(4) Debarment and Suspension Program, DOI–11.

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[FR Doc. 2014–19651 Filed 8–18–14; 8:45 am]

BILLING CODE 4310–RK–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 05–112; MB Docket No. 05–151; RM–11185; RM–11374; RM–11222; RM–11258]

Radio Broadcasting Services; Converse, Flatonia, Georgetown, Goldthwaite, Ingram, Junction, Lago Vista, Lakeway, Llano, McQueeney, Nolanville, San Antonio, Waco, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Rawhide Radio, LLC, Clear Channel Broadcasting Licenses, Inc., CCB Texas Licenses, LP, and Capstar TX Limited Partnership (''Joint Parties'') of a *Report and Order* that denied a Counterproposal filed by the Joint Parties and granted a mutually exclusive Counterproposal filed by Munbilla Broadcasting Properties, Ltd. *See* Supplementary Information.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

DATES: August 19, 2014.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the consolidated *Memorandum Opinion and Order* in MB Docket No. 05–112 and MB Docket No. 05–151, adopted July 23, 2014, and released July 24, 2014 The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copying and Printing, Inc. 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.* Because the Commission is denying the Petition for Reconsideration, the Commission will not send a copy of this *Memorandum Opinion and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

The Memorandum Opinion and Order denied the Joint Parties Petition for Reconsideration because no error was committed in the *Report and Order* by requiring the Joint Parties Counterproposal to protect a previously filed and cut-off application. *See* 72 FR 37673, July 1, 2007. Although the Joint Parties Counterproposal had been filed and dismissed in an earlier proceeding, the refilling of the Counterproposal does not revive that dismissed proposal or create cut-off rights with regard to proposals in the present proceeding. Likewise, the Memorandum Opinion and Order determined that no error was committed by processing a ''cut-off'' application and relying on the effective but non-final dismissal of the Joint Parties Counterproposal in the earlier proceeding. Finally, the Memorandum Opinion and Order concluded that an engineering solution submitted by the Joint Parties could not be considered because it was filed late.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Peter H. Doyle,

Chief, Audio Division, Media Bureau.

[FR Doc. 2014–19417 Filed 8–18–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

48 CFR Parts 327 and 352

RIN 0991–AB87

Acquisition Regulations

AGENCY: Division of Acquisition, Office of Grants and Acquisition Policy and Accountability, Office of the Assistant Secretary for Financial Resources, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is issuing a final rule to amend its Federal Acquisition Regulation (FAR) Supplement—the HHS Acquisition Regulation (HHSAR)—to add two clauses, Patent Rights—Exceptional Circumstances and, Rights in Data—Exceptional Circumstances, and their prescriptions.

DATES: Effective Date: September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Cheryl Howe, Procurement Analyst, Department of Health and Human Services, Office of the Assistant Secretary for Financial Resources, Office of Grants and Acquisition Policy and Accountability, Division of Acquisition at (202) 690–5552.

SUPPLEMENTARY INFORMATION:

I. Background

The HHS published a proposed rule in the **Federal Register** at 78 FR 2229 on January 10, 2013, to ensure that providers of proprietary material(s) to the Government will retain all their preexisting rights to their material(s), and rights to any inventions made under a contract or subcontract (at all tiers), when a Determination of Exceptional Circumstances (DEC) has been executed.

''Material'' means any proprietary material, method, product, composition, compound, or device, whether patented or unpatented.

A DEC is executed consistent with the policy and objectives of the Bayh-Dole Act, 35 U.S.C. 200, *et seq.,* to ensure that subject inventions made under contracts and subcontracts (at all tiers) are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations including universities; to ensure that the Government obtains sufficient rights in federally supported inventions to meet its needs; to protect the public against nonuse or unreasonable use of inventions, and in the case of fulfilling the mission of the Department of Health and Human Services, to ultimately benefit the public health.

Under certain circumstances, in order to ensure that pharmaceutical companies, academia, and others will collaborate with HHS in identifying, testing, developing, and commercializing new drugs, therapeutics, diagnostics, prognostics and prophylactic measures affecting human health, a DEC must be executed and Contractor's and subcontractor's rights (at all tiers) in subject inventions should be limited accordingly, consistent with DEC requirements and through appropriate contract clauses.

II. Discussion and Analysis

A. Summary of Significant Changes

The comment period for the proposed rule closed on March 11, 2013. The HHS received responses from four respondents with 11 comments, collectively; however, only three of those comments resulted in minor

changes to the final rule. The comments are discussed below.

