.

(b) To maintain documentation on the methods, fabrication, or derivation of the test and control substances.

(c) For studies of more than 4 weeks' duration, to reserve samples from each batch of test-control substances.

Retention period: In accordance with 40 CFR 792.195.

792.185 Sponsors and toxic substances control testing facilities.[Revised]

For each study, to maintain a copy of the final report and of any amendments to it.

Retention period: In accordance with 40 CFR 792.195.

792.190 Toxic substances control testing facilities. [Added]

(a) To maintain all raw data, documentation, records, protocols, specimens, and final reports generated as a result of a study.

(b) To maintain correspondence and other documents relating to interpretation and evaluation of data, other than those documents contained in the final report.

Retention period: See 40 CFR 792.195.

792.195 Toxic substances control testing facilities-retention period. [Added]

(a) Documentation records, raw data, and specimens pertaining to a study and required to be retained by 40 CFR Part 792 shall be retained in the archive(s) for a period of at least 10 years following the effective date of the applicable final test rule.

(b) In the case of negotiated testing agreement, documentation records, raw data, and specimens pertaining to a study and required to be retained by 40 CFR Part 792 shall be retained in the archive(s) for a period of at least 10 years following the publication date of the acceptance of a negotiated test agreement.

(c) In the case of testing submitted under section 5, documentation records, raw data, and specimens pertaining to a study and required to be retained under 40 CFR Part 792 shall be retained in the archive(s) for a period of at least 5 years following the date on which the results of the study are submitted to the agency.

(d) Wet specimens, samples of test, control or reference substances, and specially prepared material which are relatively fragile and differ markedly in stability and quality during storage shall be retained only as long as the quality of the preparation affords evaluation. Specimens obtained from mutagenicity tests, specimens of soil, water-plants, and wet specimens of blood, urine, feces, biological fluids, do not need be retained after quality assurance verification.

(e) Master schedule sheet, copies of protocols, records of quality assurance inspections, summaries of training, experience and job description, and records and reports of the maintenance and calibration shall be retained for the length of time specified in 40 CFR 792.195(b).

HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service

42 CFR

50.013 PHS awardees and applicant institutions for dealing with and reporting possible misconduct in science. [Added]

To maintain sufficiently detailed documentation of inquiries to permit a later assessment of the reasons for determining that an investigation was not warranted.

Retention period: For a period of at least 3 years after the termination of the inquiry and shall, upon request, be provided to authorized HHS personnel.

Health Care Financing Administration

42 CFR

405.1101-405.1137 Skilled nursing facilities which have filed agreements to participate in the health insurance for the aged and disabled program. [Removed]

405.1201-405.1230 Home health agencies which have filed agreements to participate in the health insurance for the aged and disabled program. [Redesignated as Part 484]

433.322 State Medicaid agencies. [Added]

To maintain separate records of all overpayment activities for each provider in a manner that satisfies the retention and access requirements of 45 CFR Part 74, Subpart D.

435.945 State agencies participating in Medicaid program. [Added]

To retain a record of all information items received, including those not followed up. Such records shall be made available for quality control review purposes.

Part 442, Subparts F Institutions providing skilled nursing and intermediate care facility services under a State plan for medical assistance. [Removed]

483.10 Long term care facilities participating in Medicare and Medicaid. [Added]

To maintain records that assure full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

Retention period: See 42 CFR 483.75.

483.12 Long term care facilities participating in Medicare and Medicaid. [Added]

To maintain in the resident's clinical records, documentation of the transfer or discharge of the resident.

Retention period: See 42 CFR 483.75.

483.60 Long term care facilities participating in Medicare and Medicaid. [Added]

To maintain records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

Retention period: See 42 CFR 483.75.

483.65 Long term care facilities participating in Medicare and Medicaid. [Added]

To maintain records of incident and corrective actions related to infections.

Retention period: See 42 CFR 483.75.

483.75 Long term care facilities participating in Medicare and Medicaid. [Added]

To maintain clinical records that contain (a) sufficient information to identify the resident; (b) resident's assessments; (c) the plan of care and services provided; (d) the results of a preadmission screening conducted by the State; and (e) progress notes.

Retention period: The period of time required by State laws; or 5 years from the date of discharge when there is no requirement in State law; or for a minor, 3 years after a resident reaches legal age under State law.

484.10 Home health agencies; medical programs. [Added]

To maintain documentation showing compliance with patient rights requirements.

484.36 Home health agencies; medicare program. [Added]

To maintain documentation which demonstrates that the competency evaluation standards are met.

484.48 Home health agencies; medical records. [Added]

To maintain for every patient receiving home health services, clinical records containing past and current findings in accordance with accepted professional standards. In addition to the plan of care, the records contain appropriate identifying information; name of physician; drug, dietary, treatment and activity orders; signed and dated clinical and progress notes; copies of summary reports sent to the attending physician; and a discharge summary.

Retention period: 5 years after the month the cost report to which the records apply is filed with the intermediary, unless State law stipulates a longer period of time. Policies provide for retention even if the HHA discontinues operations. If a patient is transferred to another health facility, a copy of the record or abstract is sent with the patient.

INTERIOR DEPARTMENT

Office of the Secretary

43 CFR

17.323 Recipients of Federal financial assistance from DOI. [Added]

To keep records in a form and containing information which Department of the Interior determines may be necessary to ascertain whether compliance of the Act has been met.

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR

206.16 Persons requesting funds under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. [Added]

To maintain all books, documents, papers, and records relating to any activity undertaken or funded under the Stafford Act.

220.18 States implementing temporary relocation assistance under the Superfund Program. [Added]

To maintain adequate documentation to enable analysis of the program in accordance with regulations, manuals, handbooks, and guidance.

Retention period: Not specified.

HEALTH AND HUMAN SERVICES DEPARTMENT

Office of Family Assistance

45 CFR

250.76 State IV-A agencies participating in the Job Opportunities and Basic Skills Training Program. [Added]

To maintain financial records and accounts.

Retention period: Not specified.

250.82 State IV-A agencies participating in the Job Opportunities and Basic Skills Training Program. [Added]

To maintain an individual case record for each JOB participant.

Office of Child Support Enforcement

45 CFR

303.11 Child support enforcement (IV-D) agencies. [Added]

To retain all records for cases closed.

Retention period: For a minimum of 3 years in accordance with 45 CFR Part 74, Subpart D.

TRANSPORTATION DEPARTMENT

Coast Guard

46 CFR

160.176-17 Manufacturers of inflatable lifejackets. [Added]

To keep records required by 46 CFR 159.007-13. Such records must also include (a) for each test, the serial number of the test instrument used if there is more than one available; (b) for each test and inspection, the identification of the samples used, the lot number, the approved number, and the number of lifejackets in the lot; (c) for each lot rejected, the cause for rejection, any corrective action taken, and the final disposition of the lot; (d) records of all materials used in production and other such information as specified in cited section.

Retention period: 120 months after preparation.

160.176-19 Inflatable lifejacket servicing facilities. [Added]

To maintain records of all completed servicing. Such records must include at least the following: (a) Date of servicing, number of lifejackets serviced, lot identification of the person conducting the servicing; (c) identity of the vessel receiving the serviced lifejackets; and (d) date of return to the vessel.

Retention period: For at least 5 years after records are made and records must be made available to any Coast Guard representative and independent laboratory inspection upon request.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR

2.954 Importers or manufacturers of radio frequency equipment subject to verification. [Added]

To maintain adequate identification records to facilitate positive identification for each verified device.

Retention period: Not specified.

2.955 Manufacturers (or importers of radio frequency equipment subject to verification). [Amended]

To maintain records of the original design drawings and specifications and of the procedures used for production, inspection, and testing. To also maintain a record of the measurements made on appropriate test site that demonstrates compliance with applicable records. The record shall identify the measurement procedure that was used and shall include all the data required to show compliance with the appropriate regulations, and other records as specified in cited section.

Retention period: 2 years.

2.975 Manufacturers (or importers) of radio frequency equipment subject to verification. [Added]

To maintain records of measurement datas, measurement procedures, photographs, circuit diagrams, etc. for the device to which the application applies.

Retention period: 2 years after the manufacturer of said equipment has been permanently discontinued, or until the conclusion of an investigation or proceeding if the holder of the grant of equipment authorization is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted.

15.201 Holders of grants of certifications for perimeter protection systems operatingf in the frequency bands allocated to television broadcast stations. [Added]

To maintain a list of all installations and records of measurements.

Retention period: Not specified.

15.312 Holders of grants of authorization of perimeter protection systems. [Removed; record retention requirements now in 15.201]

97.5 Licensees of amateur radio stations. [Added]

To maintain at the station the original written authorization document or photocopy which authorizes the use in accordance with the FCC rules of all transmitting apparatus under the physical control of the station licensee at points where the amateur service is regulated by the FCC.

97.28 Persons administering examinations for amateur station operator licensees. [Removed]

97.36 Volunteer examiner coordinators and volunteer examiners preparing, processing or administering examinations for amateur station operator licenses.[Removed; record retention requirements now in 97.527]

97.71 Licensees of amateur radio service. [Removed; record retention requirements now in 97.311]

97.82 Licensees of amateur radio stations. [Removed]

97.83 Licensees of amateur radio stations. [Removed]

97.88 Licensees of amateur radio stations. [Removed]

97.90 Licensees of amateur radio stations. [Removed]

97.103 Licensees of amateur radio stations. [Added]

When deemed necessary by an Engineer in Charge (EIC) to assure compliance with the FCC rules, to maintain a record of station operations containing such items of information as the EIC may require in accordance with 47 CFR 0.314(x) of the FCC rules.

97.311 Licensees of amateur radio stations. [Added]

To maintain records documenting all SS emission transmissions. Such records must include sufficient information to enable the FCC using the information contained therein, to demodulate all transmissions.

Retention period: 1 year following the last entry.

97.527 Volunteer examiners and volunteer examiner coordinators preparing, processing, or administering examinations for amateur station operator licenses. [Added]

To maintain records of out–of–pocket expenses and reimbursement for each examination session.

Retention period: 3 years.

GENERAL SERVICES ADMINISTRATION

48 CFR

52.215–2 Contractors having cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contracts. [Amended]

(a) To maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred in performing this contract.

(b) To maintain books, records, documents and other data (including computations and projections) related to negotiating, pricing, or performing the contract or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data.

Retention period: 3 years after final payment or for any shorter period as specified in 48 CFR Subpart 4.7, or for any longer period required by statute or by other clauses of the contract. If the contract is completely or partially terminated, the records relating to the work terminated shall be retained for 3 years after any resulting final termination settlement; and records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the claims shall be retained until such appeals, litigation, or claims are disposed of.

52.222–41 Contractors and subcontractors performing work subject to the Service Contract Act of 1965, as amended. [Added]

To maintain the following records for each employee subject to the Act: (a) Name and address and social security number; (b) correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensaitons; (c) daily and weekly hours worked by each employee; (d) any deductions, rebates, or refunds from the total daily or weekly compensation of each employee; and other such information as specified in cited section.

