have been taken to comply with the consumer education recommendations contained in the Report and Order.

Second, although this *Fifth Report and Order* recommends an extensive consumer outreach program, the program is only recommended, not required. Therefore, we conclude that the action taken herein should not adversely affect any small entities. Furthermore, this action aids all affected entities, including small businesses, as states and carriers consider such costs when entering into their contracts and determining their general overhead expenses.

6. Report to Congress

The Commission will send a copy of the *Fifth Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Fifth Report and Order* including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Fifth Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Paperwork Reduction Act of 1995 Analysis

This *Fifth Report and Order* contains new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA) Pub. L. 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public and other Federal agencies are invited to comment on the new or modified information collections(s) contained in this proceeding.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 225 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 225 and 303, this Report and Order is adopted, and part 64 of the Commission's rules is amended and shall be effective March 10, 2003.

It is further ordered that the information collection(s) contained in the Report and Order shall become effective following approval by the Office of Management and Budget in the **Federal Register** announcing the effective date for those sections.

It is further ordered that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Fifth Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Reporting and recordkeeping requirements, Telecommunications. Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 is amended to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

2. Section 64.604 is amended by revising paragraph (a)(3) to read as follows:

§ 64.604 Mandatory Minimum Standards.

* * * * *

(a) * * *

(3) *Types of Calls*—Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services. Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. Relay service providers are permitted to decline to complete a call because credit authorization is denied.

* * * * *

[FR Doc. 03–3069 Filed 2–6–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF ENERGY

48 CFR Parts 923, 936 and 970

RIN 1991–AB47

Acquisition Regulation: Affirmative Procurement Program—Acquisition of Products Containing Recovered Materials

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to further implement Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition,* dated September 14, 1998. On June 6, 2000, the Federal Acquisition Regulation (FAR) was amended to implement the Executive Order by a final rule published in the **Federal Register**. Today's amendment to the DEAR is necessary to supplement the FAR regarding agency policy applicable to DOE's facility management contractors.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Richard Langston, U.S. Department of Energy, Office of Procurement and Assistance Management, ME–61, 1000 Independence Avenue, SW., Washington, DC 20585 at (202) 586–8247, or via e-mail at *richard.langston@pr.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Public Comments
III. Section-by-Section Analysis
IV. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under the National Environmental Policy Act
F. Review Under Executive Order 13132
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996
J. Review Under Executive Order 13211
K. Approval by the Office of the Secretary of Energy

I. Background

This action follows a Notice of Proposed Rulemaking published in the **Federal Register** on November 30, 2000 (65 FR 71292). The public comment period for the notice ended January 2, 2001. The purpose of this rule is to provide additional guidance regarding Executive Order 13101, dated September 14, 1998 (63 FR 49641), entitled *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*, which superceded Executive Order 12873 dated October 20, 1993, entitled *Federal Acquisition, Recycling, and Waste Prevention.* Among the changes made by this rule is the revision of the clause at section 970.5223–2 of the DEAR to

include subcontract flow down of Affirmative Procurement Program requirements in certain limited circumstances.

Subsequent to the publication of the Notice of Proposed Rulemaking, a separate final rule was published December 22, 2000, 65 FR 80994, amending the DEAR. That final rule amended the numbering structure of Part 970, Management and Operating Contracts. As a result of that final rule, the clause at 970.5204–39 in the proposed rule was redesignated 970.5223–2.

II. Discussion of Public Comments

Five organizations submitted comments in 9 areas as discussed below.

1. 923.405, Procedures [DOE supplemental coverage—paragraph (e)]. The Department had proposed that the percentage of recovered/recycled content, recommended by the Environmental Protection Agency (EPA) in their Recovered Materials Advisory Notices (RMANs) be specified in the solicitation as the minimum percentage of recycled content.

Comment: One reviewer suggested that this created a problem as the EPA RMANs often do not specify a specific content but rather a range of content as the content sometimes varies by geographical area.

Response: The Department agrees with this comment and has added the phrase "or range of content" at 923.405(e).

