

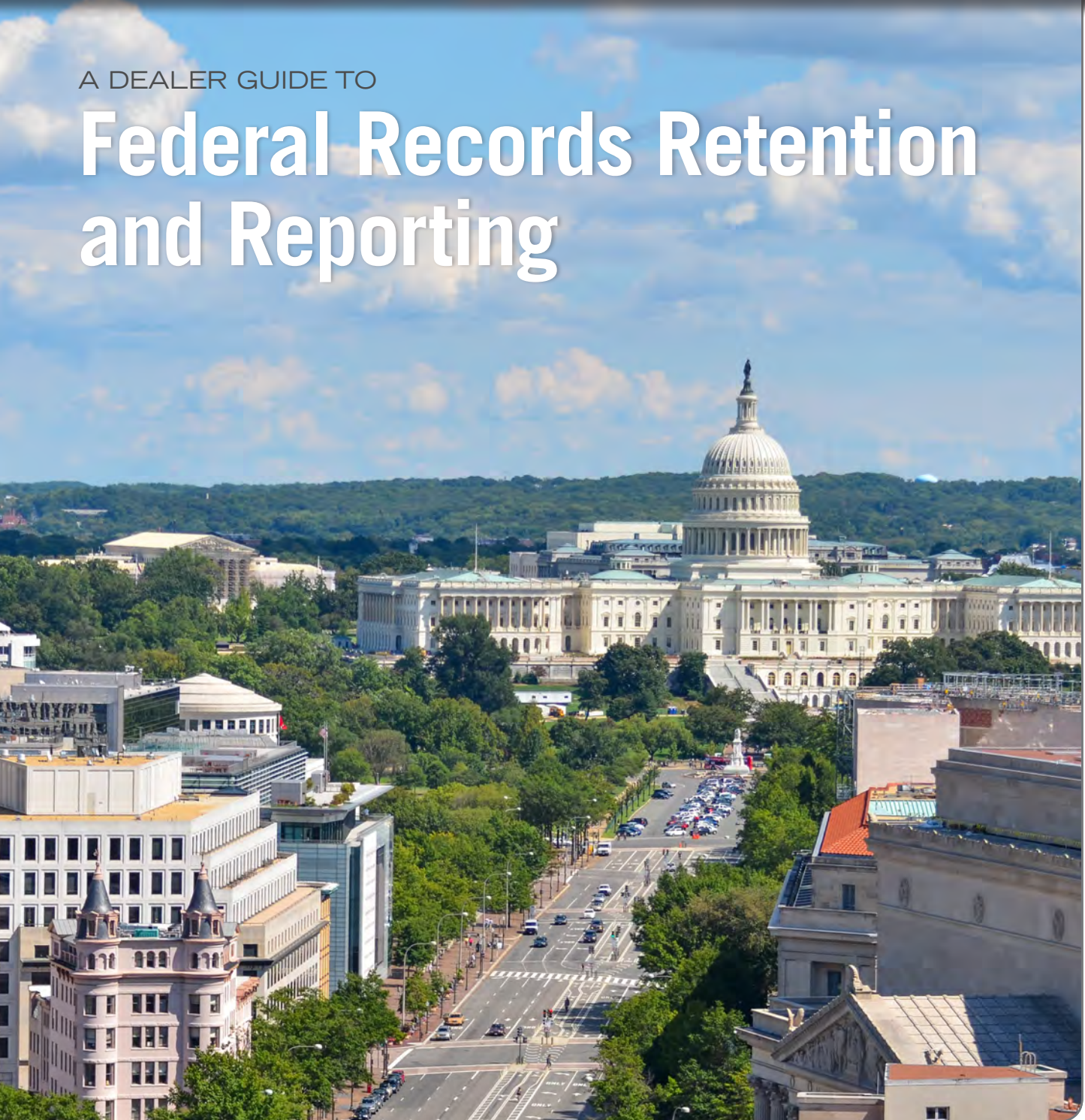
# ***Driven***

NADA MANAGEMENT SERIES

L3

A DEALER GUIDE TO

# Federal Records Retention and Reporting



NATIONAL  
AUTOMOBILE  
DEALERS  
ASSOCIATION





SCANNING

28%

SCANNING

67%

The National Automobile Dealers Association has prepared this *Driven* guide to assist members with federal recordkeeping requirements. Offered for informational purposes, it is not intended as and does not contain legal advice. Dealers should contact their state and/or local dealer associations, dealership attorneys, and tax advisors for information on state, local, and other recordkeeping requirements.

NADA has prepared this guide to assist its dealer members in being as efficient as possible in the operation of their dealerships. The presentation of this information is not intended to encourage concerted action among competitors or any other action on the part of dealers that would in any manner fix or stabilize the price or any element of the price of any good or service.

## Federal Records Retention and Reporting



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# Federal Records Retention and Reporting

## Introduction

Franchised automobile and truck dealerships generate lots of information. Some of this information must be retained or reported for business purposes, and some pursuant to federal, state or local government requirements. In addition, contracts with manufacturers, lending institutions, and other entities that dealerships do business with often require records to be retained and reports to be made. Appropriate recordkeeping and reporting, designed to minimize storage costs and the potential cost of complying with discovery requests, can help to protect dealerships in the event of litigation. It is important that dealers and their managers work with dealership legal counsel to establish, follow, and periodically review records retention policies designed to meet business and compliance needs, while minimizing costs and risks.

This guide cannot address *every* federal government recordkeeping and reporting requirement applicable to all franchised dealerships, in part because new requirements are continually being issued by the

many federal agencies that regulate dealership operations. This guide also does not address the many requirements imposed by state or local government, or requirements imposed by contract, all of which can often alter, amend, or supplement federal recordkeeping and reporting requirements. Importantly, many state and local governments impose their own statutory, regulatory, or common law evidentiary or other requirements to retain records for longer periods, or in a special format. Consult state and local dealer associations, dealership attorneys, and outside CPAs for information on state, local, and other recordkeeping and reporting requirements.

The recordkeeping and reporting requirements discussed in this guide are arranged alphabetically, first by federal agency and then by divisions and topics within the agency. Throughout the guide, references are made to additional sources of information related to the topics addressed. A wealth of additional compliance assistance resources can be found on [NADA's Regulatory Affairs website](#).