Retention period: 3 years from the completion of the work. Such records shall be made available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration.

52.222–43 Contractors subject to the Fair Labor Standards Act and Service Contract Act-price adjustment (multiple year and option contracts). [Added]

To maintain any directly pertinent books, documents, papers, and records.

Retention period: Until the expiration of 3 years after final payment under the contract.

DEFENSE DEPARTMENT

48 CFR

252.222.7000 Contractors with fixed price contracts containing potential application of the Service Contract Act, as amended clause. [Removed]

GENERAL SERVICES ADMINISTRATION

48 CFR

552.222–85 Contractors having fixed-price service contracts containing the Fair Labor Standards Act and Service Contract Act—price adjustment clause. [Removed]

552.222–86 Contractors having fixed-price contracts containing the Fair Labor Standards Act and Service Contract Act—price adjustment (multi-year and option contracts) clause. [Removed]

552.246–73 Contractors having contracts for supplies when such contracts contain source inspection clause. [Revised; record retention requirements now in 552.246–72]

552.246–72 Contractors having contracts for supplies when such contracts contain source inspection clause. [Redesignated from 552.246–43 and revised]

To maintain at the point for source inspection, records showing for each order received under the contract: (a) Order number; (b) date order received; (c) quantity ordered; (d) date scheduled into production; (e) batch or lot number, if applicable; (f) date inspected and/or tested; (g) date available for shipment; and (h) date shipped or date service completed; and (i) National Stock Number (NSN), or if none is provided in the contract, the applicable item number of oother contractual identification.

Retention period: At least 12 months after contract performance is completed.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR

1852.222–41 Contractors and subcontractors performing work subject to the Service Contract Act of 1965, as amended (April 1984). [Added]

To maintain records containing the following information for each employee subject tot he Act: (a) Name and address and social security number of each employee; (b) correct work classification or declassifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee; (c) number of daily and weekly hours so worked by each employee; (d) any deductions, rebates, or funds from the total daily or weekly compensation of each employee; and (e) a list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representatives.

Retention period: 3 years from the completion of the work.

1852.222-43 Contractors having contracts containing the Fair Labor Standards Act and Service Contract Act-Price Adjustment (April 1984) clause. [Added]

To maintain any directly books, documents, papers, and records.

Retention period: 3 years after final payment under the contract.

1852.245-71 Contractors having contracts containing installation—provided Government property (March 1989) clause. [Revised]

To maintain records of all items of installation-provided Government property including copies of all transaction documents used to describe changes to the record. The record and transaction documentation shall be maintained in such a condition that at any stage of completion of work under the contract, the status of the property including location, utilization, consumption rate, and identification can be readily ascertained.

Retention period: Not specified.

TRANSPORTATION DEPARTMENT

Office of the Secretary

49 CFR

24.9 State and local agencies participating in the uniform relocation assistance and real property acquisition Federal and federally assisted programs. [Amended]

To maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with applicable regulations.

Retention period: For at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled or in accordance with the applicable regulations of the Federal funding agency, whichever is later.

40.29 Drug testing laboratories.[Revised]

To maintain all records pertaining to a given urine specimen. Such records shall include personnel files on all individuals authorized to have access to specimens; chain of custody documents; quality assurance/quality control records; procedure manuals; all test data (including calibration curves and any calculations used in determining test results); reports; performance records; performance testing; performance on certification inspection; and hard copies of computer-generated data.

Retention period: 2 years-may be extended upon written notification by a DOT agency or by any employer for which laboratory services are being provided. Documents for any specimen known to be under legal challenge shall be maintained for an indefinite period. Records shall be maintained in confidence.

Research and Special Programs Administration

49 CFR

107.504 Registrants engaging, manufacturing, assembling, certifying, inspecting or repairing cargo tanks or cargo tank motor vehicles. [Added]

To maintain a current copy of the registration information submitted to the Department and a current copy of the registration number identification received from the Department.

Retention period: During such time the person is registered with the Department and for 2 years thereafter.

171.16 Motor carriers transporting hazardous materials. [Added]

To maintain a copy of the detailed hazardous materials incident reports.

Retention period: 2 years at the carriers' principal place of business, or at other places as authorized and approved in writing by an agency of the Department of Transportation.

177.814 Owners of cargo tank motor vehicles and motor carriers. [Revised]

To maintain cargo tank motor vehicle manufacturer's certificate and other records.

Retention period: See 40 CFR 180.417.

178.320 Manufacturers of DOT specifications cargo tank motor vehicles. [Added]

To retain the design certificate at principal place of business.

Retention period: As long as the manufacturer manufactures DOT specification cargo tanks.

180.405 Owners of MC 331 cargo tanks. [Added]

To maintain at principal place of business a copy of the last exemption in effect that authorizes the transportation of ethane, refrigerated liquid, or ethane-propane mixture, refrigerated liquid, or hydrogen chloride, refrigerated liquid.

Retention period: During the period the cargo tank is in service.

180.405 Owners of DOT specification cargo tank motor vehicles. [Added]

To maintain the certificate that is withdrawn because the cargo tank is not in conformance with the applicable specification requirements.

Retention period: At least 1 year after withdrawal of the certification.

180.409 Inspectors and testers.[Added]

To maintain a copy of the tester's qualifications with the documents required by 49 CFR 180.417(b).

180.413 Owners of cargo tanks. [Added]

To maintain at place of business all records of repairs or modifications made to each tank.

Retention period: During the time the tank is in service and for 1 year thereafter.

180.417 Owners and motor carriers of cargo tanks. [Added]

To retain a copy of the test and inspection reports.

Retention period: Until the next test inspection of the same type is successfully completed.

180.417 Motor carriers using specification cargo tanks. [Added]

To retain the certificate that determines that the cargo tank conforms with the applicable specifications.

Retention period: As long as the cargo tank is used and for 1 year thereafter.

180.417 Owners of cargo tanks. [Added]

To maintain the manufacturer's data report or certificate and related papers certifying that the cargo tank identified in the documents was manufactured and tested in accordance with the applicable specification.

Retention period: Throughout ownership of the cargo tank and for 1 year thereafter. In the event of change of ownership, the prior owner shall retain non-fading photocopies of these documents for at least 1 year.

180.417 Motor carriers who are not owners of cargo tanks. [Added]

To retain a copy of the vehicle identification report at principal place of business.

Retention period: For as long as the cargo tank motor vehicle is used by that carrier and for 1 year.

199.7 Operators of pipeline facilities, other than master meter systems, used for the transportation of natural gas or hazardous liquids and operators of liquefied natural gas (LNG) facilities. [Revised]

To maintain and follow a written anti-drug plan that conforms to applicable requirements and the DOT Procedures.

Federal Railroad Administration

49 CFR

219.503 Railroad companies. [Revised]

To retain record of pre-employment drug screening tests.

Retention period: 2 years from date of testing.

219.607 Railroad companies. [Removed; record retention requirements now in 219.713]

219.713 Railroad companies. [Added]

(a) To retain records of each test conducted that is reported as positive by the Medical Review Officer, including drug testing custody and control forms, laboratory reports, and certification statements.

Retention period: 2 years from date of sample collection; records of negative reports- 1 year.

(b) To maintain summary records of employee records of employee alcohol and drug test results conducted and rehabilitation (including primary treatment, aftercare, and follow-up alcohol/drug testing) for each covered employee.

Retention period: 5 years.

National Highway Traffic Safety Administration

49 CFR

580.8 Dealers, distributors, and lessors of motor vehicles subject to the Truth in Mileage Act of 1986. [Amended]

(a) Dealers and distributors: To maintain a photostat, carbon, or other facsimile copy of each odometer mileage statement issued and received. To also retain a photostat, carbon, or other facsimile copy of each power of attorney that they receive.

(b) Dealers and distributors who are granted a power of attorney by their transferor: To retain all powers of attorney at their primary place of business in order that is appropriate to business requirements and thatr permits systematic retrieval.

Retention period: 5 years.

(c) Lessors: To retain each odometer disclosure statement which they receive from a lessee.

Retention period: 5 years following the date they transfer ownership of the leased vehicle.

592.6 Registered importers of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards. [Added]

To establish and maintain organized records, correspondence, and other documents relating to the importation, modification, and substantiation of certification of conformity to the Administrator.

Retention period: 8 years from the date of entry of any nonconforming vehicle for which it furnishes a certificate of conformity.

INTERSTATE COMMERCE COMMISSION

49 CFR

1152.32 Railroad companies. [Added]

To maintain records of the number of hours that each type of locomotive incurred in serving the segment during the subsidy period.

INTERIOR DEPARTMENT

Fish and Wildlife Service

50 CFR

21.12 State wildlife agencies, municipal parks, and public scientific or educational institutions possessing migratory birds. [Amended]

To maintain accurate records showing the numbers and kinds of such birds acquired, possessed, and disposed of; the names and addresses of persons from whom received or to whom delivered, and the dates of such transactions.

Retention period: 5 years following the end of the calendar year covered by the records.

21.27 Holders of special purpose permit issued for activities related to migratory birds, their parts, nests, or eggs. [Added]

To maintain adequate records describing the conduct of the permitted activity, the number and species of migratory birds acquired and disposed of under the permit, and inventorying and identifying all migratory birds held on December 31 of each calendar year. Records shall be maintained at the address listed on the permit; shall be in, or reproducible in English; and shall be available for inspection by Service personnel during regular business hours.

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

50 CFR

229.6 Exemption Certificate holders; commercial fishing operations. [Added]

To maintain on board the fishing vessel, a daily log of fishing effort and incidental takes of marine mammals in such form as prescribed by the Assistant Administrator for Fisheries.

301.14 Operators of vessels five (5) net tons or greater engaged in halibut fishing. [Revised]

To maintain an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and the total weight of halibut taken daily in each locality.

Retention period: 2 years.

301.15 Operators of vessels engaged in commercial fishing for halibut. [Revised]

To maintain a record of each such purchase or receipt of halibut on State fish tickets or Canadian Federal catch report, showing the date, locality, name of vessel, Halibut Commission license number, and the name of the person from whom the halibut was purchased or received and the amount in pounds according to trade categories of the halibut when halibut are delivered to other than a commercial fish processor or primary fish buyer.

Retention period: 2 years from the date the fish tickets are made.

301.15 Persons purchasing or receiving halibut. [Added]

To maintain records of each such purchase or receipt on State fish tickets or Canadian Federal catch report, showing the date, locality, name of vessel, Halibut Commission license number, and the name of the person from whom the halibut was purchased or received and the amount in pounds according to trade categories of the halibut.

Retention period: 2 years from the date the fish tickets were made.

380.6 Operators of vessels having harvesting or individual permits to import Antarctic marine living resources into the United States. [Added]

To accurately maintain on board the vessel, a fishing logbook and all other reports and records requested by the permit.

Retention period: Not specified.