2. 923.705, Contract clause, specifies the use of the clause at FAR 52.223–10.

Comment: A reviewer did not believe the meaning of the phrase "prime support service awards being performed at Government-owned or Government-leased facilities" was clear. The same reviewer suggested the word "awards" was unnecessary in the same phrase.

Response: The Department has chosen not to finalize proposed section 923.705 because it would be unnecessarily duplicative of existing FAR coverage at 23.705.

3. 936.601–3, Applicable contract procedures. The Department had proposed to add a new Section 936.601 addressing topics that requirements personnel should consider when designing and constructing or modifying facilities. No comments were received but the Department has chosen to delete the addition of a section 936.601–3 from this rule as it is unnecessarily duplicative of existing FAR coverage at 36.601–3.

4. 970.5223–2, Affirmative Procurement Program. The rule would extend the Affirmative Procurement Program to certain subcontracts.

Comment: A reviewer suggested that flow down would be contrary to other DOE efforts to implement more economical and efficient commercial procurement practices. The reviewer suggested this would entail substantial cost to implement on the part of subcontractors who would have to develop additional compliance procedures, including an inspection program.

Response: The Department disagrees. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6962, as amended, and EPA regulations, found at 40 CFR part 247, require Federal agencies to acquire products with recovered/recycled content which have been designated by EPA in the Comprehensive Procurement Guidelines. Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition,* Section 701, requires contracts for contractor operation of a Government-owned or Government-leased facility to include provisions that obligate the contractor to comply with the requirements of the Executive Order. The result of the statute, EPA regulations, and the Executive Order are that this portion of the operation of a Federal facility cannot be operated as though it were a commercial facility. Disregarding these requirements when a subcontractor operates a portion of a Government facility would be contrary to the intent of the requirements. The purpose of this rulemaking is not to flow down the Affirmative Procurement Program to all subcontracts. The purpose of the rulemaking is to capture those instances in which a facility management contractor subcontracts for a significant portion of the operation of the Government facility which involves acquisition of items designated in EPA's Comprehensive Procurement Guidelines that Federal agencies and their contractors are to acquire with recovered/recycled content. The flow down applies only to such subcontracts not to all subcontracts. The reviewer is concerned that our flow down in this limited area will include extensive certifications or inspections. The Department has chosen not to flow down this level of detailed guidance. The contractor and subcontractor may agree on what degree of detail is appropriate to the circumstance. No inspection programs are contemplated or mandated by this rulemaking.

5. 970.5223–2, Affirmative Procurement Program. The Department had proposed changing the clause title from "Acquisition and Use of Environmentally Preferable Products and Services" to "Affirmative Procurement Program."

Comment: A reviewer asked the origin of the title of the clause. The same reviewer suggested we add "for EPA Designated Products." Another reviewer suggested "environmentally preferable" should be retained in the title as the program guidance materials address this topic.

Response: The title "Affirmative Procurement Program" is the title used by the Resource Conservation and Recovery Act, 42 U.S.C. 6962, to describe a preference program for Federal acquisition of products with recovered/recycled content. The DOE Affirmative Procurement Program Guidance materials do include consideration of environmentally preferable aspects of procurement; however, the primary focus of the program is products with recycled content. Environmentally preferable procurement is generally viewed as a separate program area which seeks to acquire products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Accordingly, the Department is not accepting the suggestion that we retain"environmentally preferable" in the title. The suggestion that we add "for EPA designated products" is not adopted as the Department prefers the shorter title.

6. 970.5223, Affirmative Procurement Program. Paragraph (a) advises the reader that the Department's Affirmative Procurement Program Guidance is available on the Internet.

Comment: Two reviewers questioned the meaning of this. They were concerned that posting the guidance on the Internet would allow the Government to revise the Guidance without notice.