B. Analysis of Public Comments

1. Definition of ''Made''

Comment: One respondent states that while institutions are able to manage this in terms of preserving Government rights under the Bayh-Dole Act, it does raise potential legal conflicts if the institution has obligations to another sponsor who funded the conception and then must assign ownership rights to the Third party assignee under these clauses. Therefore, the commenter strongly urged HHS to change the definition for ''made'' to ''conception and first actual reduction to practice. . .'' with respect to the rights of the Third party assignee.

Response: The final rule is acceptable as it reflects statutory language.

2. License Retention by Nonprofit Organization

Comment: Two respondents stated that U.S. nonprofit educational institutions may retain a nonexclusive, royalty free license for noncommercial internal research, but not for educational purposes, which is a key mission for such institutions. Nor would this allow sharing with other nonprofit academic institutions as required under the National Institutes of Health policy. In addition, since most research at U.S. universities is sponsored, it is unclear what ''internal'' will permit. Therefore, we recommended that the retention of rights be clarified as ''nonprofit research and educational purposes.''

Response: The Government agrees that the license may be retained by U.S. nonprofit organizations and that the language should be modified. The clause language was rewritten to include: ''If the Contractor is a U.S. nonprofit organization it may retain a royalty free, nonexclusive, nontransferable license to practice the invention for all nonprofit research including for educational purposes, and to permit other U.S. nonprofit organizations to do so.''

3. Patent Expenses

Comment: One respondent stated that ''if required to assign an invention to a Third party assignee who acquired the full benefit of the invention, the contractor can assist the Third party assignee in securing patent protection at the Third party's expense. It is important to clarify that the Third party assignee is responsible for expenses related to securing patent protection as the expenses can be costly.

Response: The Government accepted this comment and rewrote the last sentence of paragraph 352.227–11(c) as: ''If the Contractor assigns a Subject Invention to the Third party assignee, then the Contractor and its employee inventors shall assist the Third party assignee in securing patent protection. All costs of securing the patent, including the cost of the Contractor's assistance, are at the Third party's expense. Any assistance provided by the Contractor and its employee inventors to the Third party assignee or other costs incurred in securing patent protection shall be solely at the Third party's expense and not billable to the contract.''

4. Six Month Filing Period

Comment: Two respondents commented that the publication delay sets a detrimental nationwide precedent that a 6-month publication delay is acceptable. The existing standard amongst most U.S. universities maximum of 90–120 days publication delay provides sufficient time to file a patent application; this is increasingly important in the First Inventor to File regime.

Response: The Government believes 6 months is reasonable as paragraph 352.227–14(d)(4) requires the contractor to provide the Contracting Officer a copy of any proposed publication or other public disclosure at least 30 days in advance of the disclosure but allows the Contracting Officer to request that publication be delayed for a reasonable time not to exceed 6 months. The Government expects that such a request, which will require affirmative action by the Contracting Officer, will be uncommon. In view of the new first to file provisions of the current patent statute it is expected that patent applications will be filed expeditiously.

5. Clarification of ''Third Party Assignee''

Comment: One respondent stated that the clauses contain confusing uses of terminology. For example, the term ''Third party assignee'' to whom Class I inventions will be assigned is used in the sections for both Class I and Class 2 inventions (the latter class involves a license rather than an assignment.)

Response: The Government agrees with the respondent's language and changed the clause to read ''However, the Contractor shall grant a license in the Class 2 Subject Inventions to the provider of the ''material'' or other party designated by the Agency as set forth in Alternate I.''

6. Application of Bayh-Dole Act

Comment: Two respondents submitted the following general comment and subsequent related specific comments: The basic premise of the Bayh-Dole Act and implementing regulations is that elimination or restriction of a contractor's right to retain title to subject inventions is intended only in the event of ''exceptional circumstances.'' Written case-by-case determinations and justifications are required. These must be submitted to the Secretary of Commerce (Commerce). Contractors have the right to appeal (35 U.S.C. 202; 37 CFR 401.3 and 401.4; FAR 27.3).

The notice asserts but does not demonstrate how the proposed clauses will better address the requirements of the Bayh-Dole Act and regulations. It merely recites the policy and objectives of the Bayh-Dole Act. Providing for a ''class'' deviation from the Bayh-Dole in the HHSAR appears inconsistent with the intent to limit the use of exceptional circumstance deviations through requiring individual case-by-case justifications. The present practice of the use of individual FAR deviations tailored to the specific DEC circumstances is more consistent with the objectives of the Bayh-Dole Act. We also note that the notice indicates that a copy has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. It does not indicate whether it also has been submitted to the National Institute of Standards and Technology, which now has overall oversight responsibility for the Bayh-Dole, including responsibility for Commerce review of DECs.