380.8 Owners and operators of harvesting vessel; Antartic Marine Living Resources Convention Act of 1984. [Added]

To maintain all records and documents pertaining to the harvesting activities of the vessel, including but not limited to production records, fishing logs, navigation logs, transfer records, product receipts, cargo stowage plans or records, draft or displacement calculations, customs documents or records, and an accurate hold plan reflecting the current structure of the vessel's storage and factory spaces.

Retention period: Not specified.

672.5 Operators of domestic fishing vessels and managers of shoreside processing facilities. [Added]

To maintain timely and accurate records, reports, and logbooks in a legible manner and in English and based on Alaska Local Time (ALT).

Retention period: Original copy of all logbooks must be retained on board the vessel or within the processing facility until the end of the fishing year and for as long after the end of the fishing year as fish or fish products recorded in the logbook are retained on board that vessel or at the processing facility.

675.5 Operators of vessels and managers of shoreside processing facilities. [Added]

See 50 CFR 672.5

BILLING CODE 1505-02-T

federal register

Friday
January 26, 1990

Part III

Department of Commerce

Foreign-Trade Zones Board

15 CFR Part 400
Foreign-Trade Zones in the United States; Proposed Rule

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

15 CFR Part 400

[Docket No. 21222-9299]

RIN 0625-AA04

Foreign-Trade Zones in the United States

AGENCY: Foreign-Trade Zones Board, International Trade Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The Foreign-Trade Zones Board (the Board) invites public comment on proposed amendments to its regulations. These amendments include further revisions to those proposed during 1983 (48 FR 7188, February 18, 1983; 48 FR 16502, April 18, 1983) based upon the comments received in response to the notice then given and a review of reports on foreign-trade zones issued since then by the General Accounting Office and International Trade Commission to the House Committee on Ways and Means (GAO/GGD-84-52, March 2, 1984; GAO/NSIAD-89-85, February 7, 1989; USITC Publication 1496, February 1984; USITC Publication 2059, February 1988). Also, included is a change based upon Sec. 231 of the Trade and Tariff Act of 1984 (Pub. L. 98-573, 98th Cong., October 30 1984, 98 Stat. 2991).

The changes are comprehensive and the proposed action constitutes a complete revision, replacing the present version of 15 CFR part 400. A new numbering system is used based upon the current guidelines on style of the Office of the **Federal Register.**

The revision involves some new rules, but most of the changes reflect practice which has evolved through interpretations and decisions by the Board and the Customs Service under their respective regulations. The more significant changes include the listing of definitive criteria and procedures for manufacturing activity and subzones. Also, the format for applications for zones and subzones has been revised to collect information required for analysis in fewer exhibits, and the procedure for filing and processing such applications has been simplified.

DATE: Comments on the proposed rule must be received on or before March 12, 1990.

ADDRESS: Comments (original and 6 copies) are to be addressed to John J. Da Ponte, Jr., Executive Secretary, Foreign-Trade Zones Board, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Room 2835, Washington, DC 20230. (202) 377-2862.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Assistant General Counsel for Import Administration, Room 3622, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. (202) 377-8916.

SUPPLEMENTARY INFORMATION:

Background

Foreign-Trade Zones (zones) are restricted-access sites in or near ports of entry, which are licensed by the Board and operated under the supervision of the Customs Service (See, 19 CFR part 146). Activated zone areas are considered outside of U.S. Customs territory for purposes of Customs entry procedures. Authority for establishing these facilities is granted to qualified corporations. Applications submitted to the Board for grants of authority must show the need for zone services and a workable plan that includes suitable facilities and financing.

Zones are operated under public utility principles. Grantees usually contract with private firms to operate facilities and provide services to zone users. Zones have as their public policy objective the creation and maintenance of employment through the encouragement of operations in the United States which, for Customs reasons, might otherwise have been carried on abroad. The objective is furthered particularly when zones assist exporters and reexporters, and usually when goods arrive from abroad in an unfinished condition for processing here rather than overseas.

Foreign and domestic merchandise may be moved into zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, manufacture or other processing. The usual formal Customs entry procedure and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer ordinarily has a choice of paying duties either on the original foreign material or the finished product. Quota restrictions do not normally apply to foreign goods stored in zones, but the Board can limit or deny zone use in specific cases on public interest grounds. Domestic goods moved into a zone for export may be considered exported upon entering the zone for purposes of excise tax rebates and drawback. "Subzones" are a special-purpose type of ancillary zone authorized by the Board, through grantees of public zones, for operations by individual firms that cannot be accommodated within an existing zone, when it can be demonstrated that the activity, usually manufacturing, is in the public interest. Goods which are in a zone for a *bona fide* Customs reason are exempt from State and local *ad valorem* taxes.

Since 1970 the number of ports of entry with zone projects has increased from 10 to 158, and the value of goods entering zones and subzones has increased from just over $100 million to over $50 billion, about 85 percent of which involves manufacturing activity. About 75 percent of the goods currently entering zones is of domestic origin and some $7 billion of the goods shipped from zones is exported.

The heightened interest in zones, both on the part of communities providing zone services as part of their economic development efforts, and firms using zone procedures to help improve their international competitiveness, is related to the increasing importance of international trade and investment to the domestic economy. While there has been little public controversy concerning the establishment of general-purpose zones, some proposals involving manufacturing have been opposed by domestic industry.

Firms interested in using zones for manufacturing have expressed a desire for greater access and flexibility in zone procedures to help them compete against imports of finished goods and increase their exports. Those opposing zone manufacturing operations have argued that zone procedures should be more restrictive for non-export operations.

In recent years, the Board and the Customs Service have tended to interpret their requirements to cooperate with communities in their economic development efforts. At the same time, the Board has been responsive to the concerns of domestic industry by adopting manufacturing review procedures and imposing restrictions when negative economic consequences are found.

Proposed changes are described in the following summary:

1. *Section 400.1.* This section on the "scope" of the regulations contains a summary statement on zone benefits to users.

2. *Section 400.2.* Definitions currently in §§ 400.100-400.110 have been consolidated under this single section, and there are some new terms. The definition of "zone" is revised to incorporate the concept that "approved" zone space remains a part of Customs territory until it is "activated" with

Customs approval. "Manufacturing" is defined for the first time.

3. *Section 400.11.* This section contains a statement of the Board's authority, the roles of the Chairman and Alternates, and the procedure for decision making (determinations). The new procedure does away with the Committee of Alternates, recognizing that the Alternates act for their principals under Departmental delegations of authority. This section replaces current §§ 400.200; 400.1300; 400.1302–400.1304; and 400.1306.

4. *Section 400.12.* This section on the Executive Secretary's role is expanded to include references to new delegations of authority regarding: "zone-restricted" merchandise (§ 400.44), retail trade (§ 400.45(b)(2)), subzone sponsorship (§ 400.22(d)(2)), and user-fee complaints (§ 400.42(b)(5)).

5. *Section 400.21.* This section describes port of entry "entitlement" to zones based upon the Act and the requirements for additional projects to those approved under the "entitlement" provision replacing current § 400.300–400.303. It also contains new interpretative rules as to port of entry "adjacency" requirements (§ 400.21(b)).

6. *Section 400.22.* This section contains state enabling legislation requirements for corporations applying for grants of authority, replacing current §§ 400.500–400.503. The subsection regarding the sponsorship of subzones (§ 400.22(d)) is new. It retains the preference for sponsorship by the closest zone, but offers a new option for possible sponsorship by state agencies based upon public interest considerations.

7. *Section 400.23.* This section outlines the criteria for approving zones and subzones, replacing §§ 400.400 through 400.403. While the subsection regarding subzone criteria is new it reflects practice in effect in recent years (§ 400.23(b)).

8. *Section 400.24.* This section revises the format for applications for establishing zones. The number of exhibits is reduced from 13 to 5, through consolidation. While some exhibits are described in more detail, the section is based mainly upon current practice, as the existing provisions have required guidance to make them relate to specific projects. The type of information required is clarified. It replaces current §§ 400.600–400.604, and 400.606.

9. *Section 400.25.* This is a new section regarding the application format for subzones, containing an outline of the special information required. The Executive Secretary would supplement the outline with guidelines detailing the information required for Board analysis.

10. *Section 400.26.* This new section describes the format for applications and requests for expansions and other modifications to zone projects. The format is simpler for minor changes that do not significantly modify the project approved by the Board.

11. *Section 400.27.* This section delineates procedures for reviewing and processing applications covered in §§ 400.24–400.26 for the establishment and major modifications of zone projects. Certain procedures are modified. The examiners committee currently appointed to investigate applications is being replaced by a single examiner with Customs and Army Engineer officials acting as advisors, submitting technical reports as appropriate. The section replaces current §§ 400.1307–400.1311.

12. *Section 400.28.* This new section lists standard conditions relating to grants of authority, and is intended to replace language that is contained in grants of authority. In furtherance of the Board's policy that zone projects should be activated within a reasonable time, a "sunset" provision would be adopted requiring they be activated within five years. Authority to erect buildings is covered, replacing current § 400.815. This condition recognizes that construction in zones is subject to the requirements of other federal, state and local agencies; and, that the Board's concern is not with construction *per se*, but rather with the type of activity carried on in new facilities. The condition prohibiting sale of the grant is more definitive, replacing current § 400.701.

13. *Section 400.29.* This section consolidates the procedure for revocation of grants of authority by the Board for cause currently in §§ 400.1201–400.1203. The procedure for revoking subzone grants is new. The provision on fines currently in § 400.1200 has been eliminated because it simply repeats the statutory provision (19 U.S.C. 81s).

14. *Section 400.31.* This is a new provision that delineates the factors considered by the Board in its "public interest" evaluation of manufacturing in zones as part of its review of applications or of ongoing activity. It organizes the factors into two categories according to their evidentiary importance in the decision process.

First listed are threshold factors which could result in the full or partial denial of an application, or the restriction or termination of ongoing activity. The "threshold provision" ((b)(1)) establishes a preliminary qualifying test for manufacturing reviews, which would precede consideration of the other more general economic factors of (b)(2).

The threshold provision would bar activity that is not consistent with public policy and U.S. trade programs, and also calls for a determination that the zone activity in question does not result in a net increase of imports of items whose duty rates would be reduced under zone procedures as a result of such a reduction (inverted tariff situations).

If the determinations as to the three threshold factors are positive, the review would proceed to determine the net economic effect ((c)(1)). While no specific levels or measurements are given, the listing of factors, combined with the proposed revisions regarding application format (§§ 400.24, 400.25), places a greater evidentiary burden on applicants for information and evidence to support their proposals.

Subsection (c)(4) addresses situations that involve the shift of manufacturing operations to the United States from abroad, frequently with high initial levels of foreign sourcing. The provision places a greater evidentiary burden on applicants for such transplant manufacturing operations. It will assist the Board in evaluating economic effect and in monitoring expected shifts to domestic sourcing.

Subsection (c)(5) codifies the Board's practice of giving evidentiary weight to the effects of small zone savings whose public interest significance is in contributing to overall cost reduction efforts.

Subsection (c)(6) places a greater evidentiary burden on subzone applicants by requiring them to carry the burden of proof as to the public interest with substantial evidence.