Response: The guidance provided at the DOE Executive Order 13101 home page is extensive and includes Federal, EPA and DOE regulatory materials, Executive Orders, strategic plans, and related information. The specific portion considered to be the DOE Affirmative Procurement Program Guidance, for purposes of compliance with the clause at 970.5223–2, is entitled *DOE's Affirmative Procurement Program Guidance.* It was developed after extensive coordination within the Department. It is the same guidance referred to in current contracts and it is posted on the Internet only for the convenience of all. Any changes will be coordinated within the Department.

Posting the Guidance on the Internet is only for the convenience of all parties and will have no effect on the formal means through which revisions may be made.

7. 970.5223–2, Affirmative Procurement Program. Paragraph (c) addresses submission of contract reports.

Comment: A reviewer suggested that the requirement for the submission of subcontract reports at the "conclusion of each fiscal year" would be problematic for supply item subcontracts in particular since a set delivery date generally would not cross fiscal years. The reviewer suggested that it be revised to read "at the end of the Federal fiscal year and the end of the contract."

Response: The intent of this suggestion has been adopted but the text has been included at paragraph (d) for clarity since paragraph (d) addresses subcontract matters. The added text allows submission of the report upon completion of the subcontract unless the subcontract term is multiple year, in which case it provides that the parties will agree to an annual report submission schedule.

8. 970.5223–2, Affirmative Procurement Program. Paragraph (d) addresses applicability to subcontracts.

Comment: A reviewer suggested that the facility management contractor be allowed to flow down a clause substantially the same as that at 970.5223–2. The reviewer suggested it might be easier to accomplish the intent of the instruction if it is possible to tailor the clause to the circumstances of the subcontract situation. The reviewer also suggested that there was no reason to flow down the clause if the parties can determine the amount of products with recycled content that will be acquired under the subcontract at the time of the subcontract award.

Response: The Department agrees. The instructions, at 970.2304–2, and in paragraph (d) of the clause, have been revised to allow use of a clause substantially the same as the 970.5223–2 clause. Additionally, the instructions, at 970.2304–2, and in paragraph (d) of the clause, have been revised to provide that in situations in which the facility management contractor can reasonably determine the amount of products with recovered/recycled content that will be acquired under the subcontract, the facility management contractor may include such quantities in its own report and only flow down a requirement that the subcontractor will procure such products with recovered/recycled content. When it is not possible to determine the amount to be acquired under the subcontract, such as an "as required" supply or service subcontract, the clause should be included in the subcontract.

9. 970.5223–2, Affirmative Procurement Program. Paragraph (e) concerns terminology to be used when the clause is used in a subcontract.

Comment: A reviewer questioned whether all facility management contractors have a recycling coordinator.

Response: Yes, all DOE facility management contractors have a recycling coordinator.

III. Section-by-Section Analysis

The Department of Energy amends the regulation as follows:

1. The authority citation for Parts 923 and 936 is revised.

2. A new section 923.405, Procedures, is being added to note that the recommended percentage of recycled content or range of recycled content included in the EPA Recovered Materials Advisory Notices (RMANs) is to be specified in the solicitation and contract as the minimum recycled content or range of content.

3. Section 923.471, Policy, is being deleted as unnecessarily duplicative of FAR coverage at 23.403.

4. Section 936.602–70 is modified by the addition of a new paragraph (a)(8) regarding consideration of the Architect-Engineer firm's experience in energy efficiency, pollution prevention, waste reduction, and the use of recovered and environmentally preferable materials when performing Architect-Engineer evaluations.

5. Section 970.2304 is being updated to include reference to 48 CFR (FAR) 23.4 and 23.704 and is revised to provide guidance concerning circumstances under which the clause at 970.5223–2 should be included in subcontracts. The list of circumstances under which recycled content products need not be purchased is revised to conform to the wording of the Federal Acquisition Regulation.

6. The clause at 970.5223–2 is being updated and revised to include guidance concerning circumstances under which the clause should be included in certain subcontracts. The list of circumstances under which recycled content products need not be purchased is revised to conform to the wording of the Federal Acquisition Regulation.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Accordingly, this rule is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This final rule has been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of an initial regulatory flexibility analysis for any role that is likely to have significant economic impact on a substantial number of small entities. This rule, which would implement provisions of Executive Order 13101 concerning the use of recycled materials, would not have a significant economic impact on small entities. While rule requirements may flow down to subcontractors in certain

circumstances, the costs of compliance are not estimated to be large and, in any event, would be reimbursable expenses under the contract or subcontract.