Response: The Government concurs with the respondent that this clause applies to exceptional circumstance; however, the Government is proposing this clause to implement the law for specific types of DECs. The proposed clause may not be appropriate for every DEC. The clause is appropriate for this kind of DEC, *i.e.,* those for evaluation of Third party materials. That is evident in the prescriptive part of the proposed section 327.303, which states that the clause will be used whenever a DEC involving the provision of materials has been executed in accordance with Agency policy, and procedures calls for its use, and the clause appropriately covers the circumstances.

7. Clause Not Self-Executing

Comment: One respondent stated that, in regard to the proposed Patent Rights—exceptional circumstances HHSAR clause (352.227–11), the clause defined 3 categories of Subject Inventions but referred to the DEC(s) for the definition. The respondent asserted that this meant the clause itself is not self-executing and that it presumes

DECs will all contain the same three categories, which appears inappropriate for a HHSAR clause as DECs may vary in this regard. This illustrates the problems with implementing DECs through one general clause instead of individual deviations.

Response: The Government did not intend for the clause to be self-executing. Rather, it only applies if it is invoked by a particular DEC involving the provision of materials. This will insure that the clause is not used inappropriately.

8. Clarification of Terms and Definitions

Comment: One respondent asserted that some terms and definitions in the proposed 352.227–11 clause were problematic and specified as follows: The definition of ''material'' to include methods, whether patented or unpatented, is over broad. The definition of ''Third party assignee'' refers to any entity described in the DEC, not necessarily materials providers which according to the Supplementary Information (IV.B.) are supposed to be the focus. This should be clarified. The proposed clause contains a confusing incorporation of FAR clause 52.227–11 at b(2)(ii), which appears to be contradicted by (e)(2)'s incorporation of FAR 52.227–13.

Response: The Government made the definition of ''material'' intentionally broad to include anything that may be provided to the Contractor under the contract. The nature of ''material'' will be described in the associated DEC. Generally it is anticipated that the Third party assignee would be the provider of the ''material;'' however, the Government reserves the right to require assignment to other entities, including the Government, when appropriate. However, the Government concurs that there are some inconsistencies in the references and have aligned them as follows: Paragraph (c) of FAR 52.227–13, which specifies march-in procedures, was invoked twice in the clause to address greater rights determinations—first in 352.227–11 (b)(3) (not (b)(2)(ii) as stated in the comment) and also in 353.227–11(e)(2). The last sentence of 352.227–11(e)(2) was modified to improve clarity. These provisions are applicable when greater rights are granted and the contractor acquires title to a Subject Invention.

9. Patent Rights Versus Copyrights

Comment: One respondent asserted that the proposed Rights in Data—Exceptional Circumstances clause (352.227–14) had a number of problems: The clause also requires approval of the Contracting Officer to assert copyright in all data other than journal articles (c)(1). Universities typically will accept only Alternate IV of the general FAR Rights in Data clause which permits universities to assert copyright generally. The proposed clause contains several Alternates but not Alternate IV. The Confidentiality requirement in (d)(6)(ii) is open-ended, with no limit on the duration of the requirement. The Rights in Data clause does not make the same distinctions among different classes of inventions as in the Patent Rights clause (52.227–11), which results in asymmetrical treatment of contractors' rights. Finally the Data Rights clause purports to cover computer software which, since potentially patentable, may conflict with the Patent Rights clause.

Response: Patent rights and copyrights are independent and the clause needs no further clarification. No time limits can be established in advance for information deemed confidential; it is handled on a case-by-case basis.

10. Outside Scope of This Rule

Comment: One respondent stated they wished to express their opposition to the proposed ''accommodation'' to the HHS mandate regarding health coverage.

Response: These comments were outside the scope of this rule.

11. No Response Necessary

Comment: One respondent stated that the proposed rule was ''a little complicate (sic), but good job[.]''

Response: The Government appreciates this comment.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action, and therefore, is not subject to review under section 6 of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The HHS has prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* No public comments were submitted on the Initial Regulatory Flexibility Analysis and no comments were received from the Office of Advocacy of the Small Business Administration on this rule. The FRFA is summarized as follows:

This final rule will amend the Health and Human Services Acquisition Regulation (HHSAR) to add two new clauses, 352.227–11, Patent Rights—Exceptional Circumstances and 352.227–14, Rights in Data—Exceptional Circumstances. These clauses will be used in lieu of FAR clause 52.227–14, Rights in Data—General and FAR clause 52.227–11 Patent Rights—Ownership by the Contractor to address the patent and data rights of the Government, the prime contractor, the subcontractors at all tiers) and the providers of proprietary materials to the Government (providers).

