

## § 1627.6

comply with the recordkeeping requirements set forth in § 1627.3 or § 1627.4, as appropriate.

(Approved by the Office of Management and Budget under control number 3046-0018)

(Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[44 FR 38459, July 2, 1979, as amended at 46 FR 63268, Dec. 31, 1981; 56 FR 35756, July 26, 1991]

### § 1627.6 Availability of records for inspection.

(a) *Place records are to be kept.* The records required to be kept by this part shall be kept safe and accessible at the place of employment or business at which the individual to whom they relate is employed or has applied for employment or membership, or at one or more established central recordkeeping offices.

(b) *Inspection of records.* All records required by this part to be kept shall be made available for inspection and transcription by authorized representatives of the Commission during business hours generally observed by the office at which they are kept or in the community generally. Where records are maintained at a central recordkeeping office pursuant to paragraph (a) of this section, such records shall be made available at the office at which they would otherwise be required to be kept within 72 hours following request from the Commission or its authorized representative.

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(Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[44 FR 38459, July 2, 1979, as amended at 46 FR 63268, Dec. 31, 1981]

### § 1627.7 Transcriptions and reports.

Every person required to maintain records under the Act shall make such extension, recomputation or transcriptions of his records and shall submit such reports concerning actions taken and limitations and classifications of individuals set forth in records

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as the Commission or its authorized representative may request in writing.

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[44 FR 38459, July 2, 1979, as amended at 46 FR 63268, Dec. 31, 1981]

### §§ 1627.8-1627.9 [Reserved]

### § 1627.10 Notices to be posted.

Every employer, employment agency, and labor organization which has an obligation under the Age Discrimination in Employment Act of 1967 shall post and keep posted in conspicuous places upon its premises the notice pertaining to the applicability of the Act prescribed by the Commission or its authorized representative. Such a notice must be posted in prominent and accessible places where it can readily be observed by employees, applicants for employment and union members.

### § 1627.11 Petitions for recordkeeping exceptions.

(a) *Submission of petitions for relief.* Each employer, employment agency, or labor organization who for good cause wishes to maintain records in a manner other than required in this part, or to be relieved of preserving certain records for the period or periods prescribed in this part, may submit in writing a petition to the Commission requesting such relief setting forth the reasons therefor and proposing alternative recordkeeping or record-retention procedures.

(b) *Action on petitions.* If, no review of the petition and after completion of any necessary or appropriate investigation supplementary thereto, the Commission shall find that the alternative procedure proposed, if granted, will not hamper or interfere with the enforcement of the Act, and will be of equivalent usefulness in its enforcement, the Commission may grant the petition subject to such conditions as it may determine appropriate and subject to revocation. Whenever any relief granted to any person is sought to be revoked for failure to comply with the conditions of the Commission, that

person shall be notified in writing of the facts constituting such failure and afforded an opportunity to achieve or demonstrate compliance.

(c) *Compliance after submission of petitions.* The submission of a petition or any delay of the Commission in acting upon such petition shall not relieve any employer, employment agency, or labor organization from any obligations to comply with this part. However, the Commission shall give notice of the denial of any petition with due promptness.

### Subpart C—Administrative Exemptions

#### § 1627.15 Administrative exemptions; procedures.

(a) Section 9 of the Act provides that,

In accordance with the provisions of subchapter II of chapter 5, of title 5, United States Code, the Secretary of Labor \* \* \* may establish such reasonable exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest.

(b) The authority conferred on the Commission by section 9 of the Act to establish reasonable exemptions will be exercised with caution and due regard for the remedial purpose of the statute to promote employment of older persons based on their ability rather than age and to prohibit arbitrary age discrimination in employment. Administrative action consistent with this statutory purpose may be taken under this section, with or without a request therefor, when found necessary and proper in the public interest in accordance with the statutory standards. No formal procedures have been prescribed for requesting such action. However, a reasonable exemption from the Act's provisions will be granted only if it is decided, after notice published in the FEDERAL REGISTER giving all interested persons an opportunity to present data, views, or arguments, that a strong and affirmative showing has been made that such exemption is in fact necessary and proper in the public interest. Request for such exemption shall be submitted in writing to the Commission.

#### § 1627.16 Specific exemptions.

(a) Pursuant to the authority contained in section 9 of the Act and in accordance with the procedure provided therein and in § 1627.15(b) of this part, it has been found necessary and proper in the public interest to exempt from all prohibitions of the Act all activities and programs under Federal contracts or grants, or carried out by the public employment services of the several States, designed exclusively to provide employment for, or to encourage the employment of, persons with special employment problems, including employment activities and programs under the Manpower Development and Training Act of 1962, as amended, and the Economic Opportunity Act of 1964, as amended, for persons among the long-term unemployed, handicapped, members of minority groups, older workers, or youth. Questions concerning the application of this exemption shall be referred to the Commission for decision.

(b) Any employer, employment agency, or labor organization the activities of which are exempt from the prohibitions of the Act under paragraph (a) of this section shall maintain and preserve records containing the same information and data that is required of employers, employment agencies, and labor organizations under §§ 1627.3, 1627.4, and 1627.5, respectively.

[44 FR 38459, July 2, 1979, as amended at 52 FR 32296, Aug. 27, 1987; 55 FR 24078, June 14, 1990; 57 FR 4158, Feb. 4, 1992]

### Subpart D—Statutory Exemption

#### § 1627.17 Calculating the amount of qualified retirement benefits for purposes of the exemption for bona fide executives or high policymaking employees.

(a) Section 12(c)(1) of the Act, added by the 1978 amendments and amended in 1984 and 1986, provides:

Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or