

subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). However, the revisions to the clause made by this rule do not affect the information collection requirement previously approved under GSA's blanket approval under control number 3090-0250 from OMB for information collections with a zero burden estimate.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule under 5 U.S.C. 804. This rule was submitted to Congress and GAO under 5 U.S.C. 804.

F. Determination to Issue a Final Rule

GSA expects this rule will have no significant cost or administrative burden on contractors or offerors. The only additional administrative burden on contractors is the need to calculate the conversion of sales made in foreign currency once each quarter. Therefore, GSA is promulgating this final rule without prior opportunity for public comment.

List of Subjects in 48 CFR Part 552

Government procurement.

Accordingly, 48 CFR 552 is amended as follows:

1. The authority citation for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 552.238-72 is amended by revising the clause date; revising paragraph (a); redesignating paragraphs (b), (c), and (d) as (c), (d), and (e) respectively; adding a new paragraph (b); redesignating paragraph (e) in Alternate I as paragraph (f) and revising the reference "paragraph (e)" in Alternate I introductory text to read "paragraph (f)"; and revising the Alternate I date to read "May 1997"; and revising paragraphs (c) and (d) to read as follows:

552.238-72 Contractor's report of sales.
* * * * *

CONTRACTOR'S REPORT OF SALES (MAY 1997)

(a) The Contractor must furnish quarterly the dollar value (in U.S. dollars and rounded to the nearest whole dollar) of all sales under the contract during the preceding 3-month period, to include any partial month. The dollar value of a sale is the price paid by the schedule user for products and services on a schedule contract delivery order, as recorded by the Contractor. The reported contract sales value must include the industrial funding fee (see Clause 552.238-77). The Contractor must prepare and submit a separate report for each

National Stock Number (NSN), Special Item Number (SIN), or subitem, unless otherwise specified, on GSA Form 72A.

(b) The Contractor must convert the total value of any sales made in foreign currency to U.S. dollars using the "Treasury Reporting Rates of Exchange," issued by the U.S. Department of Treasury, Financial Management Service. The Contractor must use the issue of the Treasury report in effect on the last day of the contract quarter. The report is available from: Department of the Treasury, Financial Management Service, International Funds Branch, 3700 East-West Highway, PGCII, Room 5A19, Hyattsville, MD 20782, Telephone: (202) 874-7994, Internet: <http://www.ustreas.gov/treasury/bureaus/finman/intn.html>.

(c) The report is due in the office specified below or specified at the time of award 30 days following the completion of the reporting period. The Contractor must provide a close-out report within 120 days after the expiration date of the contract. This close-out report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then show zero sales in the close-out report.

(d) The Government reserves the right to inspect without further notice, such records of the Contractor as pertain to sales under this contract. Willful failure or refusal to furnish the required reports, or falsification thereof, constitutes sufficient cause for terminating the contract for cause under the termination provisions of this contract.

* * * * *
3. Section 552.238-77 is amended by revising the clause date; revising paragraph (a); redesignating paragraphs (b), (c), and (d) as (c), (d), and (e) respectively; adding a new paragraph (b); revising newly designated paragraphs (c), introductory text and (c)(2); and revising newly designated paragraph (e) to read as follows:

552.238-77 Industrial funding fee.
* * * * *

INDUSTRIAL FUNDING FEE (MAY 1997)

(a) The Contractor must pay the Federal Supply Service, GSA, an Industrial Funding Fee (IFF), in U.S. dollars, at the end of each contract quarter. The Contractor must remit the IFF at the same time the GSA Form 72A, Contractor's Report of Sales, is submitted under clause 552.238-72, Contractor's Report of Sales. The IFF equals _____ of total sales reported on GSA Form 72A. The IFF reimburses the GSA Federal Supply Service for the costs of operating the Federal Supply Schedules Program and recoups its operating costs from ordering activities. Offerors should include the IFF in the prices submitted with their offer. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities.

(b) The Contractor must remit any monies due as a result of the close-out report required by clause 552.238-72 at the time the close-out report is submitted to GSA.

(c) The IFF amount due must be paid by check or, electronic funds transfer through the Automated Clearing House (ACH), to the "General Services Administration." If the payment involves multiple special item numbers or contracts, the Contractor may consolidate the IFFs into one payment. To ensure that the payment is credited properly, the Contractor should identify the check or electronic transmission as an "Industrial Funding Fee" and include the following information: contract number(s); report amount(s); and report period(s). If the Contractor makes payment by check, provide this information on either the check, check stub, or remittance material. The GSA Form 72A is not remittance material.

* * * * *
(2) If the IFF payment is made by electronic funds transfer through ACH, the Contractor must call GSA, Financial Information Control Branch, Receivables, Collections and Sales Section (6BCDR) at (contracting officer to insert phone number) to make arrangements.

* * * * *
(e) Failure to submit sales reports, falsification of sales reports, and/or failure to pay the IFF in a timely manner may result in termination or cancellation of this contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to make timely payment of the IFF constitutes sufficient cause for terminating the contract for cause under the termination provisions of this contract.