This action is being taken to ensure that providers, the majority of which are small businesses, will retain their preexisting rights to material and subject inventions in which the provider has a proprietary interest when a Determination of Exceptional Circumstances (DEC) has been executed. A DEC promotes the policy and objectives of the Bayh-Dole Act, 35 U.S.C. 200, *et seq.,* to ensure that subject inventions made under contracts and subcontracts (at all tiers) are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to ensure that the Government obtains sufficient rights in federally supported inventions to meet its needs; to protect the public against nonuse or unreasonable use of inventions; and ultimately to benefit the public health. In order to ensure that pharmaceutical companies, academia, and others will collaborate with the Department of Health and Human Services (HHS) under certain conditions in identifying, testing, developing, and commercializing new drugs, therapeutics, diagnostics, prognostics and prophylactic measures affecting human health, a determination that exceptional circumstances must be executed, and Contractor's and subcontractor's rights (at all tiers) in subject inventions should be limited accordingly through appropriate contract clauses.

The affected contracts are usually awarded using NAICS code 541711, Research and Development in Biotechnology, or NAICS code 541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology). Both NAICS have a small business size standard of 500 employees. It is estimated that this rule will affect 61 prime contractors of which four will be small businesses (6.5 percent); 76 subcontractors of which 21 will be small businesses (27.6 percent); and 379 providers of which 189 will be small businesses (49.87 percent). The aforementioned figures are based on historical data from one operating division of HHS. It is anticipated that numbers will increase proportionally as the clauses will be used on an HHS-wide basis. Using the HHSAR clauses better addresses the requirements of the Bayh-Dole Act and provides appropriate legal protection for the

proprietary rights of providers to ensure providers will collaborate with the Government and provide access to their promising proprietary material(s) to meet HHS program goals. The projected reporting, recordkeeping, or other compliance requirements projected for this rule will be carried out by the prime contractor. Only a small percentage (6.5 percent) of the prime contractors will be small businesses. The projected cost for compliance requirements for those small businesses will be $28,924.38.

The final rule does not duplicate, overlap, or conflict with any other Federal rules. These clauses will be used in lieu of FAR clause 52.227–14, Rights in Data—General and FAR clause 52.227–11, Patent Rights—Ownership by the Contractor.

In the past, a significant number of FAR deviations were processed each time a DEC was executed. Using the final HHSAR clauses better addresses the requirements of the Bayh-Dole Act and provides solid legal protection for the proprietary rights of providers to ensure providers will collaborate with the Government and provide access to their promising proprietary material(s) to meet HHS program goals. Therefore, it is believed that the approach outlined in the final rule is the most practical and provides benefits to the Government, the public health, and the industry to ensure HHS program goals can be achieved.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies because this final rule contains information collection requirements under HHSAR 352.227–11, Patent Rights—Exceptional Circumstances (approved under OMB Control Number 0990–0419), and HHSAR 352.227–14, Rights in Data—Exceptional Circumstances (approved under OMB Control Number 0990–0419). In response to the notice of proposed rulemaking and the request for comment on the burden estimates, no comments were received on the burden estimates.

List of Subjects in 48 CFR Parts 327 and 352

Government procurement.

For the reasons stated in the preamble, HHS amends 48 CFR parts 327 and 352 as follows:

■ 1. The authority citation for 48 CFR parts 327 and 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 327—PATENTS, DATA, AND COPYRIGHTS

■ 2. Add subpart 327.3 to read as follows:

Subpart 327.3—Patent Rights Under Government Contracts

Sec.

327.303 Solicitation provision and contract clause.

Subpart 327.3—Patent Rights Under Government Contracts

327.303 Solicitation provision and contract clause.

The Contracting Officer shall insert the clause at 352.227–11, Patent Rights—Exceptional Circumstances and any appropriate alternates in lieu of FAR 52.227–11 whenever a Determination of Exceptional Circumstances (DEC) involving the provision of materials has been executed in accordance with Agency policy and procedures calls for its use and 352.227–11 appropriately covers the circumstances. The Contracting Officer should reference the DEC in the solicitation and shall attach a copy of the executed DEC to the contract.

327.404–70 [Amended]

■ 3. Add section 327.409 to read as follows:

■ 4. Amend section 327.404–70 by removing the words ''clause in'' and adding the words ''clause at'' in its place.