Subsection (d) adopts a new rule calling for periodic reviews of ongoing activity under the stated public interest criteria. A negative finding would give the Board grounds to restrict manufacturing authority and revoke subzone grants.

15. *Section 400.32.* This new section describes the procedures for reviewing requests for manufacturing authority, including situations arising after zones or subzones have been approved in which the Commerce Department's Assistant Secretary for Import Administration may make determinations.

16. *Section 400.33.* This new section refers to the Board's authority to adopt restrictions to manufacturing pursuant to the Act's "public interest" provisions, and delegates some authority to the Commerce Department's Assistant Secretary for Import Administration. A

specific restriction (§ 400.33(b)) provides that the effects of antidumping and countervailing duty orders may not be avoided by product transformation in zones.

17. *Section 400.42.* This section replaces current §§ 400.1000–400.1013, consolidating provisions on internal zone regulations, and schedules for fees applicable to zone and subzone users pursuant to the Act's public utility provisions. Paragraph (b)(5) deals with complaints relating to the reasonableness of zone rates, which are ordinarily filed without Board review in the absence of complaints. The Board's procedures are premised on the basis that published, uniform rates provide a reference for comparisons by zone users. Complaints to the Board are made when appropriate. The factors considered in reviewing the reasonableness of rates are described, including those applicable to subzones.

18. *Section 400.43.* This provision outlines the review procedure for "public interest" issues that do not involve manufacturing.

19. *Section 400.44.* This new section states the criteria and procedure for reviewing requests for permission to return "zone restricted" merchandise into Customs territory. The 4th proviso of § 3 of the Act (19 U.S.C. 81c) provides the basis for the recovery of excise taxes and drawback duties on goods held in zones for eventual export. Customs regulations (19 CFR part 146) provided a "zone restricted" status for such goods, which may be returned to Customs territory upon payment of any duties or taxes recovered, if the Board finds such a return to be in the public interest.

20. *Section 400.45.* This provision replaces current § 400.808, continuing the Act's prohibition of retail sales except as approved by the Board, but authorizing the District Director to approve certain limited sales and delegating certain authority to the Executive Secretary.

21. *Section 400.47.* This provision provides for appeals to the Board from decisions of the Commerce Department's Assistant Secretary for Import Administration made under delegated authority.

22. *Section 400.51.* This section consolidates the procedures applicable to hearings, replacing such sections as §§ 400.1309–400.1311; 400.1315–400.1320.

23. *Section 400.52.* This new section contains provisions on the location and maintenance of the official record kept on Board proceedings.

24. *Section 400.53.* This section consolidates and replaces the current provisions on public and proprietary information of §§ 400.1400–400.1406.

A number of sections on Customs operational matters have been eliminated (§§ 400.800–400.806; 400.808–400.814) because they are covered in the regulations of Customs Service 19 CFR part 146.

Authority

This revision is proposed under the authority of section 8 of the Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 1000; 19 U.S.C. 81h).

Comments

The period for the submission of comments will close March 12, 1990. All comments received during this period will be considered by the Board in developing the final regulations. Submissions (original and six copies) shall be in writing and shall not contain information of a proprietary nature, as they will be made available for public inspection and copying, with the exception of those submitted by other Federal agencies.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4104, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Written public comments on file at the facility may be inspected and copied in accordance with 15 CFR part 4.

Information about the inspection and copying of records at the facility may be obtained from Patricia L. Sears, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Regulatory Flexibility Act

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that an initial regulatory flexibility analysis is not required and has not been prepared because these regulations will not have a significant economic impact on a substantial number of small entities pursuant to sections 603 and 604 of title 5, United States Code, added by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). There are some 150 zone grantees and 50 firms operating all or parts of zone facilities for grantees. Of some 2,100 firms using zones, about 600 use them on a full time basis. It is estimated that fewer than 100 small entities are included among the total firms using zones. The overall impact of the proposed rules should, in any case, be favorable because they will reduce the present regulatory burden on these parties by clarifying and simplifying procedures.

Executive Order 12291

This proposed rulemaking is not a major rule as defined in section 1(b) of E.O. 12291, because it involves changes to existing regulations that are likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12612

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Paperwork Reduction Act

This rule contains information collection activities subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). It will impose no additional reporting or record keeping burden on the public. Existing requirements for zone applicants, grantees, operators, and users, are simplified and there is an overall reduction of the burden on these parties, which are the ones mainly affected (OMB Control Nos. 0625–0139 and 0625–0109).

List of Subjects in 15 CFR Part 400

Administrative practice and procedure, Confidential business information, Customs duties and inspection, Foreign-trade zones, Harbors, Imports, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, it is proposed to revise 15 CFR part 400 as follows:

PART 400—REGULATIONS OF THE FOREIGN-TRADE ZONES BOARD

Subpart A—Scope and Definitions

Subpart B—Foreign-Trade Zones Board

Authority: Foreign-Trade Zones Act of June 18, 1934 (Pub. L. 397, 73rd Congress; 48 Stat. 998–1003; 19 U.S.C. 81a–81u), as amended by Pub. L. 566, 81st Congress, approved June 17, 1950 (64 Stat. 246); Pub. L. 791, 85th Congress, approved August 28, 1958 (72 Stat. 945); Pub. L. 98–573, 98th Cong., Sec. 231, approved October 30, 1984 (98 Stat. 2991); and, Pub. L. 99–386, 99th Congress, approved August 22, 1986.

Subpart A—Scope and Definitions

§ 400.1 Scope.

(a) This part sets forth the regulations and rules of practice and procedure of the Foreign-Trade Zones Board with regard to foreign-trade zones in the United States pursuant to the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–u).

(b) Part 146 of the regulations of the United States Customs Service (19 CFR part 146) governs zone operations, including the admission of merchandise into a zone, its storage, manipulation, manufacture, or exhibition in a zone, and its exportation or transfer from a zone.

(c) To the extent "activated" under Customs procedures in 19 CFR part 146, zone projects are considered outside the Customs territory of the United States. Under zone procedures, foreign and domestic merchandise may be admitted into zones for operations such as storage, exhibition, assembly, manufacture and processing, without being subject to formal Customs entry procedures and payment of duties, unless and until the foreign merchandise enters Customs territory for domestic consumption. At that time, the importer ordinarily has a choice of paying duties either at the rate applicable to the foreign material in its condition as admitted into a zone, or if used in manufacture or processed, to the finished product. Quota restrictions do not normally apply to foreign goods in zones, but the Board can limit or deny zone use in specific cases on public interest grounds. Merchandise moved into zones for export (zone-restricted status) may be considered exported for purposes such as federal excise tax rebates and drawback upon admission to the zone. Foreign merchandise (tangible personal property) and merchandise in zone-restricted status, in activated zone space for *bona fide* customs reasons, are exempt from state and local *ad valorem* taxes.

§ 400.2 Definitions.

(a) *Act* means the Foreign-Trade Zones Act of 1934, as amended.

(b) *Board* means the Foreign-Trade Zones Board, which consists of the Secretary of the Department of Commerce (chairman), the Secretary of the Treasury, and the Secretary of the Army, or their designated alternates.

(c) *Customs Service* means the United States Customs Service of the Department of the Treasury.

(d) *District Director* is the director of Customs for the Customs district in which a zone or proposed zone is located.

(e) *District Engineer* is the engineer of the Department of the Army in whose district a zone or proposed zone is located.

(f) *Executive Secretary* is the Executive Secretary of the Foreign-Trade Zones Board.

(g) *Foreign-trade zone* is a restricted-access site, in or adjacent to a Customs port of entry, operated pursuant to public utility principles under the sponsorship of a corporation granted authority by the Board and under supervision of the Customs Service. Only those portions of a zone that are "activated" under Customs procedures are considered to be outside the Customs territory of the United States.

(h) *Grant of Authority* is a document issued by the Board which authorizes a zone grantee to establish, operate and maintain a zone project, consistent with limitations and conditions specified in this part and in 19 CFR part 146. The authority to establish a zone includes the authority to operate and the responsibility to maintain it.

(i) *Manufacturing*, as used in this part, means any activity involving foreign merchandise admitted into a zone which results in a change in its Customs classification or in its eligibility for entry for consumption.

(j) *Port of entry* means a port of entry in the United States, as defined by part 101 of the regulations of the Customs Service (19 CFR part 101), or a user fee airport authorized under 19 U.S.C. 58b and listed in part 122 of the regulations of the Customs Service (19 CFR part 122).

(k) *Private corporation* means any corporation, other than a public corporation, which is organized for the purpose of establishing a zone project and which is chartered for this purpose under a law of the state in which the zone is located.

(l) *Public corporation* means a state, a political subdivision (including a municipality) or public agency thereof, or a corporate municipal instrumentality of one or more states.

(m) *Regional Commissioner* is the Regional Commissioner of Customs for the Customs region in which the zone is located.

(n) *State* includes any state of the United States, the District of Columbia, and Puerto Rico.

(o) *Subzone* means a special-purpose zone established as an adjunct to a zone project for a limited purpose.

(p) *Zone* means a foreign-trade zone established under the provisions of the Act and these regulations. Where used in this part, the term also includes subzones, unless the context indicates otherwise.

(q) *Zone grantee* is the corporate recipient of a grant of authority for a zone project. Where used in this part, the term "grantee" means "zone grantee" unless otherwise indicated.

(r) *Zone operator* is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee or an intermediary entity, with the concurrence of the District Director.

(s) *Zone project* means the zone plan, including all of the zone and subzone sites that the Board authorizes a single grantee to establish.

(t) *Zone site* means the physical location of a zone or subzone.

(u) *Zone user* is a party using a zone under agreement with the zone grantee or operator.

Subpart B—Foreign-Trade Zones Board

§ 400.11 Authority of the Board.

(a) *In general.* In accordance with the Act and procedures of this part, the Board has authority to:

(1) Prescribe rules and regulations concerning zones;

(2) Issue grants of authority for zones and subzones, and approve modifications to the original zone project;

(3) Approve manufacturing activity in zones and subzones as described in subpart D of this part;

(4) Make determinations on matters requiring Board decisions under this part;

(5) Decide appeals of decisions of the Executive Secretary;

(6) Inspect the premises, operations and accounts of zone grantees and operators;

(7) Require zone grantees to report on zone operations and finances;

(8) Report annually to the Congress on zone operations;

(9) Restrict or prohibit zone operations;

(10) Impose fines for violations of the Act and the regulations;

(11) Revoke grants of authority for cause; and,

(12) Determine, as appropriate, whether specific zone operations are or would be detrimental to the public interest.

(b) *Authority of the Chairman of the Board.* The Chairman of the Board (Secretary of the Department of Commerce) has the authority to:

(1) Appoint the Executive Secretary of the Board;

(2) Call meetings of the Board, with reasonable notice given to each member; and

(3) Submit to the Congress the Board's annual report as prepared by the Executive Secretary.