Accordingly, DOE certifies that this rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

Information collection or record keeping requirements contained in this rulemaking have been previously cleared under Office of Management and Budget paperwork clearance package Number 1910–0300. There are no new burdens imposed by this rule.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each agency to assess the effects of Federal regulatory action on State, local and tribal governments, and the private sector. The Department has determined that today's regulatory action does not impose a Federal mandate on State, local or tribal governments or on the private Sector.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rule or policy that may affect family well-being. This rulemaking will have no impact on family well-being.

I. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, the Department of Energy will report to Congress promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(3).

J. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Approval by the Office of the Secretary of Energy

Issuance of this final rule has been approved by the Office of the Secretary of Energy.

List of Subjects in 48 CFR Parts 923, 936 and 970

Government procurement.

Issued in Washington, DC, on January 28, 2003.

Richard H. Hopf,

Director, Office of Procurement and Assistance Management, Office of Management, Budget and Evaluation, Department of Energy.

Robert C. Braden, Jr.,

Director, Office of Procurement and Assistance Management, National Nuclear Security Administration.

For the reasons set out in the preamble, DOE amends Chapter 9 of Title 48 of the Code of Federal Regulations as set forth below.

1. The authority citations for Parts 923 and 936 are revised to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 41 U.S.C. 418b; 50 U.S.C. 2401 *et seq.*

PART 923—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Section 923.405 is added to read as follows:

923.405 Procedures [DOE supplemental coverage—paragraph (e)].

(e) When acquiring items designated in the EPA Comprehensive Procurement Guidelines, the EPA recommended percentage of recovered/recycled content or range of content contained in the Recovered Materials Advisory Notice (RMAN) shall be specified in the solicitation and contract as the minimum percentage of recovered/recycled content or range of content. Acquisition of a product with recycled content exceeding the RMAN recommended content or range of content is encouraged if the product performs acceptably.

923.471 [Removed and Reserved].

3. Section 923.471 is removed and reserved.

PART 936—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

4. Section 936.602–70 is amended by adding paragraph (a)(8) to read as follows:

936.602–70 DOE selection criteria.

* * * * *

(a) * * *

(8) In addition to these requirements, consider the Architect-Engineer firm's experience in energy efficiency, pollution prevention, waste reduction, and the use of recovered and environmentally preferable materials and other criteria at FAR 36.602–1.

* * * * *

PART 970—MANAGEMENT AND OPERATING CONTRACTS

5. The authority citation for Part 970 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 7101, *et seq.*; 50 U.S.C. 2401 *et seq.*

6. The subpart title for subpart 970.23 is revised to read as follows:

Subpart 970.23—Environment, Conservation, Occupational Safety, and Drug Free Work Place

7. Sections 970.2304–1 and 970.2304–2 are revised to read as follows:

970.2304–1 General.

The policy for the acquisition and use of EPA designated items, *i.e.*, items with recovered/recycled content, is set forth at 48 CFR (FAR) 23.4—Use of Recovered Materials as supplemented by 48 CFR (DEAR) 923.405(e) and by 48 CFR (FAR) 23.704, Application to Government-owned or leased facilities, and 48 CFR (FAR) 23.705, Contract clause.

970.2304–2 Contract clause.