327.409 Solicitation provision and contract clause.

The Contracting Officer shall insert the clause at 352.227–14, Rights in Data—Exceptional Circumstances and any appropriate alternates in lieu of FAR 52.227–14 whenever a Determination of Exceptional Circumstances (DEC) executed in accordance with Agency policy and procedures calls for its use. Prior to using this clause, a DEC must be executed in accordance with Agency policy and procedures. The Contracting Officer should reference the DEC in the solicitation and shall attach a copy of the executed DEC to the contract.

PART 352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add section 352.227–11 to read as follows:

352.227–11 Patent Rights—Exceptional Circumstances.

Patent Rights—Exceptional Circumstances (SEPT 2014)

This clause applies to all Contractor and subcontractor (at all tiers) Subject Inventions.

(a) *Definitions.* As used in this clause—

Agency means the Agency of the U.S. Department of Health and Human Services that is entering into this contract.

Class 1 Subject Invention means a Subject Invention described and defined in the DEC that will be assigned to a third party assignee, or assigned as directed by the Agency.

Class 2 Subject Invention means a Subject Invention described and defined in the DEC.

Class 3 Subject Invention means a Subject Invention that does not fall into Class 1 or Class 2 as defined in this clause.

DEC means the Determination of Exceptional Circumstances signed by [insert approving official] _____ on _____ [insert date] _____ and titled ''[insert description].''

Invention means any invention or discovery, which is or may be patentable or otherwise protectable under Title 35 of United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et. seq.*)

Made means: When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of such invention; or when used in relation to a plant variety, that the Contractor has at least tentatively determined that the variety has been reproduced with recognized characteristics.

Material means any proprietary material, method, product, composition, compound, or device, whether patented or unpatented, which is provided to the Contractor under this contract.

Nonprofit organization means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

Practical application means to manufacture, in the case of a composition or product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

Small business firm means a small business concern as defined at section 2 of Public Law 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 13 CFR 121.3–12, respectively, will be used.

Subject Invention means any invention of the Contractor made in the performance of work under this contract.

Third party assignee means any entity or organization that may, as described in the DEC, be assigned Class 1 inventions.

(b) *Allocation of principal rights.* (1) *Retention of pre-existing rights.* Third party assignees shall retain all preexisting rights to Material in which the Third party assignee has a proprietary interest.

(2) *Allocation of Subject Invention rights.* (i) *Disposition of Class 1 Subject Inventions.* (A) Assignment to the Third party assignee or as directed by the Agency. The Contractor shall assign to the Third party assignee designated by the Agency the entire right, title, and interest throughout the world to each Subject Invention, or otherwise dispose of or transfer those rights as directed by the Agency, except to the extent that rights are retained by the Contractor under paragraph (b)(3) of this clause. Any such assignment or other disposition or transfer of rights will be subject to a nonexclusive, nontransferable, irrevocable, paid-up license to the U.S. Government to practice or have practiced the Subject Invention for or on behalf of the U.S. throughout the world. Any assignment shall additionally be subject to the ''March-in rights'' of 35 U.S.C. 203. If the Contractor is a U.S. nonprofit organization it may retain a royalty free, nonexclusive, nontransferable license to practice the invention for all nonprofit research including for educational purposes, and to permit other U.S. nonprofit organizations to do so.

(B) [Reserved]

(ii) *Disposition of Class 2 and 3 Subject Inventions.* Class 2 Subject Inventions shall be governed by FAR clause 52.227–11, Patent Rights-Ownership (December 2007) (incorporated herein by reference). However, the Contractor shall grant a license in the Class 2 Subject Inventions to the provider of the Material or other party designated by the Agency as set forth in Alternate I.

(iii) Class 3 Subject Inventions shall be governed by FAR clause 52.227–11, Patent Rights-Ownership by the Contractor (December 2007) (previously incorporated herein by reference).

(3) *Greater Rights Determinations.* The Contractor, or an employee-inventor after consultation by the Agency with the Contractor, may request greater rights than are provided in paragraph (b)(1) of this clause in accordance with the procedures of FAR paragraph 27.304–1(c). In addition to the considerations set forth in paragraph 27.304–1(c), the Agency may consider whether granting the requested greater rights will interfere with rights of the Government or any Third party assignee or otherwise impede the ability of the Government or the Third party assignee to, for example, develop and commercialize new compounds, dosage forms, therapies, preventative measures, technologies, or other approaches with potential for the diagnosis, prognosis, prevention, and treatment of human diseases.

A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Agency Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (c)(1) of this clause, or not later than 8 months thereafter, unless a longer period is authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. Each determination of greater rights under this contract shall be subject to paragraph (c) of the FAR clause at 52.227–13 (incorporated herein by reference), and to any reservations and conditions deemed to be appropriate by the Agency such as the requirement to assign or exclusively license the rights to Subject Inventions to the Third party assignee.