(c) *Alternates.* Each member of the Board will designate an alternate with authority to act in an official capacity for that member.

(d) *Determinations of the Board.* (1) The determinations of the Board will be based on the majority vote of the members (or alternate members) of the Board, provided that a quorum, composed of the Secretaries of the Departments of Commerce and Treasury (or their alternates), is voting.

(2) All votes will be recorded.

(3) The Board will issue its determination in proceedings under the regulations in the form of a Board order.

§ 400.12 Authority of the Executive Secretary.

The Executive Secretary has authority to:

(a) Represent the Board in administrative, regulatory, operational, and public affairs matters;

(b) Serve as director of the Commerce Department's Foreign-Trade Zones staff;

(c) Execute and implement orders of the Board;

(d) Arrange meetings and circulation of action documents for the Board;

(e) Maintain custody of the seal, records, files and correspondence of the Board, with disposition subject to the regulations of the Department of Commerce;

(f) Authorize the return of "zone-restricted merchandise" valued at less than 100,000 dollars for entry into Customs territory under § 400.44;

(g) Authorize minor modifications to zone projects under § 400.27(c);

(h) Prohibit or restrict activity found to be detrimental to the public interest under § 400.43;

(i) Authorize certain duty-paid retail trade as provided in § 400.45;

(j) Determine subzone sponsorship questions as provided in § 400.22(d);

(k) Accept rate schedules and determine their reasonableness as provided in § 400.42(b);

(l) Determine the format for the annual reports of zone grantees to the Board;

(m) Prepare an annual report for the Board's submission to the Congress based upon the reports of zone grantees;

(n) Arrange with other sections of the Department of Commerce, Board agencies and other governmental agencies for studies and comments on zone issues and proposals; and

(o) Designate an acting Executive Secretary.

§ 400.13 Board Headquarters.

The headquarters of the Board is located within the U.S. Department of Commerce (Herbert C. Hoover Building), Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230, as part of the office of the Foreign-Trade Zones staff.

Subpart C—Establishment and Modification of Zone Projects

§ 400.21 Number and location of zones and subzones.

(a) *Number of zone projects—Port of entry entitlement.* (1) Provided that the other requirements of this subpart are met:

(i) Each port of entry is entitled to at least one zone project;

(ii) If a port of entry is located in more than one state, each of the states in which the port of entry is located is entitled to a zone project; and,

(iii) If a port of entry is defined to include more than one city separated by a navigable waterway, each of the cities is entitled to a zone project.

(2) Zone projects in addition to those approved under the entitlement provision of paragraph (a)(1) of this section may be authorized by the Board if it determines that existing project(s) will not adequately serve the public interest (convenience of commerce).

(b) *Location of zones and subzones—port of entry adjacency requirements.* (1) The Act provides that the Board may approve "zones in or adjacent to ports of entry" (19 U.S.C. 81b).

(2) The "adjacency" requirement is satisfied if:

(i) A zone or subzone is located within 35 statute miles from the outer limits of a port of entry; or,

(ii) A zone or subzone can be reached within one hour's driving time from the nearest Customs office.

§ 400.22 Eligible applicants.

(a) *In general.* Subject to the other provisions of this section, public or private corporations may apply for a grant of authority to establish a zone project. The Board will give preference to public corporations.

(b) *Public and non-profit corporations.* The eligibility of public and non-profit corporations to apply for a grant of authority shall be supported by enabling legislation of the legislature of the state in which the zone is to be located, indicating that the corporation, individually or as part of a class, is authorized to so apply.

(c) *Private for-profit corporations.* The eligibility of private for-profit corporations to apply for a grant of authority shall be supported by a special act of the state legislature naming the applicant corporation and by evidence indicating that the corporation is chartered for the purpose of establishing a zone.

(d) *Applicants for subzones*—(1) *Eligibility.* The following corporations are eligible to apply for a grant of authority to establish a subzone:

(i) The zone grantee of the closest zone project in the same state;

(ii) The zone grantee of another zone in the same state, which is a public corporation, if the Board, or the Executive Secretary, finds that such sponsorship better serves the public interest; or,

(iii) A state agency specifically authorized to submit such an application by an act of the state legislature.

(2) *Complaints.* If an application is submitted under paragraph (d)(1)(ii) or (d)(1)(iii) of this section, the Executive Secretary will:

(i) Notify, in writing, the grantee specified in paragraph (d)(1)(i) of this section, who may, within 30 days, object to such sponsorship, in writing, with supporting information as to why the public interest would be better served by its acting as sponsor.

(ii) Review such objections prior to filing the application to determine whether the proposed sponsorship is in the public interest, taking into account:

(A) The complaining zone's structure and operation;

(B) The views of state and local public agencies; and,

(C) The views of the proposed subzone operator.

(iii) Notify the applicant and complainants in writing of the Executive Secretary's determination.

(iv) The application will be filed if the Executive Secretary determines that the proposed sponsorship is in the public interest.

§ 400.23 Criteria for grants of authority for zones and subzones.

(a) *Zones.* The Board will consider the following factors in determining whether to issue a grant of authority for a zone project:

(1) The need for zone services in the port of entry area, taking into account existing as well as projected international trade related activities and employment impact;

(2) The adequacy of the operational and financial plans and the suitability of the proposed sites and facilities, with justification for duplicative sites;

(3) The extent of state and local government support, as indicated by the compatibility of the zone project with the community's master plan or stated goals for economic development and the views of state and local public officials involved in economic development. Such officials shall avoid commitments that anticipate outcome of Board decisions;

(4) The views of persons and firms likely to be affected by proposed zone activity; and,

(5) If the proposal involves manufacturing, the criteria in § 400.31(b).

(b) *Subzones.* In reviewing proposals for subzones the Board will also consider:

(1) Whether the operation could be located in or otherwise accommodated by the multi-purpose facilities of the zone project serving the area;

(2) The specific zone benefits sought, and whether other more appropriate means or remedies are available; and,

(3) Whether the proposed activity is in the public interest, taking into account the criteria in § 400.31(b).

§ 400.24 Application for zone.

(a) *In general.* An application for a grant of authority to establish a zone project shall consist of a transmittal letter, an executive summary and five exhibits.

(b) *Letter of transmittal.* The transmittal letter shall be currently dated and signed by an authorized officer of the corporation and bear the corporate seal.

(c) *Executive summary.* The executive summary shall describe:

(1) The corporation's legal authority to apply;

(2) The type of authority requested from the Board;

(3) The proposed zone site and facilities and the larger project of which the zone is a part;

(4) The project background, including surveys and studies;

(5) The relationship of the project to the community's and state's overall economic development plans and objectives;

(6) The plans for operating and financing the project; and,

(7) Any additional pertinent information needed for a complete summary description of the proposal.

(d) *Exhibits.*

(1) Exhibit One (Legal Authority for the Application) shall consist of:

(i) A certified copy of the state enabling legislation described in § 400.22;

(ii) A copy of pertinent sections of the applicant's charter or organization papers; and,

(iii) A certified copy of the resolution of the governing body of the corporation authorizing the official signing the application.

(2) Exhibit Two (Site Description) shall consist of:

(i) A detailed description of the zone site, including size, location, address, and a legal description of the area proposed for approval; a table with site designations shall be included when more than one site is involved;

(ii) A summary description of the larger project of which the zone is a part, including type, size, location and address;

(iii) A statement as to whether the zone is within or adjacent to a customs port of entry;

(iv) A description of zone facilities and services, including dimensions and types of existing and proposed structures;

(v) A description of existing or proposed site qualifications including: land-use zoning, relationship to flood-plain, infrastructure, utilities, security, and access to transportation services;

(vi) A description of current activities carried on in or contiguous to the project;

(vii) If part of a port facility, a summary of port and transportation services and facilities; if not, a description of transportation systems indicating connections from local and regional points of arrival to the zone; and,

(viii) A statement as to the possibilities and plans for zone expansion.

(3) Exhibit Three (Operation and Financing) shall consist of:

(i) A statement as to site ownership; if not owned by the applicant or proposed operator, evidence as to their legal right to use the site;

(ii) A discussion of the operational plan; if the zone or a portion thereof is to be operated by other than the grantee, a summary of the selection process used or to be used, the type of operation agreement and, if available, the name and qualifications of the proposed operator;

(iii) A brief explanation of the plans for providing facilities, physical security, and for satisfying the requirements for Customs automated systems;

(iv) A summary of the plans for financing capital and operating costs, including a statement as to the source and use of funds;

(v) The estimated time schedule for construction and activation; and,

(vi) A summary of anticipated cash flow projections on an annual basis for the first three years of operation.

(4) Exhibit Four (Economic Justification) shall include:

(i) A statement of the community's overall economic goals and strategies in relation to those of the region and state;

(ii) A reference to the plan or plans on which the goals are based and how they relate to the zone project;

(iii) An economic profile of the community including identification and discussion of dominant sectors in terms of percentage of employment or income, area resources and problems, economic imbalances, unemployment rates, area foreign trade statistics, and area port facilities and transportation networks;

(iv) A statement as to the role and objective of the zone project, and a justification for each of the proposed sites;

(v) A discussion of the anticipated economic impact, direct and indirect, of the zone project, including references to public costs and benefits, employment, the U.S. balance of trade, and environmental impact;

(vi) A statement as to the need for zone services in the community, with information on surveys of business, and specific expressions of interest from proposed zone users, with letters of intent from those firms that are considered prime prospects; and,

(vii) A description of proposed manufacturing and processing operations, if applicable, with information covering the factors described in § 400.31(b), including the nature and scope of the operation and production process, materials and components used, items to be foreign sourced with relevant tariff information, zone benefits anticipated and how they will affect the firm's plans, and the economic impact of the operation on the community and on affected domestic industries.

(5) Exhibit Five (Maps) shall consist of:

(i) State and county maps showing the general location of the zone in terms of the area's transportation network;

(ii) A U.S. Geodetic Survey map or the equivalent showing in red the location of the proposed zone; and,

(iii) A detailed blueprint of the zone or subzone area showing zone boundaries in red, with dimensions and metes and bounds, or other legal description, and showing existing and proposed structures.

(e) *Additional information.* The Board or the Executive Secretary may require additional information needed to adequately evaluate a proposal.

(f) *Amendment of application.* The Board or the Executive Secretary may allow amendment of the application.

(g) *Drafts.* Applicants may submit a draft application to the Executive Secretary for review.

(h) *Format and number of copies.* Unless the Executive Secretary alters the requirements of this paragraph, submit an original and 12 copies of the application on 8″×11″ paper. Exhibit Five of the original application shall contain full-sized maps, and copies shall contain letter-sized reductions.

(i) *Where to file.* Address and mail the application to the Secretary of Commerce, Attention: Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230.

(Approved by the Office of Management and Budget under control number 0625–0139)

§ 400.25 Application for subzone.