## IN WHAT FORMAT SHOULD RECORDS BE KEPT AND REPORTS BE FILED?

While most dealerships maintain some records in electronic form and others as hard copies, questions often arise as to which format is required. Some federal agencies specify that certain forms, records, or other information be *submitted* electronically. With a few exceptions, however (see discussion of IRS below), most do not specify the format in which to keep required records. Generally, the federal E-SIGN Act provides that electronic records may be treated as equivalent to hard copies, so long as certain requirements are met.

Note that other considerations may dictate whether records may (or must) be kept electronically. For example, some state rules of evidence may require or give deference to hard-copy records, and some contracts may specify a recordkeeping format. Bottom line: Dealership recordkeeping and reporting policies should specify how, for how long, and in what format records should be retained and reports should be filed.



## Department of Homeland Security

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### U.S. Citizenship and Immigration Services

#### Immigration

Keep copies of U.S. Citizenship and Immigration Services' Employment Eligibility Verification Forms (I-9) for the later of three years after the date of hire, or one year after termination. See also NADA's [A Dealer Guide to Employment Eligibility Verification](#) (L21).

## Department of Labor

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### Employee Benefits Security Administration

#### Employee Retirement Income Security Act

Keep pension, retirement, and welfare benefit plan records, such as summary plan descriptions and Forms 5500, for at least six years from the filing date. Indefinitely retain records relating to participant entitlement to benefits. Find more information on ERISA, fiduciary responsibilities, and compliance [here](#).





## Occupational Safety and Health Administration

### Asbestos Standard

Develop an asbestos monitoring exemption record (objective evidence test) and label asbestos-containing wastes. For OSHA's Safety and Health Information Bulletin on working with brakes and clutches containing asbestos, click [here](#). For more on regulatory responsibilities, see NADA's bulletin, [Updated Asbestos Standards](#) (L18).

### Bloodborne Pathogens

Maintain a dealership blood-borne pathogens exposure control plan, keep training records for three years and medical records for the duration of employment plus 30 years. See also "Recordkeeping" in NADA's [fact sheet](#) on medical services/first aid standard and blood-borne pathogens rules.

### Fire Safety

Keep fire prevention records, including an emergency action plan and evidence of fire extinguisher inspection and testing. For further information, see also "fire protection" at "Standards" [here](#).

### Hazard Communication

Maintain a written hazard communication program, including a list of hazardous chemicals and safety data sheets, and keep them indefinitely. For more information on the HazCom standard and the written program, see NADA's [A Dealer Guide to the Updated OSHA HazCom Standard](#) (L22) and [OSHA's hazard communication webpages](#).

### Injury and Illness

Maintain the OSHA injury and illness recordkeeping forms for five years. See NADA's dealership-specific [OSHA Electronic Recordkeeping FAQ](#) and [OSHA's recordkeeping webpages](#).

### Lockout/Tagout

Maintain a written lockout/tagout procedure. NADA's [A Dealer Guide to Lockout/Tagout: Controlling Hazardous Energy](#) (L42) contains sample dealership LOTO procedures and a sample employee training form for recordkeeping purposes. For more information, see [OSHA's webpages on controlling hazardous energy](#).