A determination by the Agency denying a request by the Contractor for greater rights in a Subject Invention may be appealed within 30 days of the date the Contractor is notified of the determination to an Agency official at a level above the individual who made the determination. If greater rights are granted, the Contractor must file a patent application on the invention. Upon request, the Contractor shall provide the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and patent number and issue date for any Subject Invention in any country for which the Contractor has retained title. Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(c) *Invention disclosure by Contractor.* The Contractor shall disclose in writing each Subject Invention to the Agency Contracting Officer and to the Director, Division of Extramural Inventions and Technology Resources (DEITR), if directed by the Contracting Officer, as provided in paragraph (j) of this clause within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the Agency Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was Made and all inventors. It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale (offer for sale), or public use of the invention and whether a manuscript describing the invention has been submitted for publication, and if so, whether it has been accepted for publication at the time of disclosure.

In addition, after disclosure to the Agency, the Contractor will promptly notify the Contracting Officer and DEITR of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor. If the Contractor assigns a Subject Invention to the Third party assignee, then the Contractor and its employee inventors shall assist the Third party assignee in securing patent protection. All costs of securing the patent, including the cost of the Contractor's assistance, are at the Third party's expense. Any assistance provided by the Contractor and its employee inventors to the Third party assignee or other costs incurred in securing patent protection shall be solely at the Third party's expense and not billable to the contract.

(d) *Contractor action to protect the Third party assignee's and the Government's interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to the Agency all instruments necessary to: Establish or confirm the rights the Government has throughout the world in Subject Inventions pursuant to paragraph (b) of this clause; convey title to a Third party assignee in accordance with paragraph (b) of this clause; and enable the Third party assignee to obtain patent protection throughout the world in that Subject Invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor, each Subject Invention ''Made'' under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights or a Third party assignee's rights in the Subject Inventions. This disclosure format should require, as a minimum, the information required by subparagraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) If the Contractor is granted greater rights, the Contractor agrees to include, within the specification of any United States non-provisional patent application it files, and any patent issuing thereon, covering a Subject Invention the following statement: ''This invention was made with Government support under (identify the Contract) awarded by (identify the specific Agency). The Government has certain rights in the invention.''

(4) The Contractor agrees to provide a final invention statement and certification prior to the closeout of the contract listing all Subject Inventions or stating that there were none.

(e) *Subcontracts.* (1) The Contractor will include this clause in all subcontracts, regardless of tier, for experimental, developmental, or research work. At all tiers, the clause must be modified to identify the parties as follows: References to the Government are not changed, and the subcontractor has all rights and obligations of the Contractor in the clause. The Contractor will not, as part of the consideration for awarding the contract, obtain rights in the subcontractor's Subject Inventions.

(2) In subcontracts, at any tier, the Agency, the subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any

jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (c)(1)(ii) of FAR clause 52.227–13.

(f) *Reporting on utilization of Subject Inventions in the event greater rights are granted to the Contractor.* The Contractor agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees when a request under subparagraph b.3. has been granted by the Agency. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Agency in connection with any march-in proceeding undertaken by the Agency in accordance with paragraph (h) of this clause. As required by 35 U.S.C. 202(c)(5), the Agency agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

(g) Preference for United States industry in the event greater rights are granted to the Contractor. Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any product embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(h) *March-in rights in the event greater rights are granted to the Contractor.* The Contractor acknowledges that, with respect to any Subject Invention in which it has acquired ownership through the exercise of the rights specified in paragraph (b)(3) of this clause, the Agency has the right to require licensing pursuant to 35 U.S.C. 203 and 210(c), and in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of Agency in effect on the date of contract award.

(i) Special provisions for contracts with nonprofit organizations in the event greater rights are granted to the Contractor. If the Contractor is a nonprofit organization, it shall:

(1) Not assign rights to a Subject Invention in the United States without the written approval of the Agency, except where an assignment is made to an organization that has as one of its primary functions the management of inventions, provided that the assignee shall be subject to the same provisions as the Contractor;

(2) Share royalties collected on a Subject Invention with the inventor, including Federal employee co-inventors (but through their Agency if the Agency deems it appropriate) when the Subject Invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) Use the balance of any royalties or income earned by the Contractor with respect to Subject Inventions, after payment of expenses (including payments to inventors) incidental to the administration of Subject Inventions for the support of scientific research or education;

(4) Make efforts that are reasonable under the circumstances to attract licensees of Subject Inventions that are small business concerns, and give a preference to a small business concern when licensing a Subject Invention if the Contractor determines that the small business concern has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business concerns; provided, that the Contractor is also satisfied that the small business concern has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor; and

(5) Allow the Secretary of Commerce to review the Contractor's licensing program and decisions regarding small business applicants, and negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of paragraph (i)(4) of this clause.