(a) *In general.* An application to establish a subzone as part of a proposed or existing zone shall be submitted in accordance with the format in § 400.24, except that the focus of the information provided in Exhibit Four shall be on the specific activity involved and its net economic effect. The information submitted in Exhibit Four shall include:

(1) A summary as to the reasons for the subzone and an explanation of its anticipated economic effects;

(2) Identity of the subzone user and its corporate affiliation;

(3) Description of the proposed activity, including:

(i) Products;

(ii) Materials and Components;

(iii) Sourcing plans (domestic/foreign);

(iv) Tariff rates and other import requirements or restrictions;

(v) Information to assist the Board in making a determination under § 400.31(b)(1)(iii);

(vi)Benefits to subzone user;

(vii) Which other procedures or means have been considered to obtain the benefits sought;

(viii) Information as to industry involved and extent of international competition; and,

(ix) Economic impact of the operation on the area.

(4) Reason operation cannot be conducted within a general-purpose zone;

(5) Statement as to environmental impact; and,

(6) Additional information requested by the Board or the Executive Secretary if needed to conduct the review. Executive Secretary may issue guidelines to assist applicants in providing foregoing information.

(b) *Burden of proof.* An applicant for a subzone must demonstrate to the Board that the proposed operation satisfies the criteria in § 400.23(b).

(Approved by the Office of Management and Budget under control number 0625–0139)

§ 400.26 Application for expansion or other modification to zone project.

(a) *In general.* (1) A grantee may apply to the Board for authority to expand or otherwise modify its zone project.

(2) The Executive Secretary, in consultation with the District Director, will determine whether the proposed modification involves a major change in the zone plan and is thus subject to paragraph (b) of this section, or is minor and subject to paragraph (C) of this section. In making this determination the Executive Secretary will consider the extent to which the proposed modification would:

(i) Substantially modify the plan originally approved by the Board; and,

(ii) Expand the physical dimensions of the approved zone area as related to the scope of operations envisioned in the original plan.

(b) *Major modification to zone project.* An application for a major modification to an approved zone project shall be submitted in accordance with the format in § 400.24, except that:

(1) Reference may be made to current information in an application from the same applicant on file with the Board; and,

(2) The content of Exhibit Four shall relate specifically to the proposed change.

(c) *Minor modification to zone project.* Other applications or requests under this subpart, including those for minor revisions of zone boundaries, grant of authority transfers, or time extensions, shall be submitted in letter form with information and documentation necessary for analysis, as determined by the Executive Secretary, who shall determine whether the proposed change is a minor one subject to this paragraph (c) rather than paragraph (b) of this section.

(Approved by the Office of Management and Budget under control number 0625–0139)

§ 400.27 Procedure for reviewing and processing application.

(a) *Sufficiency of application.* The Executive Secretary will determine whether an application submitted under §§ 400.24–400.26 satisfies the requirements of those sections.

(1) If the application is deficient, the Executive Secretary will inform the applicant.

(2) If the application is sufficient, the Executive Secretary will:

(i) File the application, thus initiating a proceeding or review;

(ii) Assign a case docket number in cases requiring a Board order; and,

(iii) Notify the applicant.

(b) *Procedure—in general.* Upon initiating a proceeding based on an application under §§ 400.24–400.26(b) the Executive Secretary will:

(1) Designate an examiner to conduct a review and prepare a report with recommendations for the Board;

(2) Publish in the **Federal Register** a notice of the application which includes the name of the applicant, a description of the zone project, and an invitation for public comment, including a time limit for the public to submit factual information and written arguments;

(3) Send a copy of the notice and application to:

(i) The Regional Commissioner (Customs), or a designee; and,

(ii) The District Engineer (Army).

(4) Arrange, as appropriate, a public hearing in the community in which the zone project is located and any other public or closed hearing that the Board deems appropriate. Comments from interested parties may include requests for a public hearing if one has not been scheduled;

(5) Transmit the reports and recommendations of the examiner and of the officials identified in paragraph (b)(3) of this section to the Board for appropriate action; and,

(6) Notify the applicant in writing and publish notice in the **Federal Register** of the Board's determination.

(c) *Customs and army engineer review.* The Regional Commissioner (Customs), or designee, and the District Engineer (Army) shall submit their reports to the Executive Secretary within 45 days of the conclusion of the period described in paragraph (b)(2) of this section.

(d) *Procedure—Application for minor modification of zone project.* (1) The Executive Secretary will make a determination in cases under § 400.26(c) involving minor changes to zone projects that do not require a Board order, such as boundary modifications, including certain relocations, and will notify the applicant in writing of the decision.

(2) The concurrence of the District Director is required for approvals under paragraph (d)(1) of this section.

§ 400.28 Conditions, prohibitions and restrictions applicable to grants of authority.

(a) *In general.* Grants of authority issued by the Board for the establishment of zones or subzones, including those already issued, are subject to the Act and this part and the following general conditions or limitations:

(1) Approvals from the grantee and the District Director, pursuant to 19 CFR Part 146, are required prior to the activation of any portion of an approved zone project.

(2) Approval of the Board or the Commerce Department's Assistant Secretary for Import Administration pursuant to subpart D of this part is required prior to the commencement of manufacturing operations not approved as part of the application, and before approved zone manufacturing activity is changed to include new foreign articles subject to tariffs higher than those on the product in which they are incorporated.

(3) Prior to activation of a zone, the zone grantee or operator shall obtain all necessary permits from federal, state and local authorities, and except as otherwise specified in the Act or this part, shall comply with the requirements of those authorities.

(4) A grant of authority shall lapse unless the zone project is activated, pursuant to 19 CFR Part 146, and in operation not later than five year from:

(i) A Board order issued after the effective date of this final rule; or,

(ii) The effective date of this final rule.

(5) A grant of authority approved under this subpart includes authority for the grantee to permit the erection of buildings necessary to carry out the approved zone project subject to concurrence of the District Director.

(6) Zone grantee, operators, and users shall permit federal government officials acting in an official capacity to have access to the zone project and records during normal business hours and under other reasonable circumstances.

(7) A grant of authority may not be sold, conveyed, transferred, set over, or assigned. Private ownership of zone land and facilities is permitted provided the zone grantee retains the control necessary to implement the approved zone project. Should title to land or facilities be transferred after a grant of authority is issued, the zone grantee must retain, by agreement with the new owner, a level of control which allows the grantee to carry out its responsibilities as grantee. The sale of a zone site or facility for more than its fair market value without zone status shall be considered a transfer in violation of the Act.

(8) A grant of authority will not be construed to make the zone grantee automatically liable for violations by operators, users, or other parties.

(b) *Additional conditions, prohibitions and restrictions.* Other requirements, conditions or restrictions under federal, state or local law may apply to the grant of authority.

§ 400.29 Revocation of grants of authority.

(a) *In general.* As provided in this section, the Board can revoke in whole or in part a grant of authority for a general-purpose zone whenever it determines that the zone grantee has violated, repeatedly and willfully, the provisions of the Act.

(b) *Procedure.* When the Board has reason to believe that the conditions for revocation, as described in paragraph (a) of this section, are met, the Board will:

(1) Notify the zone grantee in writing stating the nature of the alleged violations, and provide the zone grantee an opportunity to request a hearing on the proposed revocation;

(2) Conduct a hearing, if requested or otherwise if appropriate;

(3) Make a determination on the record of the proceeding not earlier than 4 months after providing notice to the zone grantee under paragraph (b)(1) of this section; and,

(4) If the Board's determination is affirmative, publish notice of revocation of the grant of authority in the **Federal Register**.

(c) As provided in section 18 of the Act (19 U.S.C. 81r(c)), the zone grantee may appeal an order of the Board revoking the grant of authority.

(d) *Subzones.* The Board can revoke in whole or in part the grant of authority for a subzone upon finding that any special condition of the grant, or the Board order issued on the grant, has not been met. The grantee will be given 30 days notice and an opportunity to submit evidence and comments prior to a final decision by the Board in these cases.

Subpart D—Criteria for Reviewing Manufacturing

§ 400.31 Manufacturing operations; criteria.

(a) *In general.* Pursuant to section 15(c) of the Act (19 U.S.C. 81o(c)), the Board has authority to restrict or prohibit zone activity "that in its judgment is detrimental to the public interest." In evaluating zone and subzone manufacturing activity, either as proposed in an application or as part of a review of an ongoing operation, the Board shall determine whether the activity in question is in the public interest by reviewing the evaluation criteria contained in paragraph (b) of this section. Such a review involves consideration of whether the activity is consistent with trade policy and programs, and whether its net economic effect is positive.

(b) *Evaluation criteria*—(1) *Threshold factors.* It is the policy of the Board to authorize zone activity only when it is consistent with public policy and does not encourage imports. Thus, before authorizing proposed manufacturing activity or in its review of ongoing manufacturing, the Board shall determine that there is no significant evidence that:

(i) The activity is not consistent with U.S. trade and tariff policy;

(ii) The use of zone procedures would likely diminish the effectiveness of a U.S. international trade program; and,

(iii) If the activity involves items subject to inverted tariffs, that there is or will be a net increase of imports of items on which the duty rate would be reduced under zone procedures as a result of such a reduction.

(2) *Economic factors.* After its review of threshold factors, if there is a basis for further consideration, the Board shall consider the following economic factors:

(i) Overall employment impact;

(ii) Exports and reexports;

(iii) Retention or creation of manufacturing activity;

(iv) Extent of increased value-added activity on imports;

(v) Overall effect on import levels of relevant products;

(vi) Extent and nature of foreign competition in relevant products;

(vii) Impact on related domestic industry; and,

(viii) Other relevant information relating to net economic impact.

(c) *Methodology and evidence—(1) Two-tier review.* Reviews generally entail a two-step process.

(i) *Threshold phase.* The first phase (§ 400.31(b)(1)) involves consideration of threshold factors. If an examiner makes a negative finding on any of the factors in § 400.31(b)(1) in the course of a review, the applicant shall be informed and have an opportunity to amend its application within 30 days. If the Board determines any of the § 400.31(b)(1) factors in the negative, it shall deny or restrict authority for the proposed or ongoing activity.

(ii) *Economic effect/perspective.* In reviewing the economic factors during the second phase, the Board considers the net economic effect from both a local/regional and national/global perspective, that includes consideration of the overall effect on related domestic industries (finished products, components, materials) and U.S. employment.

(2) *Inverted tariffs.* In reviewing factors involving items subject to inverted tariffs a major consideration is whether the choice of lower tariff rates would likely prolong or increase imports of components (§ 400.31(b)(1)(iii)); and, if such a casual effect is found, the Board shall prohibit or restrict the proposed activity accordingly.

(3) *Transplant manufacturing.* When proposed activity involves a shift of production from abroad to the United States, the review shall consider sourcing plans for components and materials, to include short- and long-term projections on all components subject to inverted tariffs.

(4) *Contributory effect.* In assessing the significance of zone operations, the Board shall consider the contributory effect zone savings have as an incremental part of cost effectiveness programs adopted by companies to improve their international competitiveness.

(5) *Burden of proof.* Applicants for subzones and for clearance for manufacturing activity not having a precedent in Board decisions shall have the burden of proof of establishing with substantial evidence that the operation is in the public interest under this section. All interested parties are encouraged to submit substantive evidence relating to any of the threshold factors, particularly in regard to § 400.31(b)(1)(iii).

(d) *Monitoring and post-approval reviews.* (1) Approved manufacturing activity remains subject to review under this section at any time.

(2) Reviews may be initiated by the Board, or they may be undertaken in response to requests from interested parties showing good cause.

(3) Upon review, if the Board finds that zone activity is no longer in the public interest under this section, it may suspend subzone status, or terminate or restrict the activity in question.

§ 400.32 Procedure for submission and review of request for approval of manufacturing.

(a) *Request as part of application for grant of authority.* A request for approval of a proposed manufacturing operation may be submitted as part of an application under §§ 400.24–400.26(a). The Board will review the request taking into account the criteria in § 400.31(b).

(b) *Request for manufacturing in approved zone or subzone.* Prior to the commencement of a manufacturing operation not approved as part of the application for the zone or subzone in which the activity is to be located, zone grantees or operators shall request the approvals described in § 400.31(a) by submitting a request in writing to the Executive Secretary. Requests for such approval shall contain the information required by § 400.24(d)(4)(vii).

(1) The Commerce Department's Assistant Secretary for Import Administration may make determinations under § 400.31(a) based upon a review by the FTZ staff, when:

(i) The proposed activity is similar to activity recently approved by the Board in terms of merchandise and circumstances; or,

(ii) The activity is for export only; or,

(iii) The zone benefits sought are limited to duty deferral.

(2) When the informal procedure in paragraph (b)(1) of this section is not appropriate,

(i) The Executive Secretary will:

(A) Assign a case docket number and give notice in the **Federal Register** inviting public comment;

(B) Arrange a public hearing, if appropriate;

(C) Appoint an examiner, if appropriate, to conduct a review and prepare a report with recommendations for the Board; and,

(D) Prepare and transmit a report with recommendations, or transmit the examiners report, to the Board for appropriate action; and,

(ii) The Board will make a determination on the requests, and the Executive Secretary will notify the grantee in writing of the Board's determination, and will publish notice of the determination in the **Federal Register.**

§ 400.33 Restrictions on manufacturing activity.

(a) *In general.* In approving manufacturing activity for a zone or subzone the Board may adopt restrictions to protect the public interest, health, or safety. The Commerce Department's Assistant Secretary for Import Administration may similarly adopt restrictions in exercising authority under § 400.32(b)(1).

(b) *Restrictions on items subject to antidumping and countervailing duty actions*—(1) *Board policy.* Zone procedures shall not be used to circumvent antidumping (AD) and countervailing duty (CVD) actions under 19 CFR Parts 353 and 355.

(2) *Admission of items subject to AD/CVD actions.* Items subject to AD/CVD orders or suspension of liquidation under AD/CVD procedures shall be placed in privileged foreign status (19 CFR § 146.41) upon admission to a zone or subzone.

(3) *Entry for consumption.* Any such items entered for consumption into the Customs territory of the United States (either in their original or in an altered condition) shall be subject to duties under AD/CVD orders or to suspensions of liquidation if applicable under 19 CFR parts 353 and 355 at the time of such entry.

Subpart E—Zone Operations and Administrative Requirements

§ 400.41 Zone operations; general.

Zones shall be operated by or under the contractual oversight of zone grantees, subject to the requirements of the Act and this part, as well as those of other federal, state and local agencies having jurisdiction over the site and operation. Zone grantees shall ensure that the reasonable zone needs of the business community are served by their zone projects. The District Director represents the Board with regard to the zone projects in the district and is responsible for enforcement, including physical security and access requirements, as provided in 19 CFR part 146.

§ 400.42 Requirements for commencement of operations in zone project.

(a) *In general.* The following actions are required before operations in a zone may commence:

(1) Approval by the District Director of an application for activation is required as provided in 19 CFR part 146; and,

(2) The Executive Secretary will review proposed manufacturing, pursuant to § 400.32, and zone schedule as provided in this section.

(b) *Zone schedule.* (1) The zone grantee shall submit to the Executive Secretary and to the District Director a zone schedule which sets forth:

(i) Internal rules and regulations for the zone; and,

(ii) A statement of the rates and charges (fees) applicable to zone users.

(2) A zone schedule shall consist of typed, loose-leaf, numbered, letter-sized pages, enclosed in covers, and shall contain:

(i) A title page, with information to include:

(A) The name of the zone grantee and operator(s);

(B) Schedule identification;

(C) Site description;

(D) Date of original schedule; and,

(E) Name of the preparer;

(ii) A table of contents;

(iii) Administrative information;

(iv) A statement of zone operating policy, rules and regulations, including uniform procedures regarding the construction of buildings and facilities; and,

(v) A section listing rates and charges for zones and subzones with information sufficient for the Board or the Executive Secretary to determine whether the rates and charges are reasonable based on other like operations in the port of entry area, and whether there is uniform treatment under like circumstances among zone users.

(3) The Executive Secretary will review the schedule to determine whether it contains sufficient information for users concerning the operation of the facility and a statement of rates and charges as provided in paragraph (b)(2) of this section. If the Executive Secretary determines that the schedule satisfies these requirements, the Executive Secretary will notify the zone grantee, unless there is a basis for review under paragraph (b)(5) of this section. A copy of the schedule shall be available for public inspection at the offices of the zone grantee and operator. The zone grantee shall send a copy of the District Director, who may submit comments to the Executive Secretary.

(4) Amendments to the schedule shall be prepared and submitted in the manner described in paragraphs (b)(1) through (b)(3) of this section, and listed in the concluding section of the schedule, with dates.

(5) A zone user or prospective user having a *bona fide* interest in using a zone may object to the zone or subzone fee on the basis that it is not reasonable, fair and uniform, by submitting to the Executive Secretary a complaint in writing with supporting information. The Executive Secretary will review the complaint and issue a report and decision, which will be final unless appealed to the Board within 30 days. The Board or the Executive Secretary may otherwise initiate a review for cause. The factors considered in reviewing reasonableness and fairness, will include:

(i) The going-rates and charges for like operations in the area and the extra costs of operating a zone, including return on investment; and,

(ii) In the case of subzones, the value of actual services rendered by the zone grantee or operator, and reasonable out-of-pocket expenses.

§ 400.43 Restriction and prohibition of certain zone operations.

(a) *In general.* After review, the Board or the Executive Secretary, as appropriate, may restrict or prohibit any admission of merchandise into a zone project or operation in a zone project when it determines that such activity is detrimental to the public interest, health or safety.

(b) *Initiation of review.* The Board may conduct a proceeding, or the Executive Secretary a review, to consider a restriction or prohibition under paragraph (a) of this section either self-initiated, or on a complaint made to the Board by an adversely affected party.

§ 400.44 Zone-restricted merchandise.

(a) *In general.* Merchandise which has been given export status by Customs officials ("zone-restricted merchandise", 19 CFR part 146) may be returned to the Customs Territory of the United States only when the Board determines that the return would be in the public interest.

(b) *Criteria.* In making the determination described in paragraph (a) of this section, the Board will consider:

(1) The intent of the parties;

(2) Why the goods cannot be exported;

(3) The public benefit involved in allowing their return; and,

(4) The recommendation of the District Director.

(c) *Procedure.* (1) A request for authority to return "zone-restricted" merchandise into Customs territory shall be made to the Executive Secretary in letter form by the zone grantee or operator of the zone in which the merchandise is located, with supporting information and documentation.

(2) The Executive Secretary will investigate the request and prepare a report for the Board.

(3) The Executive Secretary may act for the Board under this section in cases involving merchandise valued at less than 100,000 dollars, provided approvals have the concurrence of the District Director.

§ 400.45 Retail trade.

(a) *In general.* Retail trade is prohibited in zones, except that sales or other commercial activity involving domestic, duty-paid, and duty-free goods may be conducted within an activated zone project under permits issued by the zone grantee and approved by the Board. The District Director will determine whether an activity is retail trade.

(b) *Procedure.* (1) The District Director or a representative is authorized to approve sales involving domestic, duty-paid or duty-free food products sold within the zone or subzone for consumption on premises by persons working therein.

(2) Other requests for Board approval under this section shall be submitted in letter form, with supporting documentation, to the Executive Secretary, who is authorized to act for the Board in these cases.

(c) *Criteria.* In evaluating requests for approval under this section the Executive Secretary will consider:

(1) Whether any public benefits would result from approval; and,

(2) The economic effect such activity would have on the retail trade outside the zone in the port of entry area.

§ 400.46 Accounts, records and reports.

(a) *Zone accounts.* Zone accounts shall be maintained in accordance with generally accepted standards of accounting, and in compliance with the requirements of federal, state or local agencies having jurisdiction over the site or operation.

(b) *Records and forms.* Zone records and forms shall be prepared and maintained in accordance with the requirements of the Customs Service and the Board.

(c) *Maps and drawings.* Zone grantees or operators, and District Directors, shall keep current layout drawings of approved sites as described in § 400.24(d)(5), showing activated portions, and a file showing required approvals. The zone grantee shall furnish necessary maps to the District Director.

(d) *Annual reports.* (1) Zone grantees shall submit annual reports to the Board at the time and in the format prescribed by the Executive Secretary, for use by the Executive Secretary in the preparation of the Board's annual report to the Congress.

(2) The Board shall submit an annual report to the Congress. (Approved by the Office of Management and Budget under control number 0625–0109)

§ 400.47 Appeals to the Board from decisions of the Assistant Secretary for Import Administration and the Executive Secretary.

(a) *In general.* Decisions of the Assistant Secretary for Import Administration and the Executive Secretary made pursuant to §§ 400.32(b)(1), 400.33, 400.45(b)(2), and 400.22(d)(2)(ii) may be appealed to the Board by adversely affected parties.

(b) *Procedure.* Parties appealing a decision under paragraph (a) of this section shall submit a request for review to the Board in writing, stating the basis for the request, and attaching a copy of the Executive Secretary's decision, as well as supporting information and documentation. After a review, the Board will notify the complaining party of its decision in writing.

Subpart F—Hearings, Record and Information

§ 400.51 Hearings.

(a) *In general.* The Board or the Executive Secretary, as appropriate, may hold a public or closed hearing during any proceedings or reviews conducted under this part whenever necessary or appropriate.

(b) *Procedure for public hearings.* The Board will publish notice in the **Federal Register** of the date, time and location of the hearing. All participants shall have the opportunity to make a presentation. Applicants and their witnesses shall ordinarily appear first. The presiding officer may adopt time limits for individual presentations.

§ 400.52 Official record; public access.

(a) *Content.* The Executive Secretary will maintain at the location stated in § 400.53(d) an official record of each proceeding within the Board's jurisdiction. The Executive Secretary will include in the official record all factual information, written argument, and other material developed by, presented to, or obtained by the Board in connection with the proceeding. The official record will contain material that is public, business proprietary, privileged, and classified. While there is no requirement that a verbatim record be kept of public hearings, the proceedings of such hearings shall ordinarily be recorded and transcribed when significant opposition is involved.