The contracting officer shall insert the clause at 48 CFR (FAR) 52.223–10, Waste Reduction Program, and the clause at 48 CFR (DEAR) 970.5223–2, Affirmative Procurement Program, in contracts for the management of DOE facilities, including national laboratories. If the contractor subcontracts a significant portion of the operation of the Government facility which includes the acquisition of items designated in EPA's Comprehensive Procurement Guidelines, the subcontract shall contain a clause substantially the same as that at 48 CFR (DEAR) 970.5223–2. The EPA Comprehensive Procurement Guidelines identify products which Federal agencies and their contractors are to procure with recycled content pursuant to 40 CFR part 247. Examples of such subcontracts would be operation of the facility supply function, construction or remodeling at the facility, or maintenance of the facility motor vehicle fleet. In situations in which the facility management contractor can reasonably determine the amount of products with recovered/recycled content to be acquired under the subcontract, the facility management contractor is not required to flow down the reporting requirement of the 970.5223–2 clause. Instead, the facility management contractor may include the subcontract quantities in its own report and include an agreement in the subcontract that such products will be acquired with recovered/recycled content and that the subcontractor will advise if it is unable to procure such products with recovered/recycled content because the product is not available:

(a) Competitively within a reasonable time;

(b) At a reasonable price; or,

(c) Within the performance requirements.

Subpart 970.52—Solicitation Provisions and Contract Clauses for Management and Operating Contracts

8. Section 970.5223–2 is revised to read as follows:

970.5223–2 Affirmative procurement program.

As prescribed in 48 CFR (DEAR) 970.2304–2, insert the following clause in contracts for the management and operation of DOE facilities, including national laboratories.

Affirmative Procurement Program—March 2003

(a) In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13101 and the U.S. Department of Energy (DOE) Affirmative Procurement Program Guidance. This guidance includes requirements concerning environmentally preferable products and services, recycled content products and biobased products. This guidance is available on the Internet.

(b) In complying with the requirements of paragraph (a) of this clause, the Contractor shall coordinate its activities with the DOE Recycling Coordinator. Reports required by paragraph (c) of this clause shall be submitted through the DOE Recycling Coordinator.

(c) The Contractor shall prepare and submit reports, at the end of the Federal fiscal year, on matters related to the acquisition of items designated in EPA's Comprehensive Procurement Guidelines that Federal agencies and their Contractors are to procure with recovered/recycled content.

(d) If the Contractor subcontracts a significant portion of the operation of the Government facility which includes the acquisition of items designated in EPA's Comprehensive Procurement Guidelines, the subcontract shall contain a clause substantially the same as this clause. The EPA Comprehensive Procurement Guidelines identify products which Federal agencies and their Contractors are to procure with recycled content pursuant to 40 CFR 247. Examples of such a subcontract would be operation of the facility supply function, construction or remodeling at the facility, or maintenance of the facility motor vehicle fleet. In situations in which the facility management contractor can reasonably determine the amount of products with recovered/recycled content to be acquired under the subcontract, the facility management contractor is not required to flow down the reporting requirement of this clause. Instead, the facility management contractor may include such quantities in its own report and include an agreement in the subcontract that such products will be acquired with recovered/recycled content and that the subcontractor will advise if it is unable to procure such products with recovered/recycled content because the product is not available:

(i) Competitively within a reasonable time;

(ii) At a reasonable price; or,

(iii) Within the performance requirements.

If reports are required of the subcontractor, such reports shall be submitted to the facility management contractor. The reports may be submitted at the conclusion of the subcontract term provided that the subcontract delivery term is not multi-year in nature. If the delivery term is multi-year, the subcontractor shall report its accomplishments for each Federal fiscal year in a manner and at a time or times acceptable to both parties

(e) When this clause is used in a subcontract, the word "Contractor" will be understood to mean "subcontractor" and the term "DOE Recycling Coordinator" will be understood to mean "Contractor Recycling Coordinator."

[FR Doc. 03–2911 Filed 2–6–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4662]

RIN 2127–AJ02

Federal Motor Vehicle Safety Standards, School Bus Body Joint Strength; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Correcting amendment.

SUMMARY: In the **Federal Register** of December 13, 2001, NHTSA published a document in response to petitions for reconsideration that amended Federal Motor Vehicle Safety Standard No. 221, *School Bus Body Joint Strength*. There was a typographical error in S6.1.2. This document corrects the error.

DATES: Effective on January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Dorothy Nakama, Office of the Chief Counsel, at (202) 366–2992. Her FAX