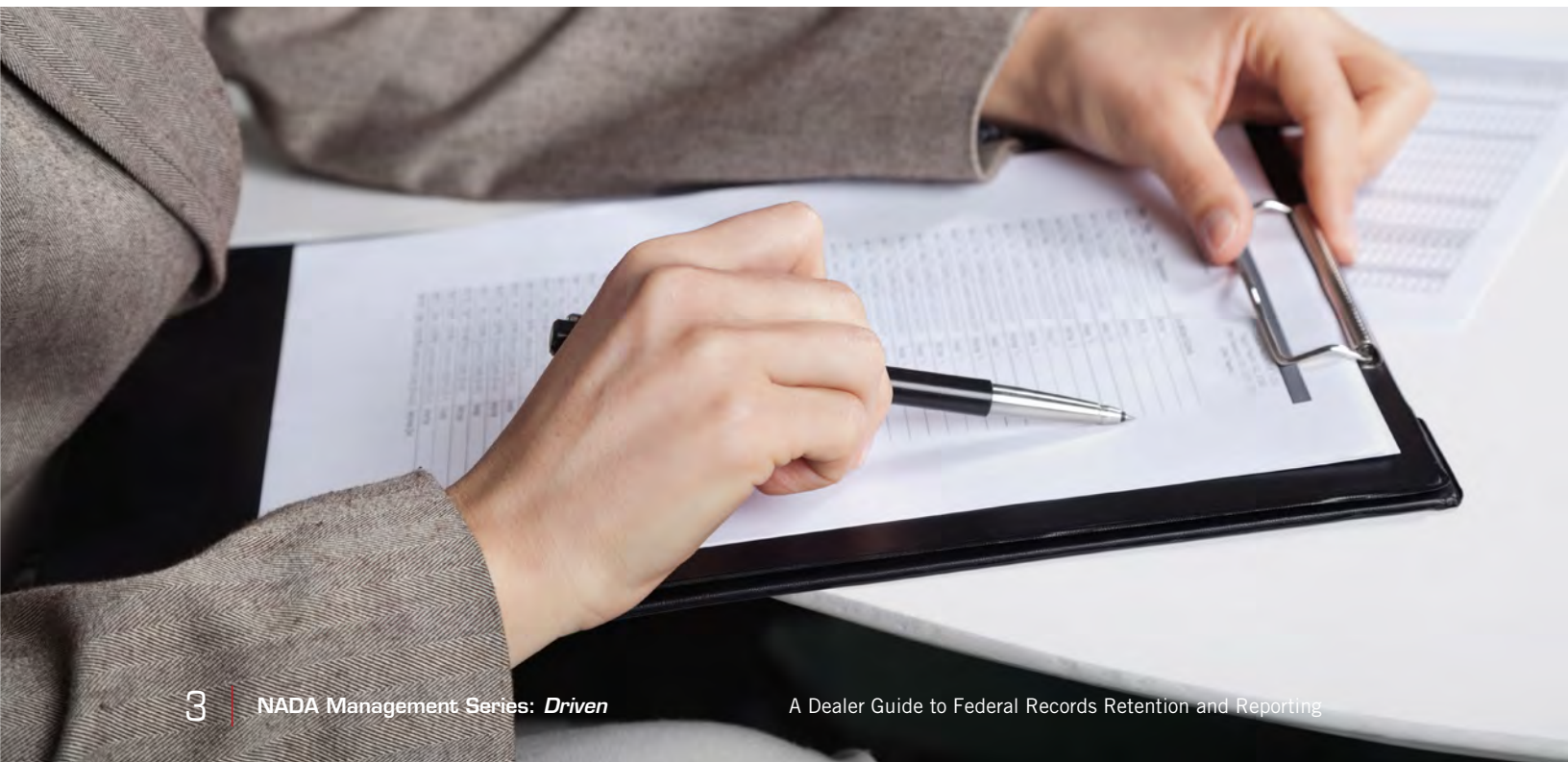
### Respiratory Protection

Retain inspection records for respiratory protection equipment, resistance welding equipment, man lifts, powered platforms, and cranes. Make exposure test records and medical records available for inspection for 30 years. Display an [OSHA poster](#). NADA's [A Dealer Guide to the OSHA Respiratory Protection Rule](#) (L38) covers the required written respiratory protection program, program implementation, and recordkeeping. OSHA's [respiratory protection webpages](#) contain a great deal of guidance on the Respiratory Protection Standard, which is usually one of the top 10 most frequently cited standards following OSHA inspections.

### Wage and Hour Division

#### Employee Polygraph Protection Act

If administering a polygraph for an ongoing investigation involving economic injury or loss, keep a copy



of a statement setting forth the incident or activity under investigation, and the basis for testing, for at least three years. Document the loss or injury in question and the nature of the employee's access to the person or property under investigation. Display the [EPPA poster](#) and consult "Recordkeeping, Reporting, Notices and Posters" [here](#).

#### **Equal Pay Act/Lilly Ledbetter Fair Pay Act**

Maintain records relating to wage payments, wage rates, job evaluations, job descriptions, relief systems, collective bargaining arrangements, and pay practices that describe or explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment, and that may be pertinent to determining that a wage differential is based on factors other than sex. Keep these records for at least three years. See also "Recordkeeping requirements" [here](#). NADA's *A Dealer Guide to Federal Wage and Hour, Child Labor, and Wage Discrimination Compliance* (L1) has more information on equal pay discrimination and enforcement.

#### **Fair Labor Standards Act/Wage and Hour Law**

Maintain records for at least three years including employee name, address, birth date, sex, occupation, time of day and day work week begins, regular hourly pay rate, hours worked each day and total hours worked each week, straight-time earnings, overtime earnings, total additions, subtractions and wages paid each pay period, payment date, and pay period covered. Also keep back-pay records. Display the federal [minimum wage poster](#). NADA's *A Dealer Guide to Federal Wage and Hour, Child Labor, and Wage Discrimination Compliance* (L1) contains specific information on recordkeeping and retention.

#### **Family and Medical Leave Act**

Post an [FMLA poster](#) and provide employees with dealership FMLA policy information. Keep copies of leave justification documentation, medical certifications, and other records related to FMLA for three years. For further information on the FMLA, see [DOL webpages](#) and NADA's *A Dealer Guide to the Family and Medical Leave Act* (L33).

## **Department of Transportation**

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### **Federal Motor Carrier Safety Administration**

#### **Carrier Registration**

When a commercial truck dealership first registers as a motor carrier that operates commercial motor vehicles (CMVs) in interstate commerce, it should use FMCSA's [Unified Registration System](#). Renew registrations every two years by filing a Motor Carrier Identification Report ([Form MCS-150](#)), and keep a copy for at least two years.

#### **Drivers**

Keep driver-employee records, including traffic violation, physical disqualification, and general qualification records, for at least three years following termination of employment. Keep driver drug testing program administration and results records for at least five years (but only keep individual negative test results for one year). Employee Assistance Programs should be documented. Retain driver logs (if any) for at least six months following receipt. Keep daily vehicle condition reports (if any) for three months and brake inspector qualifications for one year after termination of employment. For further information on these topics, see FMCSA webpages on [CDL](#), [drivers](#), and [alcohol and drug testing](#).

#### **Electronic Logging Devices**

FMCSA has issued a limited ELD exemption for rental CMVs. The exemption requires drivers to keep copies of the exemption notice and of the rental agreement to present to law enforcement upon request. Rental agreements should clearly identify the parties, the rented vehicle, and the dates of the rental period. Drivers also must possess paper copies of their records of duty (RODS) for the current day and for the prior seven days (if required for those days). Further information can be found at FMCSA [here](#), and on our [ATD ELD FAQ](#) page.

#### **Regulations, Accident and Inspection/Maintenance**

Retain indefinitely a copy of FMCSA's regulations and any safety/compliance review results. Keep records of reportable accidents for at least one year after they occur. Keep inspection/maintenance records for the longer of 14 months or six months after a CMV leaves the dealership's control. Place inspection stickers or decals on CMVs or keep copies of inspection reports on board. See [FMCSA](#) for more information.



### Vehicle Marking

Temporarily mark CMVs being operated in interstate commerce with the dealership's U.S. DOT number. For further information, see the [FMCSA CMV marking webpage](#).

See the FMCSA [website](#) for more information on recordkeeping and compliance reviews.

### National Highway Traffic Safety Administration

#### Air Bag Deactivation/Switch Installation

Return air bag switch installation forms to NHTSA within seven working days. It is recommended, but not required, that copies of air bag switch installation authorization letters and waiver forms be kept indefinitely. See “On-Off Switch/Deactivation” at [nhtsa.gov](#).

#### Gray Market Imports

Keep certificate of conformity-related documents for at least eight years. See also NHTSA on [vehicle importation and certification requirements](#).

### Large Vans

Get a statement from all purchasers of vans with more than 10 seating positions indicating that they do not intend to use them to transport children to and from school or to school-related activities. See “How do NHTSA's school bus regulations apply to vehicle dealers?” under “School Bus Regulations FAQs” [here](#).