(j) *Communications.* All invention disclosures and requests for greater rights shall be sent to the Agency Contracting Officer, as directed by the Contracting Officer. Additionally, a copy of all disclosures, confirmatory licenses to the Government, face page of the patent applications, waivers and other routine communications under this funding agreement at all tiers must be sent to:

[Insert Agency Address]

Agency Invention Reporting Web site: *http://www.iEdison.gov.*

Alternate I (Sept 2014). As prescribed in *327.303,* the license to Class 2 inventions recited in 352.227–11(b)(2)(a) is as follows:

[Insert description of license to Class 2 inventions]

(End of clause)

■ 6. Add section 352.227–14 to read as follows:

352.227–14 Rights in Data—Exceptional Circumstances.

As prescribed in *327.409(b)(1),* insert the following clause with any appropriate alternates:

Rights in Data—Exceptional Circumstances (SEPT 2014)

(a) *Definitions.* As used in this clause—

[Definitions may be added or modified in paragraph (a) as applicable.]

Computer database or *database* means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software—(i) Means (A) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(B) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(ii) Does not include computer databases or computer software documentation.

Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Form, fit, and function data means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

Limited rights means the rights of the Government in limited rights data as set forth in the Limited Rights Notice in Alternate II paragraph (g)(3) if included in this clause. ''Limited rights data'' means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

Restricted computer software means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

Restricted rights, as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of Alternate III paragraph (g)(4) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

Technical data means recorded information (regardless of the form or method of the recording) of a scientific or technical

nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See 41 U.S.C. 403(8)).

Unlimited rights means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) *Allocation of rights.* (1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in—

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to—

(i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) *Copyright.* (1) *Data first produced in the performance of this contract.* (i) Unless provided otherwise in paragraph (d) of this clause, the Contractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this contract.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor—

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) Release, publication, and use of data. The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except—

(1) As prohibited by Federal law or regulation (*e.g.,* export control or national security laws or regulations);

(2) As expressly set forth in this contract; or

(3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer or in the following paragraphs.

(4) In addition to any other provisions, set forth in this contract, the Contractor shall ensure that information concerning possible inventions made under this contract is not prematurely published thereby adversely affecting the ability to obtain patent protection on such inventions. Accordingly, the Contractor will provide the Contracting Officer a copy of any publication or other public disclosure relating to the work performed under this contract at least 30 days in advance of the disclosure. Upon the Contracting Officer's request the Contractor agrees to delay the public disclosure of such data or publication of a specified paper for a reasonable time specified by the Contracting Officer, not to exceed 6 months, to allow for the filing of domestic and international patent applications in accordance with Clause 352.227–11, Patent Rights—Exceptional Circumstances (abbreviated month and year of Final Rule publication).

(5) *Data on Material(s).* The Contractor agrees that in accordance with paragraph (d)(2), proprietary data on Material(s) provided to the Contractor under or through this contract shall be used only for the purpose for which they were provided, including screening, evaluation or optimization and for no other purpose.

(6) *Confidentiality.* (i) The Contractor shall take all reasonable precautions to maintain Confidential Information as confidential, but no less than the steps Contractor takes to secure its own confidential information.

(ii) Contractor shall maintain Confidential Information as confidential unless specifically authorized otherwise in writing by the Contracting Officer. Confidential Information includes/does not include [Government may define confidential information here.]

(e) *Unauthorized marking of data.* (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (4) of this clause (if those alternate paragraphs are included in this clause), and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may cancel or ignore the markings. However, pursuant to 41 U.S.C. 253d, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final Agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph

(e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with Agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request there under.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by this paragraph (e) from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) *Omitted or incorrect markings.* (1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may—

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) *Protection of limited rights data and restricted computer software.*

(1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i) through (iii) of this clause. As a condition to this withholding, the Contractor shall—

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) [Reserved]

(h) *Subcontracting.* The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) Relationship to patents or other rights. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

Alternate I (SEPT 2014). As prescribed in *327.409,* substitute the following definition for ''limited rights data'' in paragraph (a) of the basic clause:

Limited rights data means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

Alternate II (SEPT 2014). As prescribed in *327.409,* insert the following paragraph (g)(3) in the basic clause:

(g)(3) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be entitled to be withheld. If delivery of that data is required, the Contractor shall affix the following ''Limited Rights Notice'' to the data and the Government will treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with the notice:

Limited Rights Notice (SEPT 2014)

(a) These data are submitted with limited rights under Government Contract No. _____ __ (and subcontract _____, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any; provided that the Government makes such disclosure subject to prohibition against further use and disclosure: [Agencies may list additional purposes or if none, so state.]