(End of Clause)

* * * * *
Dated: May 15, 1997.

Ida M. Ustad,
Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97-18944 Filed 7-17-97; 8:45 am]
BILLING CODE 6820-61-P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1535 and 1552

[FRL-5860-6]

Acquisition Regulation: Removal of Certification Requirements Regarding Collection, Use, Access, Treatment, and Disclosure of Confidential Business Information (CBI)

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the Environmental Protection Agency Acquisition Regulation (EPAAR) (48 CFR Chapter 15) by removing certification requirements regarding the collection, use, access, treatment, and disclosure of confidential business information (CBI) which are not specifically imposed by statute, and to

amend CBI clauses to remove such certification requirements.

Existing contract clauses for the protection of CBI submitted pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA) are amended to mandate that prior to receipt of FIFRA CBI and TSCA CBI by the contractor, the contractor will ensure that their employees have read and are familiar with the handling, control, and data security requirements without the need for a certification. This accomplishes the objective of the certifications.

EFFECTIVE: August 18, 1997.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer at (202) 260-9032.

SUPPLEMENTARY INFORMATION:

A. Statutory Authority

Section 4301(b) of the Clinger-Cohen Act of 1996 (formerly the Federal Acquisition Reform Act of 1996—“FARA”) requires agencies to remove all non-statutory certifications from their acquisition regulation, unless the head of the agency approves a justification for the retention of a certification requirement. The basis for the justification must be that there is no less burdensome means for administering and enforcing the certification requirement.

The following two non-statutory certification requirements are removed:

1. 48 CFR 1552.235-72 Control and Security of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Confidential Business Information (Apr 1996).

2. 48 CFR 1552.235-74 Control and Security of Toxic Substances Control Act (TSCA) Confidential Business Information (Apr. 1996).

B. Background

The proposed rule was published in the **Federal Register** (61 FR 55126) on October 24, 1996, providing for a 60-day comment period. Interested persons have been afforded an opportunity to participate in the making of this rule. Due consideration has been given to the five comments received. The following is a summary of each comment received and the Agency's disposition of these comments.

1. *Comment:* The certification should be retained since there is no less burdensome means for administering and enforcing the protection of CBI.

EPA disagrees with this comment. Amending existing contract clauses to require that the contractor ensure that its employees have read and are familiar with the handling, control, and data

security requirements is a less burdensome means of achieving such familiarity. The contractor would still be bound by the terms of the contract to ensure that its employees have read and are familiar with the security requirements. Moreover, existing statutory criminal penalties for unauthorized disclosure of CBI are unaffected by this change.

2. *Comment:* The requirement for a person's signature certifying compliance with EPA data security procedures will in fact cause individuals to be more aware of and diligent in their adherence to EPA's requirements for handling CBI.

EPA disagrees with this comment. In fact, under both the TSCA and FIFRA security manuals, contractor (as well as Federal) employees given access to CBI are required to sign an agreement to adhere to those procedures.

3. *Comment:* The proposed elimination of CBI certifications should not be contemplated at this time in light of EPA's potential loss of approximately 200 TSCA CBI documents by an Agency contractor.

EPA disagrees with this comment. The Agency is currently reviewing the circumstances surrounding the unaccounted for documents. However, the subject of the certification at issue is unrelated to the document processing procedures under review.

4. *Comment:* The retention of a signed certification by contractors will make it easier for EPA to meet its data security goals.

See response to comment 1.

5. *Comment:* Without proper CBI protections, companies will not be willing to initiate new product development. EPA has an obligation under TSCA and FIFRA to protect CBI.

EPA, for the reasons discussed in the response to comment 1, does not believe that this change will result in the lack of proper protection of CBI.

EPA has not changed the final rule from the proposed rule as a result of these comments.

C. Executive Order 12866

This is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review was required by the Office of Information and Regulatory Affairs.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

E. Regulatory Flexibility Act

EPA certifies that this rule does not exert a significant economic impact on

a substantial number of small entities, pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule imposes no reporting, record-keeping, or any compliance costs. Therefore, no regulatory flexibility analysis was prepared.

F. Submission to Congress and the General Accounting Office

This action is not a major rule as defined by 5 U.S.C. 804(2). Pursuant to 5 U.S.C. 801(a)(1)(A), EPA submitted this action to the U.S. Senate, the U.S. House of Representatives and the Comptroller General prior to its publication in today's **Federal Register**.

G. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector, and to seek input from State, local, and tribal governments on certain regulatory actions. Because this rule removes rather than adds regulatory requirements, EPA has determined that this action does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA. The requirements of sections 203 and 204 of UMRA which relate to regulatory requirements that might significantly or uniquely affect small governments and to regulatory proposals that contain a significant Federal intergovernmental mandate, respectively, also do not apply to today's rule.

List of Subjects in 48 CFR Parts 1535 and 1552

Government procurement.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

1. The authority citations for Parts 1535 and 1552 continue to read as follows:

Authority: Sec. 205(c), 63 stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1535.007 is revised to read as follows:

1535.007 Solicitations.

(a) Contracting officers shall insert 48 CFR 1552.235-73, Access to Federal Insecticide, Fungicide, and Rodenticide Act Confidential Business Information, in all solicitations when the contracting officer has determined that EPA may furnish the contractor with confidential

business information which EPA had obtained from third parties under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*).

(b) Contracting officers shall insert 48 CFR 1552.235-75, Access to Toxic Substances Control Act Confidential Business Information, in all solicitations when the contracting officer has determined that EPA may furnish the contractor with confidential business information which EPA had obtained from third parties under the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

1552.235-72 and 1552.235-74 [Removed and Reserved]

3. Sections 1552.235-72 and 1552.235-74 are removed and reserved.

4. Section 1552.235-77 is amended by revising the section heading and clause heading dates to read "June 1997" and by revising paragraph (a)(3) to read as follows:

1552.235-77 Data Security for Federal Insecticide, Fungicide and Rodenticide Act Confidential Business Information (June 1997)

* * * * *

(a) * * *

(3) Prior to receipt of FIFRA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to FIFRA CBI have been briefed on the handling, control, and security requirements set forth in the FIFRA Information Security Manual.

* * * * *

5. Section 1552.235-78 is amended by revising the section heading and clause heading dates to read "June 1977" and by revising paragraph (a)(1) to read as follows:

1552.235-78 Data Security for Toxic Substances Control Act Confidential Business Information (June 1997)

(a) * * *

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the TSCA CBI Security Manual. The manual may be obtained from the Director, Information Management Division (IMD), Office of Pollution Prevention and Toxics (OPPT), U.S. Environmental Protection Agency (EPA), 401 M Street, SW, Washington, DC 20460. Prior to receipt of TSCA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to TSCA CBI have been briefed on the handling, control, and security requirements set forth in the TSCA CBI Security Manual.

* * * * *

Dated: July 7, 1997.
Betty L. Bailey,
Director, Office of Acquisition Management.
[FR Doc. 97-18971 Filed 7-17-97; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-289]

Organization and Delegation of the Powers and Duties Delegation to the Commandant, United States Coast Guard

AGENCY: Office of the Secretary, DOT
ACTION: Final rule

SUMMARY: The Secretary of Transportation is delegating to the Commandant, United States Coast Guard, the authority contained in the Coast Guard Authorization Act of 1996. The Secretary is also delegating the authority pertaining to: benefits for Coast Guard members being separated or recently separated; procurement for Coast Guard family housing and long term lease authority; and rewards for MARPOL informants.

DATES: July 18, 1997.
FOR FURTHER INFORMATION CONTACT: Ms. Gwyneth Radloff, Office of the General Counsel, C-50, (202) 366-9305, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Public Law 104-324 is the Coast Guard Authorization Act of 1996 (Act). The Act authorizes and directs actions by the Secretary, on behalf of the Coast Guard. This rule amends 49 CFR 1.46, by adding a new paragraph (iii) to reflect the delegation of the Secretary's authority under the Coast Guard Authorization Act of 1996.

The National Defense Authorization Bill of Fiscal Year 1995, Pub. L. 103-337, contained an amendment to 10 U.S.C. Chapter 58. Chapter 58 pertains to the Secretary's authorization regarding benefits and services for members of the Coast Guard that are being separated or have recently been separated. This rule amends 49 CFR 1.46 by adding a new paragraph (jii) to reflect the delegation of the Secretary's authority under the National Defense Authorization Bill of Fiscal Year 1995 (10 U.S.C. Chapter 58).

14 U.S.C. 672 authorizes the Secretary to procure real property or real property interests for use as Coast Guard family

housing units. 14 U.S.C. 672 authorizes the Secretary to enter into lease agreements for navigation and communication systems sites. This rule amends 49 CFR 1.46 by adding a new paragraph (kkk) to reflect the delegation of the Secretary's authority under 14 U.S.C. 670 and 14 U.S.C. 672.

33 U.S.C. 1908(b) authorizes the Secretary to pay up to one-half of the civil penalties assessed for violations of the MARPOL Protocol, Annex IV to the Antarctic Protocol, or regulations issued thereunder, to persons that provide information leading to assessment of those penalties. This rule amends 49 CFR 1.46 by adding a new paragraph (lll) to reflect the delegation of the Secretary's authority under 33 U.S.C. 1908(b).

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). Further, since the amendment expedites the Coast Guard's ability to meet the needs of the U.S. maritime industry, and the fulfillment of statutory and regulatory obligations, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

- 1. The authority citation for Part 1 continues to read as follows:
Authority: 49 U.S.C. 322; Pub. L. 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).
- 2. Section 1.46 is amended by adding the following paragraphs (iii), (jii), (kkk), and (lll) to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(iii) Carry out the functions and responsibilities and exercise the authorities vested in the Secretary by the Coast Guard Authorization Act of 1996, Pub. L. 104-324.

(jii) Carry out the functions and responsibilities and exercise the authorities vested in the Secretary by the National Defense Authorization Bill of Fiscal Year 1995, Pub. L. 103-337, pertaining to benefits for Coast Guard members that are being separated or