### New Tire Sales Registration

There are three options for complying with NHTSA's tire sale registration requirements:

1. Provide tire purchasers with a paper tire registration form listing the entire tire identification number (TIN) of the tire(s) and the dealership's name and street address, email address, or website. Purchasers may elect to register their tires by mailing forms back to the tire manufacturer (or its designee).
2. Within 30 days of the date of the sale, record on a tire registration form the purchaser's name and address, the TIN(s) of the tire(s), and the dealership's name and street address, email address, or website,



and return it to the tire manufacturer or its designee, at no charge to the purchaser.

When complying with option 1 or 2, use the tire registration form provided by the tire manufacturer. Multiple tire sales to the same purchaser may be recorded on a single form or in a single electronic transmission.

3. Within 30 days of a tire sale, electronically transmit to the tire manufacturer (or its designee), by a secure means, the purchaser's name and address, the TIN(s) of the tire(s), and the dealership's name and street address, email address, or website. Note on the invoices or repair orders provided to tire purchasers that their tires are being registered electronically.

While not mandatory, it's recommended that dealers retain tire purchaser names, addresses and tire I.D. numbers for at least three years after the sale, so purchasers can be notified in the event of a recall. See ["Tire Safety Starts with Tire Registration."](#)

#### **Odometer Disclosure Documents**

Sellers and lessors must keep copies of all odometer mileage disclosures and related power-of-attorney documents, issued and received, for at least five years. See also NADA's [How to Comply with the Law: A Dealer Guide to the Federal Odometer Law](#) (L25) and NHTSA information on [odometer fraud](#).

#### **Recalls**

It is recommended, but not mandatory, that all used-vehicle customers be provided with a copy of the NHTSA VIN-specific recall look-up page at the time of sale, and that a copy be kept with the deal jacket. For more information, go to the NHTSA recall page [here](#).

#### **Vehicle Alteration and Multi-Stage Manufacturing**

Dealerships involved in vehicle alteration or "further manufacturing" should document the work done and affix the appropriate alteration or certification labels.

#### **Pipeline and Hazardous Materials Safety Administration Shipping/Receiving Hazmat**

Properly mark and label hazmat shipping containers and use appropriate manifests. Retain required manifests for at least two years. Keep copies of hazmat training/testing documentation until three months after employment termination. For additional information, see NADA's [The Federal Hazmat Transportation Regulations](#) (L37) and the [PHMSA website](#).

## **Environmental Protection Agency**

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#### **Above-Ground Storage Tanks**

Most dealerships store less than 5,000 gallons in above-ground tanks and drums. As such they meet the criteria to be "qualified facilities" under EPA's Spill Prevention Control and Countermeasure (SPCC) Rules. Qualified facilities must fill out, follow and retain copies of a self-certified SPCC plan. For more information on oil spill prevention and preparedness and to obtain a model qualified facility plan, visit the EPA's site [here](#).

#### **Body Shop Hazardous Air Emissions Rule**

Dealership body shops were required to file an Initial Notification Form by January 10, 2010, and a Notification of Compliance status form by March 11, 2011. These forms and various others must be kept at least five years after the date created. For further information, see NADA Regulatory Affairs bulletin, [Compliance with EPA's Body Shop Hazardous Air Pollutant Rule](#).

#### **Community Right-to-Know**

If storing over 10,000 pounds of a hazardous chemical (e.g., approximately 1,600 gallons of fuel), annually file a [Tier II Form](#) with the state emergency response commission, local emergency planning commission, and local fire department. Keep copies for at least three years. For further information visit the [EPA's Community Right-to-Know page](#).

#### **Hazardous Waste and Used Oil**

File [Form 8700-12](#) to obtain an EPA I.D. number. Properly label hazardous waste storage containers. For off-site hazardous waste shipments, keep copies of manifests, along with any exception or biannual reports, for at least three years. Retain waste determination, testing, and analyses records (if any) for at least three years. Mark used oil storage containers "Used Oil" and post a sign indicating a willingness to accept "do-it-yourselfer" used oil. Keep an off-site used oil shipment log (not mandatory). For more information on hazardous waste and associated regulations, visit the relevant [EPA page](#) and see NADA's [A Dealer Guide to the Federal Hazardous Waste Law](#) (L15).

#### **Motor Vehicle Air Conditioning Refrigerant Recycling**

File a one-time facility certification form with EPA. Keep copies of technician certifications on file for three years. If selling refrigerant, post a sales restriction sign and keep resale purchaser records for three years. Keep records of the names and addresses of any off-site refrigerant recycling facilities used for three years.



For further information, see the [EPA's page on MVAC System Servicing](#) and NADA's *A Dealer Guide to the EPA Mobile Air Conditioning Coolant Recycling Regulation* (L30).

### Underground Storage Tanks

Retain UST [notification forms](#) indefinitely. Keep UST design, construction, installation, and repair records for at least the life of the tank and piping. Retain the three most recent inspection results for cathodically-protected USTs. Document UST leak detection performance claims for at least five years. Retain release detection sampling, testing, and/or monitoring results and documentation of the calibration, maintenance, and repair of release detection systems for at least one year. Keep site investigation records for at least three years after completion of a permanent UST closure or change-in-service. Retain records evidencing required UST financial responsibility indefinitely. Maintain internal lining inspection results until the next inspection. Find more information on UST report-

ing and recordkeeping requirements [here](#). NADA's *Driven* guide, *A Dealer Guide to the EPA Underground Storage Tank Regulations: 2016 Update* (L23), is available [here](#).

### Vehicles

Upon request, download and print current copies of the [EPA/DOE Fuel Economy Guide](#). Document evidence of any observed [emissions tampering](#) involving service or used vehicles. Keep “gray market” vehicle or engine documents for at least six years from date of entry.

### Water and Wastewater Management

Keep national pollutant discharge elimination (NPDES) permit sampling, monitoring, and/or measurement documentation, and any underground injection well permit applications, for at least three years. For information on wastewater issues and conservation, see NADA's *A Dealer Guide to Water and Wastewater Management* (L46).





## **Equal Employment Opportunity Commission**

### **Age Discrimination in Employment Act**

Keep employee records containing name, address, birth date, occupation, pay rate, and weekly compensation until three years after separation, and information related to job applications, promotions, discharges, job orders, employer-administered test results, physical examination results, employment advertisements, and job applications for one year. Keep copies of employee benefit plans until one year after plan termination. Federal regulations on record-keeping and posting can be found [here](#). The [EEOC webpages](#) on age discrimination contain more information on the topic.