(b) This notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

Alternate III (SEPT 2014). As prescribed in *327.409,* insert the following paragraph (g)(4) in the basic clause: (g)(4)(i) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be entitled to be withheld. If delivery of that computer software is required, the Contractor shall affix the following ''Restricted Rights Notice'' to the computer software and the Government will treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the notice:

Restricted Rights Notice (SEPT 2014)

(a) This computer software is submitted with restricted rights under Government Contract No. _____ (and subcontract _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice or as otherwise expressly stated in the contract.

(b) This computer software may be—

(1) Used or copied for use with the computer(s) for which it was acquired, including use at any Government installation to which the computer(s) may be transferred;

(2) Used or copied for use with a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Contractors or their subcontractors in accordance with paragraphs (b)(1) through (4) of this notice; and

(6) Used or copied for use with a replacement computer.

(c) Notwithstanding the foregoing, if this computer software is copyrighted computer software, it is licensed to the Government with the minimum rights set forth in paragraph (b) of this notice.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.

(e) This notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form notice may be used instead:

Restricted Rights Notice Short Form (SEPT 2014)

Use, reproduction, or disclosure is subject to restrictions set forth in Contract No. ____ ____ (and subcontract, if appropriate) with __ _____ (name of Contractor and subcontractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

Alternate IV (SEPT 2014). As prescribed in *327.409,* substitute the following paragraph (c)(1) for paragraph (c)(1) of the basic clause:

(c) *Copyright*—(1) *Data first produced in the performance of the contract.* Except as otherwise specifically provided in this contract, the Contractor may assert copyright in any data first produced in the performance of this contract. When asserting copyright, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number), to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public), by or on behalf of the Government.

Alternate V (SEPT 2014). As prescribed in *327.409,* add the following paragraph (j) to the basic clause:

(j) The Contractor agrees, except as may be otherwise specified in this contract for specific data deliverables listed as not subject to this paragraph, that the Contracting Officer may, up to 3 years after acceptance of all deliverables under this contract, inspect at the Contractor's facility any data withheld pursuant to paragraph (g)(1) of this clause, for purposes of verifying the Contractor's assertion of limited rights or restricted rights status of the data or for evaluating work performance. When the Contractor whose data are to be inspected demonstrates to the Contracting Officer that there would be a possible conflict of interest if a particular representative made the inspection, the Contracting Officer shall designate an alternate inspector.

Dated: August 11, 2014.

Angela Billups,

Associate Deputy Assistant Secretary for Acquisition.

[FR Doc. 2014–19312 Filed 8–18–14; 8:45 am]

BILLING CODE 4150–24–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0084; 4500030113]

RIN 1018–AZ08

Endangered and Threatened Wildlife and Plants; Endangered Status for the Florida Leafwing and Bartram's Scrub-Hairstreak Butterflies; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on August 12, 2014, that determined endangered species status under the Endangered Species Act of 1973, as amended (Act), for the Florida leafwing (*Anaea troglodyta floridalis*) and Bartram's scrub-hairstreak (*Strymon acis bartrami*), two butterflies endemic to South Florida. In that rule, we made an error in our amendatory language. With this document, we correct our error.

DATES: Effective September 11, 2014.

FOR FURTHER INFORMATION CONTACT: Anissa Craghead, (703) 358–2445.

SUPPLEMENTARY INFORMATION: We published a final rule in the **Federal Register** on August 12, 2014 (79 FR 47222), that determined endangered species status under the Act (16 U.S.C. 1531 et seq.) for two butterflies: the Florida leafwing (*Anaea troglodyta floridalis*) and Bartram's scrub-hairstreak (*Strymon acis bartrami*). In the amendatory language of that rule, for the two butteflies' entries, we inadvertently added a ''Family'' column to the List of Endangered and Threatened Wildlife (List) at title 50, section 17.11(h), of the Code of Federal Regulations. The List does not have a ''Family'' column. In order to have the two butterflies' entries set forth accurately in the List, we are publishing this correction, which newly and correctly sets forth the Regulation Promulgation section of the final we published at 79 FR 47222 (August 12, 2014).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for ''Butterfly, Bartram's scrub-hairstreak'' and ''Butterfly, Florida leafwing'' to the List of Endangered and Threatened Wildlife in alphabetical order under INSECTS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *