

## § 380.20

### Subpart C—Records Retention Schedule

AUTHORITY: Secs. 204, 207, 49 Stat. 1987, as amended, 1988, as amended; 46 U.S.C. 1114, 1117; sec. 801, 49 Stat. 2011, 46 U.S.C. 1211.

#### § 380.20 Purpose.

The purpose of this subpart is to prescribe the procedure to be followed by contractors for the retention and disposal of books, records, and accounts created and maintained by them under construction or operating-differential subsidy contracts with the Maritime Administration/Maritime Subsidy Board (hereinafter referred to as the "Administration"). The minimum retention periods prescribed herein govern only the Administration's requirements for the preservation of the hereinafter specified books, records, and accounts. The failure to describe a particular book, record, or account shall not exempt a contractor from retaining the particular book, record, or account, unless expressly so authorized by the Administration.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Pub. L. 97-31 (August 6, 1981); 49 CFR 1.66 (46 FR 47458, Sept. 28, 1981))

[48 FR 45560, Oct. 6, 1983]

#### § 380.21 Reproduction.

(a) The records described in §380.24 may be microfilmed or otherwise reproduced in lieu of their retention in original form: *Provided*, That such reproductions shall not be made prior to completion of the audit of such records by the Administration.

(b) The following standards are established for reproduction processes:

(1) *Microfilm*. The film stock used in making photographic or microphotographic copies shall comply with Interim Federal Standard No. 125 covering photographic film and processed photographic film. The microfilm shall be regularly inspected for aging in accordance with Handbook 96, entitled, "Inspection of Processed Photographic Record Films for Aging Blemishes", published by the U.S. Department of Commerce, National Bureau of Standards. If blemishes are detected, a dupli-

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cate copy of the roll or print shall be made immediately.

(2) *Photocopy*. Electrostatic or wet processes only.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Pub. L. 97-31 (August 6, 1981); 49 CFR 1.66 (46 FR 47458, Sept. 28, 1981))

[G.O. 101, 30 FR 12356, Sept. 28, 1965, as amended at 48 FR 45560, Oct. 6, 1983]

#### § 380.22 Responsibility.

(a) Notwithstanding the minimum retention periods hereinafter set forth, it shall be the sole responsibility of any party subject to the provisions of this subpart to retain such books, records, and accounts:

(1) For the periods specifically provided by any statutory, regulatory, and contractual requirements of the Administration, or

(2) Pertaining to or related to matters in litigation, to matters which knowingly may become involved in litigation, to unsettled claims of whatsoever nature, and to all unsettled matters specifically reserved by the parties at the time of any final accounting as may be required under statute, contract and/or agreement.

(b) With respect to books, records, and accounts which, subject to the provision of paragraph (a) of this section, are to be disposed of upon the expiration of the minimum retention period prescribed herein, there shall be filed with the Records Officer, Maritime Administration, Washington, DC, 20590, a written notification, at least thirty (30) days prior to the contemplated, disposal requesting permission to dispose of records. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable. The request shall be in such form that the books, records, and accounts can be readily identified. Within thirty (30) days after receipt of such notification the Records Officer shall grant approval for disposal, or advise the necessity for continued retention of all or any specified portion thereof. Failure of the Record Officer to reply within the thirty (30) days period following receipt by the Administration of such request shall constitute approval.

(c) Applications for special authority to dispose of certain books, records, and accounts prior to the expiration of prescribed minimum retention periods, and any inquiries as to the interpretation or applicability of this subpart to specific items shall be submitted to the Records Officer, Maritime Administration. MARAD will accept written or electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable. The applicant shall describe in detail the items to be disposed of and explain why continued retention is unnecessary.

[G.O. 101, 30 FR 12356, Sept. 28, 1965, as amended at 68 FR 62538, Nov. 5, 2003; 69 FR 61452, Oct. 19, 2004]

#### § 380.23 Supervision of records.

(a) Contractors and others subject to the provisions of this subpart shall designate, through formal action, the official company position by title, the incumbent of which shall be responsible for supervision of its document retention and disposal program. Immediately upon designation of the position, a copy of the formal action and name of the incumbent shall be filed with the Records Officer, Maritime Administration. MARAD will accept written or electronic options (such as facsimile and Internet) for transmission of required information, if practicable.

(b) The person in charge of the retention and disposal program shall maintain a record of all books, records, and accounts held in storage, and in such form that the items and their location are readily identifiable. A copy of the written, or by electronic options (such as facsimile and Internet), if practicable, notification requesting permission to dispose of any books, records, and accounts, and the original approval from the Administration, as required in § 380.22(b), together with a statement showing date, place and method of disposal will suffice as a record of such disposed items. These retention and disposal records shall be available at all times for inspection by Administration officials and auditors.

[69 FR 61452, Oct. 19, 2004]

#### § 380.24 Schedule of retention periods and description of records.

(a) The following records shall be retained for not less than two (2) years after final release agreement or settlement agreement is completed between the Administration and contractors under operating-differential subsidy contracts:

(1) Official company or corporate records such as certificates or articles of incorporation, minute books, stock ledgers, bond registers, merger or acquisition records, patents and copyrights;

(2) Financial statements and reports such as annual reports to stockholders and audit reports by independent public accountants;

(3) Insurance records such as policies, underwriters' audit reports, indemnity bonds, salvage data, and claim files;

(4) Contracts, agreements, franchises, licenses, etc., such as subsidy, charter, ship construction, and pooling agreements;

(5) Vessel operating records such as log books, surveys, position reports, and vessel itineraries;

(6) Voyage account items such as manifests, bills of lading, master's accounts, ship's payrolls;

(7) Underlying traffic records pertaining to tariffs, dray tickets, pooling agreements, passenger reports, freight and passenger conference records.

(b) The following records shall be retained for three (3) years after final audit and/or approval by the Administration:

(1) Ship construction or reconversion records such as bids, plans, progress payments, and construction-differential subsidy data;

(2) Canceled checks;

(3) Miscellaneous documents and work papers such as correspondence, operating and construction-differential subsidy rate data, subsidy adjustments pursuant to 46 CFR part 276 and approvals pursuant to Article II-10(c) of operating-differential subsidy contracts;

(4) Any document generated under the provisions of the Shipping Act, 1916;

(5) Books of account such as general and subsidiary ledgers, journals, cash books, and check registers;