### **Title VII of the Civil Rights Act/Americans with Disabilities Act**

Retain personnel and employment records, including job applications and hiring, promotion, and termination records, for at least six months after the later of when those records are created, or when personnel actions are taken. Dealerships with 100 or more employees should retain a copy of their most recently filed Employer Information Report survey (EEO-1). Dealerships with apprenticeship programs requiring

EEO-1 reports must keep related records for at least two years. Obtain and display a consolidated [EEO poster](#). Revise employee handbooks, job applications, job descriptions, etc., to comply with ADA. For further information, see [EEOC webpages](#).

## **Federal Communications Commission**

### **Do Not Call**

Maintain records sufficient to establish compliance with federal “Do Not Call” requirements. Examples include records to establish adequate, timely checking of the federal Do Not Call database; any established business or other exceptions; receipt of and compliance with opt-out requests from call recipients; and any customer authorizations to call. General information about the Do Not Call program can be found [here](#).

### **Telephone Consumer Protection Act**

Obtain prior written consent for all prerecorded or auto-dialed telemarketing calls and for all telemarketing text messages. Dealers should maintain records of all such written consent. The TCPA limitations period is four years.<sup>1</sup> See the FCC page on [telemarketing and robocalls](#).





## Federal Trade Commission

### Equal Credit Opportunity Act/Regulation B

Regulation B, which implements the ECOA, generally requires creditors to retain credit applications and related documents (including any adverse action notices, supplemental information used in evaluating applicants, and written notifications) for 25 months from the date the application is submitted or, if applicable, 25 months from the date the creditor notifies the applicant of the action taken on the application.<sup>ii</sup> This applies to *all* applications, not just applicants approved for credit, or who financed or leased a vehicle. For more information on recordkeeping, see “What Records Should You Keep?” in NADA’s *A Dealer Guide to Adverse Action Notices* (L49).

### Fair Credit Reporting Act

The statute of limitations for violations of FCRA allows claims to be brought within two years of the discovery of the violation, and no more than five years after the violation has occurred.<sup>iii</sup> Therefore, dealers may wish to consider keeping FCRA documents such as adverse action notices for at least five years. While the five-year retention period is not a statutory requirement, it is important that dealerships maintain sufficient records to defend themselves against potential consumer lawsuits. See also records retention information in the NADA/AIADA/NAMAD *Fair Credit Compliance Policy & Program*.

### Telemarketing Sales Rule

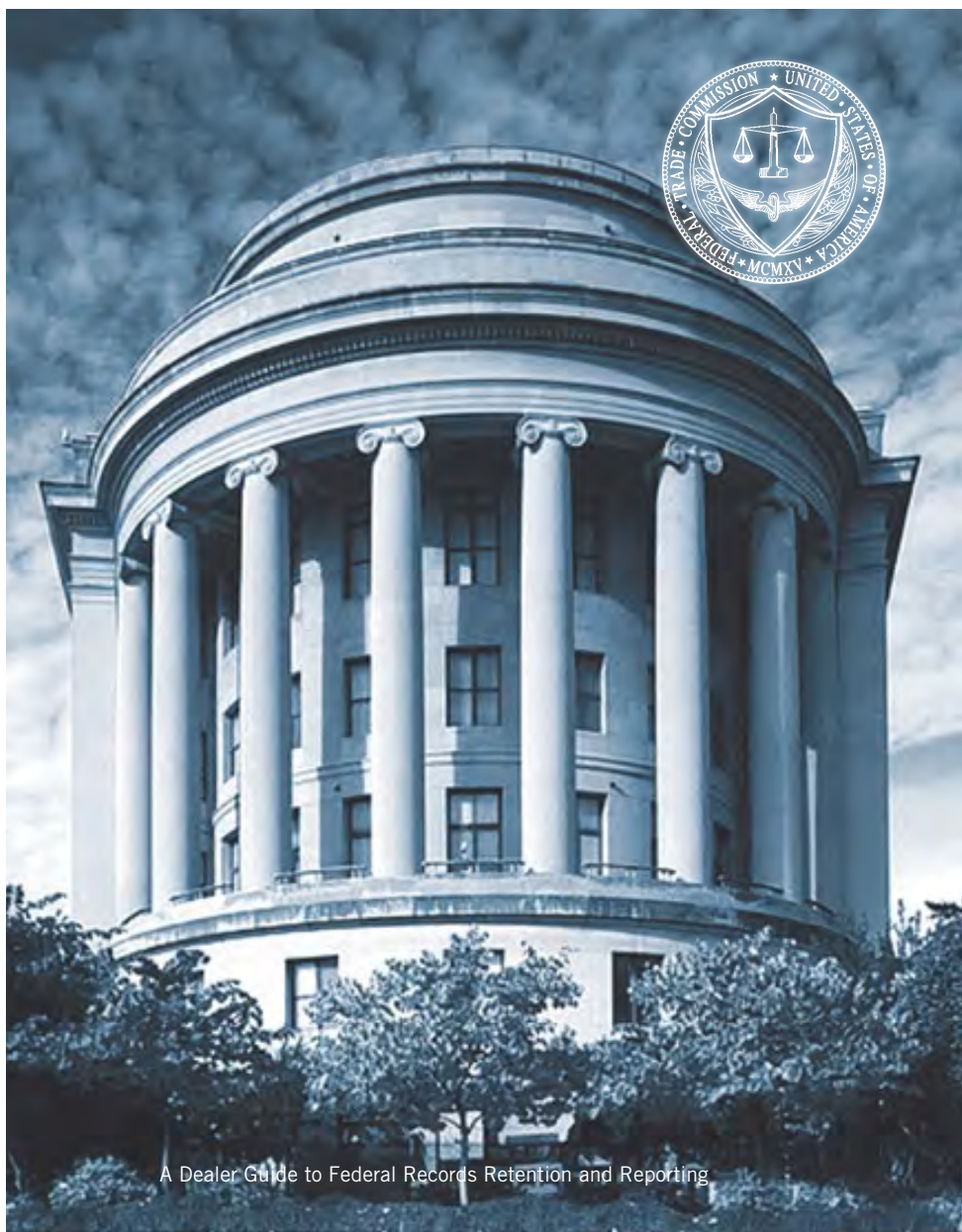
Maintain certain records relating to telemarketing activities for 24 months. Records include certain advertising, brochures and telemarketing scripts, promotional prize recipients, and information on employees involved in telemarketing efforts.<sup>iv</sup> If telemarketing service providers are used, ensure that they meet these recordkeeping obligations. Maintain a list of customers who have asked that they not be called again. This “company-specific” do-not-call list should be maintained indefinitely. See also [FTC compliance guidance](#).

### Truth in Lending

Keep documents that are “evidence of compliance” with TILA for at least two years.<sup>v</sup> This does not apply to the TILA advertising requirements. See also information on electronic records in NADA’s *A Dealer Guide to Federal Truth in Lending Requirements* (L57).

### Used Car Rule

Put Buyers Guides on all used cars offered for sale. It is recommended that customers be asked to sign the form documenting receipt of the Buyers Guide, and that they be given a copy to retain along with copies of sales contracts and related warranty or service contract documents (not mandatory). There is no mandatory retention period for Buyers Guides, but consider retaining copies for at least as long as the Retail Installment Sales Contract (RISC) term. For more information on the FTC Used Car Rule, see NADA’s *A Dealer Guide to the FTC Used Car Rule* (L12).



## General Services Administration

### Federal Acquisition Regulations System

Maintain documentation of transactions involving goods or services provided to the federal government. For federal contracts totaling \$10,000 or more, keep complete employment records of handicapped applicants and employees for at least one year, make annual reports on the number of veterans in the work force, and regularly file EEO compliance reports.

## Internal Revenue Service

The IRS instructs businesses that “[t]he length of time you should keep a document depends on the action, expense, or event which the document records. Generally, keep records that support an item of income, deduction or credit shown on a tax return until the period of limitations for that tax return runs out. The period of limitations is the period of time in which to amend a tax return to claim a credit or refund, or in which the IRS can assess additional tax.”<sup>vi</sup>

[Appendix A](#) provides guidance on the periods of limitations that apply to income tax returns. NADA’s [A Dealer Guide to Federal Tax Issues](#) (L32) provides additional details, including information on computerized records.

## A NOTE ON IRS ELECTRONIC RECORDS RETENTION REQUIREMENTS



The IRS requires all businesses with assets of over \$10 million to maintain certain records electronically, such that the records are capable of being processed, retrieved, manipulated, and printed, and that they contain sufficient transaction-level detail to allow the IRS to determine tax liability. Dealerships should work with their technology vendors to ensure that their systems can meet the IRS’s electronic records requirements. The IRS has provided some guidance about automated records [here](#). See [Appendix B](#) for electronic records retention requirements specific to automotive dealerships.

### Cash Reporting

File [Form 8300](#) within 15 days after receipt of over \$10,000 cash in one transaction or two or more related transactions. Keep copies of cash receipts, journals, and bank deposit slips for three years. Keep a copy of every Form 8300 filed for five years.<sup>vii</sup> For additional information, visit IRS webpages [here](#).

### CFC-12 Excise Tax

For purposes of the related excise tax, keep records of annual CFC-12 (Freon) floor stock inventories for at least three years.

### Employment Taxes

Keep all records of employment taxes for at least four years after filing fourth-quarter returns for the year. These should be available for IRS review. Records should include:<sup>viii</sup>

- ▶ Employer identification number.
- ▶ Amounts and dates of all wage, annuity, and pension payments.
- ▶ Amounts of tips reported.
- ▶ The fair market value of in-kind wages paid.
- ▶ Names, addresses, Social Security numbers, and occupations of employees and recipients.
- ▶ Any employee copies of Form W-2 that were returned to you as undeliverable.
- ▶ Dates of employment.
- ▶ Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them.
- ▶ Copies of employees’ and recipients’ income tax withholding allowance certificates (Forms W-4, W-4P, W-4S, and W-4V).
- ▶ Dates and amounts of tax deposits you made.
- ▶ Copies of returns filed.
- ▶ Records of allocated tips.
- ▶ Records of fringe benefits provided, including substantiation.

Employment tax records also include sick payments under a wage continuation plan, unemployment tax records, Social Security tax records, deductions and withholdings from income tax, and the payment to employees of over-collections. Also retain copies of all returns, schedules, statements, and documents related to refunds, credits, and abatement. Keep logs and other records related to employee use of demonstrators and other business-use vehicles.



### Estate and Gift Tax

Generally, keep records related to an estate for the duration of the estate and keep records adequate to determine the amount of taxable gifts until the donor's estate is closed. Executors must keep records sufficient to allow the IRS to accurately determine estate tax liability, including copies of appraisal lists of items in the estate or trust, balance sheets, financial statements, and stock valuations. Retain gift records sufficient to complete a gift tax return, including accounts showing gifts and generation-skipping transfers and the deductions used to determine the amount of taxable interest.

### Income Tax

Personal and corporate income tax records should generally be kept for at least three years (see [Appendix A](#)), longer if material to the administration or enforcement of an IRS law. Records should include backup documentation, books, receipts, and agreements for all income, business expenses, depreciation allowances, deductions, contributions, distributions, transfers and exchanges of property, inventory, dividends, minimum tax preference items, etc. Keep copies of old tax returns and any other filings or communications with the IRS. Retain records of the names, tax I.D. numbers, and addresses of any tax preparers used.

### LIFO

File [Form 970](#) to elect a LIFO method and [Form 3115](#) to change an accounting method. Keep these forms, as well as all inventory invoices, indefinitely.

### Retail Excise Tax

Retain heavy-duty truck excise tax (FET) documents for as long as they may be material to the computation of a tax. Keep copies of excise tax returns, schedules, statements, and other filings or communications with the IRS for at least three years. If liable for truck excise taxes or claiming tax-free truck, trailer, and/or tractor sales, maintain records of the gross vehicle weight ratings and/or serial numbers of each vehicle for at least three years,<sup>ix</sup> with documents outlining taxable and tax-free transactions. Keep all documents relied on in preparing a return for a period of four years from the date the tax is due (or, if the tax was paid later, the date the tax was paid). For more information, see NADA's [A Dealer Guide to Federal Excise Tax Compliance](#) (TLR26).

### Small Business Administration

Retain all records related to SBA loan applications indefinitely.





# Appendices





## Appendix A

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### IRS Small Business Records Retention Guidance<sup>x</sup>

The length of time you should keep a document depends on the action, expense, or event which the document records. Generally, you must keep your records that support an item of income, deduction or credit shown on your tax return until the period of limitations for that tax return runs out.

The period of limitations is the period of time in which you can amend your tax return to claim a credit or refund, or the IRS can assess additional tax. The information below reflects the periods of limitations that apply to income tax returns. Unless otherwise stated, the years refer to the period after the return was filed. Returns filed before the due date are treated as filed on the due date.

Note: Keep copies of your filed tax returns. They help in preparing future tax returns and making computations if you file an amended return.

#### Period of Limitations that apply to income tax returns

1. Keep records for 3 years if situations (4), (5), and (6) below do not apply to you.
2. Keep records for 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later, if you file a claim for credit or refund after you file your return.
3. Keep records for 7 years if you file a claim for a loss from worthless securities or bad debt deduction.
4. Keep records for 6 years if you do not report income that you should report, and it is more than 25% of the gross income shown on your return.
5. Keep records indefinitely if you do not file a return.
6. Keep records indefinitely if you file a fraudulent return.
7. Keep employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.

The following questions should be applied to each record as you decide whether to keep a document or throw it away.

#### Are the records connected to property?


Generally, keep records relating to property until the period of limitations expires for the year in which you dispose of the property. You must keep these records to figure any depreciation, amortization, or depletion deduction and to figure the gain or loss when you sell or otherwise dispose of the property.

If you received property in a nontaxable exchange, your basis in that property is the same as the basis of the property you gave up, increased by any money you paid. You must keep the records on the old property, as well as on the new property, until the period of limitations expires for the year in which you dispose of the new property.

#### What should I do with my records for nontax purposes?

When your records are no longer needed for tax purposes, do not discard them until you check to see if you have to keep them longer for other purposes. For example, your insurance company or creditors may require you to keep them longer than the IRS does.

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 <p><b>IRS</b></p>	<p align="center"><b>Revenue Procedure 98-25</b>  1998-1 CB 689, (Feb. 26, 1998). 1998-11 I.R.B. 7</p> <p align="center"><b>Electronic Records Retention Requirements for Auto Dealerships</b></p>
<p><b>Automotive Alert</b></p> <p><b>Motor Vehicle Technical Advisor</b>  January 21, 2005</p>	<p>The Motor Vehicle Technical Advisor (MVTA) program is engaged in a joint project with IRS Computer Audit Specialists (CAS) to identify and resolve concerns regarding compliance with Rev. Proc. 98-25. During examinations of many automobile dealerships, the IRS has discovered compliance issues related to the maintenance of records as required under the revenue procedure.</p> <p>Rev. Proc. 98-25 is not specific to auto dealerships and applies to any taxpayer with assets <math>\geq</math> \$10 million. Requirements of Rev. Proc. 98-25 include the maintenance of electronic records that:</p> <ul style="list-style-type: none"> <li>• are capable of being processed</li> <li>• can be retrieved, manipulated, printed</li> <li>• contain sufficient transaction level detail</li> </ul> <p>In addition, taxpayers must provide, as necessary, resources to process records including hardware, software, terminal access, computer time, and personnel.</p> <p>Auto dealerships generally utilize computer systems that must meet the manufacturers' requirements and that are designed specifically for their businesses. In many dealership cases examined, the systems did not meet the requirements imposed by Rev. Proc. 98-25. Several factors can contribute to potential non-compliance in the auto dealership industry, such as:</p> <ul style="list-style-type: none"> <li>• Dealerships have a limited number of hardware and software vendors from which to choose.</li> <li>• The transfer of data from one vendor's product to another is difficult or impossible.</li> <li>• Information systems are typically relatively small and do not store information from prior cycles.</li> <li>• Back up tapes might be made but typically are not retained for an extended period.</li> <li>• If back up information is available, it generally cannot be loaded back onto the dealer's system without removal of the current activity.</li> <li>• Information systems contain proprietary software that usually cannot be accessed by a Computer Audit Specialist.</li> </ul> <p>In order for dealers to evaluate whether or not their system is in compliance, IRS CAS have developed a list of common files (shown below) necessary for most IRS audits. If you have any questions regarding your dealerships' compliance, contact your software vendor. For questions regarding the requirements of Rev. Proc. 98-25, contact the MVTA team. We will be happy</p>

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## Appendix B

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	to discuss the issue with your and if necessary put you in contact with IRS computer specialists.
	<b>Generic Listing of Computer Files Necessary for Most IRS Examinations</b>
<b>Types of Files:</b>	<p>Although not all-inclusive, the following list indicates files most used by an IRS Computer Audit Specialist.</p> <ul style="list-style-type: none"> <li>Files are in a sequential/ fixed-length, or delimited, or print file, record format-- ASCII.</li> <li>Documentation would include the file layouts outlining: <ul style="list-style-type: none"> <li>Field names and description;</li> <li>Data formats (character, text, numeric, packed decimal, etc.);</li> <li>Length of each field;</li> <li>Total record length.</li> <li>Each file retained on magnetic media should have a label that contains file name, record length, and number of records.</li> </ul> </li> </ul>
<b>General Ledger Master File</b>	<ul style="list-style-type: none"> <li>Contains the complete General Ledger Account number, Account Name Description, and Prior 12-month Debit or Credit Ending GL Balances.</li> </ul>
<b>General Ledger Transaction File</b>	<ul style="list-style-type: none"> <li>Contains the complete 12 month (including post-closing entries) detail journal voucher transactions.</li> <li>Fields that may be contained in this file would be: <ul style="list-style-type: none"> <li>General Ledger Account Number;</li> <li>Corp. Number;</li> <li>Plant Number;</li> <li>Journal Reference Number;</li> <li>General Ledger Account Name Description;</li> <li>Transaction/posted date(s) in a MM/DD/YYYY format (Y2K compliant date fields);</li> <li>JV Number, JV Description, Posted JV Debit/Credit Amounts.</li> </ul> </li> <li>There must be enough information contained in this file for IRS examiners to request specific JV source documents.</li> <li>This file may also contain detail accounts payable entries. If so, a Vendor Number, Vendor Name, and Invoice Number should be included.</li> </ul>
<b>Accounts Payable Distribution File</b>	<ul style="list-style-type: none"> <li>Contains the complete 12-month booked detail postings of accounts payable transactions. Data formats same as GL or other files.</li> <li>Fields contained in this file would be: <ul style="list-style-type: none"> <li>General Ledger Account Number;</li> <li>Plant Number and Corp. Number;</li> <li>Transaction/Posted Date(s) in Y2K compliant format;</li> <li>Invoice Number;</li> <li>Vendor Number and Name;</li> <li>Transaction Amount.</li> <li>Accounts payable payment file</li> </ul> </li> <li>There must be enough information contained in this file to pull invoice source documents.</li> </ul>
<b>Vendor Master File</b>	Contains the Vendor Number, Vendor Name, and Vendor Full Address.
<b>LIFO/Inventory Files</b>	<ul style="list-style-type: none"> <li>In general, the records should contain inventory-costing information necessary to calculate the LIFO index.</li> </ul>
<b>Miscellaneous</b>	<ul style="list-style-type: none"> <li>Files that may be necessary to administer other IRS provisions including:</li> </ul>

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## Appendix B

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### 1/21/05 IRS MVTA Automotive Alert *(continued)*

	<ul style="list-style-type: none"><li>o W-2 and 1099 files;</li><li>o Fixed Asset Files;</li><li>o Excise Tax Files;</li><li>o Corp Tax or Fast Tax Files</li><li>o Any other records pertinent to the examination.</li></ul>
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## Endnotes

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i 28 U.S.C. § 1658(a).

ii 12 CFR 202.12 (b) Preservation of records—

(1) Applications. For 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section) after the date that a creditor notifies an applicant of action taken on an application or of incompleteness, the creditor shall retain in original form or a copy thereof:

(i) Any application that it receives, any information required to be obtained concerning characteristics of the applicant to monitor compliance with the Act and this regulation or other similar law, and any other written or recorded information used in evaluating the application and not returned to the applicant at the applicant's request;

(ii) A copy of the following documents if furnished to the applicant in written form (or, if furnished orally, any notation or memorandum made by the creditor):

(A) The notification of action taken; and

(B) The statement of specific reasons for adverse action; and

(iii) Any written statement submitted by the applicant alleging a violation of the Act or this regulation.

(2) Existing accounts. For 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section) after the date that a creditor notifies an applicant of adverse action regarding an existing account, the creditor shall retain as to that account, in original form or a copy thereof:

(i) Any written or recorded information concerning the adverse action; and

(ii) Any written statement submitted by the applicant alleging a violation of the Act or this regulation.

(3) Other applications. For 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section) after the date that a creditor receives an application for which the creditor is not required to comply with the notification requirements of § 202.9, the creditor shall retain all written or recorded information in its possession concerning the applicant, including any notation of action taken.

(4) Enforcement proceedings and investigations. A creditor shall retain the information beyond 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section) if the creditor has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation of the Act or this part, by the Attorney General of the United States or by an enforcement agency charged with monitoring that creditor's compliance with the Act and this regulation, or if it has been served with notice of an action filed pursuant to section 706 of the Act and § 202.16 of this part. The creditor shall retain the information until final disposition of the matter, unless an earlier time is allowed by order of the agency or court.

iii 15 U.S.C. §1691e(f).

iv 16 CFR §310.5 Recordkeeping requirements.

(a) Any seller or telemarketer shall keep, for a period of 24 months from the date the record is produced, the following records relating to its telemarketing activities:

(1) All substantially different advertising, brochures, telemarketing scripts, and promotional materials;

(2) The name and last known address of each prize recipient and the prize awarded for prizes that are represented, directly or by implication, to have a value of \$25.00 or more;

(3) The name and last known address of each customer, the goods or services purchased, the date such goods or services were shipped or provided, and the amount paid by the customer for the goods or services;<sup>667</sup>

<sup>667</sup> For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR 226, compliance with the recordkeeping requirements under the Truth in Lending Act, and Regulation Z, shall constitute compliance with §310.5(a)(3) of this Rule.

(4) The name, any fictitious name used, the last known home address and telephone number, and the job title(s) for all current and former employees directly involved in telephone sales or solicitations; provided, however, that if the seller or telemarketer permits fictitious names to be used by employees, each fictitious name must be traceable to only one specific employee; and

(5) All verifiable authorizations or records of express informed consent or express agreement required to be provided or received under this Rule.

(b) A seller or telemarketer may keep the records required by §310.5(a) in any form, and in the same manner, format, or place as they keep such records in the ordinary course of business. Failure to keep all records required by §310.5(a) shall be a violation of this Rule.

(c) The seller and the telemarketer calling on behalf of the seller may, by written agreement, allocate responsibility between themselves for the recordkeeping required by this Section. When a seller and telemarketer have entered into such an agreement, the terms of that agreement shall govern, and the seller or telemarketer, as the case may be, need not keep records that duplicate those of the other. If the agreement is unclear as to who must maintain any required record(s), or if no such agreement exists, the seller shall be responsible for complying with §§310.5(a)(1)-(3) and (5); the telemarketer shall be responsible for complying with §310.5(a)(4).

(d) In the event of any dissolution or termination of the seller's or telemarketer's business, the principal of that seller or telemarketer shall maintain all records as required under this section. In the event of any sale, assignment, or other change in ownership of the seller's or telemarketer's business, the successor business shall maintain all records required under this section.

v 12 CFR 226.25.

vi See <https://www.irs.gov/businesses/small-businesses-self-employed/how-long-should-i-keep-records>

vii See <https://www.irs.gov/pub/irs-pdf/p1544.pdf>

viii See <https://www.irs.gov/businesses/small-businesses-self-employed/employment-tax-recordkeeping>

ix For certain IRC § 4221 exemptions, the regulations refer to IRC § 6001 regarding the length of time a taxpayer should retain exempt sale documentation. Although this statutory cite and the regulations thereunder are not entirely clear on this issue, all taxpayers are recommended to retain documentation in support of a section 4221 exemption for at least three years, because the IRS typically will have at least three years to assess a taxpayer for past-due taxes on filed returns.

x See <https://www.irs.gov/businesses/small-businesses-self-employed/how-long-should-i-keep-records>



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