(b) *Opening and closing of official record.* The official record opens on the date the Executive Secretary files an application or receives a request that satisfies the applicable requirements of this part and closes on the date of the Board's or the Executive Secretary's final determination in the proceeding or review, as applicable. If the final determination is published in the **Federal Register**, the record will close on the date of publication.

(c) *Protection of the official record.* Unless otherwise ordered in a particular case by the Executive Secretary, the official record will not be removed from the Department of Commerce. A certified copy of the record will be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of proprietary or privileged information.

§ 400.53 Information.

(a) *Request for information.* The Board may request submission of any information, including business proprietary information, and written argument necessary or appropriate to the proceeding.

(b) *Public information.* Except as provided in paragraph (c) of this section, the Board will consider all information submitted in a proceeding to be public information. If the person submitting the information does not agree to its public disclosure, the Board will return the information and not consider it in the proceeding.

(c) *Business proprietary information.* Persons submitting business proprietary information shall mark the top of each page "business proprietary" if such information appears on that page and request Board protection from public disclosure.

(d) *Disclosure of submitted information.* Disclosure of information will be governed by 15 CFR part 4. Public information in the official record will be available for inspection and copying at the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce Building, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230.

Dated: January 19, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 90–1888 Filed 1–25–90; 8:45 am]

BILLING CODE 3510-DS-M

federal register

Friday
January 26, 1990

Part IV

Department of Education

34 CFR Part 669

Language Resource Centers Program; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 669

[1840-AA68]

Language Resource Centers Program

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary issues regulations to govern the Language Resource Centers Program. These regulations are needed to implement the new section 603 of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Amendments of 1986, Public Law 99-498. The Language Resource Centers Program is intended to provide assistance to institutions of higher education, or combinations of institutions of higher education, for the purpose of establishing, strengthening, and operating centers that serve as resources for improving the nation's capacity for teaching and learning foreign languages.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Joseph F. Belmonte, Deputy Director, Center for International Education, U.S. Department of Education, Room 3053, ROB 3, 400 Maryland Avenue, SW., Washington, DC 20202-5248. Telephone: 202-732-3283.

SUPPLEMENTARY INFORMATION: The Language Resource Centers Program was added to the foreign language and international studies programs authorized under title VI of the Higher Education Act by the Higher Education Amendments of 1986. The goal of this program is to improve the effectiveness of language teaching and learning, through activities such as research, training, and dissemination. The Secretary is authorized to award grants to institutions of higher education, or combinations of institutions of higher education, for the specific activities set forth in § 669.3.

On February 2, 1988, the Secretary published a notice of proposed rulemaking (NPRM) for the Language Resource Centers Program in the **Federal Register** (53 FR 2918). Except for some editorial changes, there are no significant differences between the NPRM and these final regulations.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, two parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since the publication of the NPRM follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes which the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Section 669.2—Who is eligible to receive assistance under this program?

Comment: One commenter suggested that the Language Resource Centers should be appended to existing National Resource Centers (NRCs) because the NRCs already have an array of resources and expertise for teaching, testing, and preparing materials for language instruction. However, the second commenter urged that, because the NRCs are committed to a wide range of language-related activities, including instruction in literature, these regulations should exclude applications from "fictional divisions" within NRC language departments by requiring strong institutional support for nationally oriented efforts in language pedagogy.

Discussion: The law authorizing the Language Resource Centers Program does not specify any limitations on the nature or resources of the institutions of higher education that may apply for funding under this program. Institutions with strong resources and proposals addressing real needs in the language pedagogy field may be expected to compete most effectively irrespective of the nature of the applicant's relationship to a National Resource Center.

Changes: None.

Section 669.3—What activities may the Secretary fund?

Comment: One commenter suggested the addition of the phrase "and learning" to paragraph (b), to emphasize the importance of the interactions between teacher and student in the instructional process.

Discussion: The Secretary agrees that both perspectives in the instructional process should receive attention, but notes that the introductory sentence for this section does not include both "teaching" and "learning", as does § 669.1.

Changes: None.

Comment: One commenter requested the use of "competency-based" instead of "proficiency" to describe the testing to be developed, in order to be consistent with other Title VI programs.

Discussion: The law is clear in specifying "proficiency" to describe the testing to be developed under this program.

Changes: None.

Comment: One commenter suggested that paragraph (d) of this section be reordered, to give more emphasis to the training of teachers in teaching strategies and new technologies and less emphasis to the training of teachers in proficiency testing.

Discussion: The ordering of these three aspects of teacher training is taken directly from the authorizing legislation. The Secretary does not interpret the order of the functions to indicate any special priority among them.

Changes: None.

Section 669.21—What selection criteria does the Secretary use?

Comment: To give more emphasis to the national impact expected from this program, one commenter suggested changing "in" to "throughout" the United States, in paragraph (f)(3) of this section.

Discussion: The Secretary anticipates that in a national program such as this the evaluators will be looking carefully at the potential national impact of all aspects of each application.

Changes: None.

Section 669.22—What priorities may the Secretary establish?

Comment: One commenter found nothing in the NPRM to indicate specific areas or languages on which the Language Resource Centers will concentrate.

Discussion: The Secretary points out that § 669.22, which covers possible priorities for funding, includes "specific languages" in paragraph (a)(2). Priorities, if any, for an actual competition are announced in the application notice.

Changes: None.

Comment: One commenter proposed a "trigger mechanism" which would protect the funding for current title VI programs until additional funds might be available for new programs. He also suggested that, when funds are available, Language Resource Centers should be funded for a five-year period and wondered what the annual funding for a center might be.

Discussion: The authorizing legislation does not provide the kind of "trigger mechanism" that the commenter suggests. However, the Secretary notes that when funds for current Title VI programs are not increased, the allocation of funds for new programs is unlikely and that all of the activities specified for the Language Resource Centers are being funded on a small scale under parts 656, 658, and 660. Probable funding levels are announced in the application notice, as is the anticipated duration of grants.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Education Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 669

Colleges and universities, Education, Foreign languages, Grant program, Reporting and recordkeeping requirements, Research, Teacher training.

(Catalog of Federal Domestic Assistance Number has not been assigned)

Dated: December 22, 1989.

Lauro F. Cavazos,

Secretary of Education.

The Secretary amends Chapter VI, title 34 of the Code of Federal Regulations by adding a new Part 669 to read as follows:

PART 669—LANGUAGE RESOURCE CENTERS PROGRAM

Authority: 20 U.S.C. 1123, unless otherwise noted.

Subpart A—General

§ 669.1 What is the Language Resource Centers Program?

The Language Resource Centers Program makes awards, through grants or contracts, for the purpose of establishing, strengthening, and operating centers that serve as resources for improving the nation's capacity for teaching and learning foreign languages effectively.

(Authority: 20 U.S.C. 1123)

§ 669.2 Who is eligible to receive assistance under this program?

An institution of higher education or a combination of institutions of higher education is eligible to receive an award under this part.

(Authority: 20 U.S.C. 1123)

§ 669.3 What activities may the Secretary fund?

Centers funded under this part must carry out activities to improve the teaching and learning of foreign languages. These activities may include—

(a) The conduct of research on new and improved methods for teaching foreign languages, including the use of advanced educational technology;

(b) The development of new materials for teaching foreign languages, to reflect the results of research on effective teaching strategies;

(c) The development and application of proficiency testing that is appropriate for use in an educational setting to be used as a standard measurement of skill levels in foreign languages;

(d) The training of teachers in the administration and interpretation of foreign language proficiency tests, the use of effective teaching strategies and the use of new technologies;

(e) The publication of instructional materials in the less commonly taught foreign languages; and

(f) The widespread dissemination of research results, teaching materials, and improved pedagogical strategies to the postsecondary education community.

(Authority: 20 U.S.C. 1123)

§ 669.4 What regulations apply?

The following regulations apply to this program:

(a) 34 CFR part 655.

(b) The regulations in this part 669

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants), 34 CFR part 75 (Direct Grant Programs), 34 CFR part 77 (Definitions that Apply to Department Regulations) and 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement)).

(Authority: 20 U.S.C. 1123)

§ 669.5 What definitions apply?

The following definitions apply to this part:

(a) The definitions in 34 CFR 655.4.

(b) "Language Resource Center" means a coordinated concentration of educational research and training resources for improving the nation's capacity to teach and learn foreign languages.

(Authority: 20 U.S.C. 1123)

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make a Grant?

§ 669.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for an award on the basis of the criteria contained in § 669.21.

(b) The Secretary awards up to 100 possible points for these criteria. However, if the Secretary establishes one or more priorities under § 669.22, the Secretary awards up to 120 possible points.

(c) The maximum possible points for each criterion are shown in parentheses.

(Authority: 20 U.S.C. 1123)

§ 669.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria in evaluating applications under this part:

(a) *Plan of operation.* (15) (See 34 CFR 655.31(a))

(b) *Quality of key personnel.* (20) (See 34 CFR 655.31(b))

(c) *Budget and cost-effectiveness.* (10) (See 34 CFR § 655.31(c))

(d) *Evaluation plan.* (5) (See 34 CFR 655.31 (d))

(e) *Adequacy of resources.* (5) (See 34 CFR 655.31(e))

(f) *Need and potential impact.* (30) The Secretary reviews each application to determine—

(1) The extent to which the proposed materials or activities are needed in the foreign languages on which the project focuses;

(2) The extent to which the proposed materials may be used throughout the United States; and

(3) The extent to which the proposed work or activity may contribute significantly to strengthening, expanding, or improving programs of foreign language study in the United States.

(g) *Likelihood of achieving results.* (10) The Secretary reviews each application to determine—

(1) The quality of the outlined methods and procedures for preparing the materials; and

(2) The extent to which plans for carrying out activities are practicable and can be expected to produce the anticipated results.

(h) *Description of final form of results.* (5) The Secretary reviews each application to determine the degree of specificity and the appropriateness of the description of the expected results from the project.

(i) *Priorities.* (20) If, under the provisions of § 669.22, the application notice specifies priorities for this program, the Secretary determines the degrees to which the priorities are served.

(Approved by the Office of Management and Budget under OMB control number 1840–0608)

(Authority: 20 U.S.C. 1123)

§ 669.22 What priorities may the Secretary establish?

(a) The Secretary may each year select funding priorities from among the following:

(1) Categories of allowable activities described in § 669.3.

(2) Specific foreign languages for study or materials development.

(3) Levels of education, for example, elementary, secondary, postsecondary, or teacher education.

(b) The Secretary announces any priorities in the application notice published in the **Federal Register**.

(Authority: 20 U.S.C. 1123)

Subpart D—What Conditions Must Be Met by a Grantee?

§ 669.30 What are allowable equipment costs?

Equipment costs may not exceed fifteen percent of the grant amount.

(Authority: 20 U.S.C. 1123)

[FR Doc. 90–1739 Filed 1–25–90; 8:45 am]

BILLING CODE 4000–01–M