(a) For all federally-recognized Tribes seeking to harvest forest botanical products for cultural, ceremonial, and/or traditional purposes. Such purposes must be non-commercial, and any such harvest may be conditioned or denied for reasons similar to those provided in § 223.240 of subpart G; and

(b) For Tribes with treaty or other reserved rights seeking to harvest forest botanical products for cultural, ceremonial, and/or traditional purposes in accordance with such treaty or other reserved rights. Such purposes must be non-commercial, and any such harvest may be conditioned or denied for reasons similar to those provided in § 223.240 of subpart G; and

(c) When a Regional Forester or Forest Supervisor, having proper authorization from the Chief, makes a written determination that:

(1) The harvest of a specified forest botanical product will facilitate non-commercial scientific research such as species propagation or sustainability: or

(2) A forest botanical product is salvage because other management activities will destroy or damage the product.

§ 223.281 Monitoring and revising sustainable harvest levels.

The Forest Service shall monitor and revise sustainable harvest levels for forest botanical products in accordance with § 223.219 of subpart G.

§ 223.282 Deposit and expenditure of collected fees.

(a) Funds collected under the pilot program for the harvest and sale of forest botanical products shall be deposited into a special account in the Treasury of the United States. These funds shall be available for expenditure at National Forests or National Grasslands where the funds were collected until September 30, 2010, unless the program is extended.

(b) Funds deposited into the special account specified in paragraph (a) of this section shall be expended at a National Forest or National Grassland in an amount equal to the fees collected at that unit and shall be used to pay for the costs of:

(1) Conducting inventories of forest botanical products;

(2) Determining, monitoring, and revising sustainable harvest levels for forest botanical products;

(3) Monitoring and assessing the impact of harvest levels and methods;

(4) Conducting restoration activities, including vegetation restoration; and

(5) Administering the pilot program, including environmental or other analyses.

PART 261—PROHIBITIONS

■ 4. The authority citation for part 261 continues to read as follows:

Authority: 7 U.S.C. 1011(f); 16 U.S.C. 472, 551, 620(f), 1133(c), (d)(1), 1246(i).

■ 5. Revise 261.6 to read as follows:

§ 261.6 Timber and other forest products.

The following are prohibited:

(a) Cutting, removing, or otherwise damaging any timber, tree, or other forest product, including special forest products and forest botanical products, except as authorized by Federal law, regulation, permit, contract, special use authorization, free-use authorization, or personal-use authorization.

(b) Cutting any standing tree under any permit or contract before a Forest Officer has marked it or has otherwise designated it for cutting.

(c) Unless otherwise provided for in any permit or contract, removing any timber or other forest product, including special forest products and forest botanical products, except to a place designated for scaling, measuring, counting, or other method of accounting by a forest officer.

(d) Stamping, marking with paint, or otherwise identifying any tree, or other forest product, including special forest products and forest botanical products, in a manner similar to that employed by forest officers to mark or designated a tree or any other forest product for cutting, or removal.

(e) Loading, removing or hauling timber, or other forest products, including special forest products and forest botanical products, acquired under any permit, contract, free-use authorization, memorandum of agreement, memorandum of understanding, or personal-use authorization unless such product is designated for loading, removing, or hauling as required or authorized in such permit, contract, free-use authorization, memorandum of agreement, memorandum of understanding, or personal-use authorization

(f) Selling or exchanging any timber or other forest product, including special forest products and forest botanical products, obtained under free use or personal use pursuant to §§ 223.5 through 223.11, § 223.239 or § 223.279 of this chapter.

(g) Violating any timber export or substitution restriction in §§ 223.160 through 223.164 of this chapter.

(h) Violating the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620, *et seq.*), or its implementing regulations at §§ 223.185 through 223.203 of this chapter.

Dated: December 19, 2008.

Melissa M. Simpson,

Deputy Under Secretary, NRE.

[FR Doc. E8–30672 Filed 12–22–08; 11:15 am]

BILLING CODE 3410–11–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1250, 1251, and 1256

[NARA–07–0006]

RIN 3095–AB32

Testimony by NARA Employees Relating to Agency Information and Production of Records in Legal Proceedings

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: The National Archives and Records Administration (NARA) is revising its regulations relating to demands for records or testimony in legal proceedings. The rule is intended to facilitate access to records in NARA's custody, centralize agency decision making in response to demands for records or testimony, minimize the disruption of official duties in complying with demands, maintain agency control over the release of agency information, and protect the interests of the United States. In addition, this rule consolidates existing regulations and applies to demands in legal proceedings where the United States is a party and to demands in legal proceedings where the United States is not a party. The rule affects parties to lawsuits and their counsel.

DATES: Effective Date: January 28, 2009.

FOR FURTHER INFORMATION CONTACT: Laura McCarthy at (301) 837–3023 or via fax number 301–837–0319.

SUPPLEMENTARY INFORMATION: On November 16, 2007, NARA published a proposed rule (72 FR 64558) for a 60-day public comment period on new regulations containing NARA's policy and procedures in response to demands for testimony or records in legal proceedings.

We notified several listservs and researcher organizations about the proposed rule and its availability on regulations.gov. We also posted a notice about the rule on our Web site, *http://www.archives.gov.* We received no public comments. We are adopting the proposed rule as a final rule after making a number of minor changes to clarify the rule.

In particular, in several instances we made minor word changes to clarify the meaning of a particular sentence or paragraph: we clarified the requirements of the Privacy Act, 5 U.S.C. 552a, if records sought are covered by the Privacy Act; specified that the demanding party is responsible for complying with all service requirements; and clarified the process for submitting witness fees and fees for the production of records.

This final rule contains information collection activities that are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. These information collection requirements, contained in § 1251.10, have been approved by OMB under the control number 3095–0038 with a current expiration date of May 31, 2011.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it affects individuals. This regulation does not have any federalism implications. This rule is not a major rule as defined in 5 U.S.C. chapter 8, Congressional Review of Agency Rulemaking.

List of Subjects

36 CFR Part 1250

Confidential business information, Freedom of information.

36 CFR Part 1251

Administrative practice and procedure.

36 CFR Part 1256

Archives and records, Copyright, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, NARA amends Subchapter C of 36 CFR Chapter XII as follows:

PART 1250—PUBLIC AVAILABILITY AND USE OF FEDERAL RECORDS

■ 1. The authority citation for part 1250 is revised to read as follows:

Authority: 44 U.S.C. 2104(a), 2204; 5 U.S.C. 552; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

§ 1250.84 [Removed]

■ 2. Remove § 1250.84.

■ 3. Add new part 1251 to read as follows:

PART 1251—TESTIMONY BY NARA EMPLOYEES RELATING TO AGENCY INFORMATION AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Sec.

1251.1 What is the purpose of this part?
1251.2 To what demands does this part apply?
1251.3 What definitions apply to this part?
1251.4 May employees provide records or give testimony in response to a demand without authorization?
1251.6 How does the General Counsel determine whether to comply with a demand for records or testimony?
1251.8 Who is authorized to accept service of a subpoena demanding the production of records or testimony?
1251.10 What are the filing requirements for a demand for documents or testimony?
1251.12 How does NARA process your demand?
1251.14 Who makes the final determination on compliance with demands for records or testimony?
1251.16 Are there any restrictions that apply to testimony?
1251.18 Are there any restrictions that apply to the production of records?
1251.20 Are there any fees associated with providing records or testimony?
1251.22 Are there penalties for providing records or testimony in violation of this part?

Authority: 44 U.S.C. 2104; 44 U.S.C. 2108; 44 U.S.C. 2109; 44 U.S.C. 2111 note; 44 U.S.C. 2112; 44 U.S.C. 2116; 44 U.S.C. ch. 22; 44 U.S.C. 3103.

§ 1251.1 What is the purpose of this part?

(a) This part provides the policies and procedures to follow when submitting a demand to an employee of the National Archives and Records Administration (NARA) to produce records or provide testimony relating to agency information in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of records or agency information.

(b) The National Archives and Records Administration intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize NARA's role in controversial issues not related to its mission;

(3) Maintain NARA's impartiality among private litigants when NARA is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of NARA.

(c) In providing for these requirements, NARA does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of NARA. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 1251.2 To what demands does this part apply?

This part applies to demands to NARA employees for factual, opinion, or expert testimony relating to agency information or for production of records in legal proceedings whether or not NARA is a named party. However, it does not apply to:

(a) Demands upon or requests for a NARA employee to testify as to facts or events that are unrelated to his or her official duties and that are unrelated to the functions of NARA;

(b) Demands upon or requests for a former NARA employee to testify as to matters in which the former employee was not directly or materially involved while at NARA;

(c) Requests for the release of, or access to, records under the Freedom of Information Act, 5 U.S.C. 552, as amended; the Privacy Act, 5 U.S.C. 552a; the Federal Records Act, 44 U.S.C. chs. 21, 29, 31, 33; the Presidential Records Act, 44 U.S.C. ch. 22; or the Presidential Recordings and Materials Preservation Act, 44 U.S.C. 2111 note;

(d) Demands for records or testimony in matters before the Equal Employment Opportunity Commission or the Merit Systems Protection Board; and

(e) Congressional demands and requests for testimony or records.

§ 1251.3 What definitions apply to this part?

The following definitions apply to this part:

Court of competent jurisdiction means, for purposes of this part, the judge or some other competent entity, as authorized by statute or regulation or other lawful means, and not simply by an attorney or court clerk, must sign a demand for records the disclosure of which is constrained by the Privacy Act, 5 U.S.C. 552a because section (b)(11) of the Act requires appropriate authorization of a court of competent jurisdiction. See *Doe* v. *Digenova,* 779 F.2d 74 (D.C. Cir. 1985); *Stiles* v. *Atlanta Gas Light Company,* 453 F. Supp. 798 (N.D. Ga. 1978).

Demand means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records in a legal proceeding, or for the appearance and testimony of a NARA employee in a legal proceeding.

General Counsel means the General Counsel of NARA or a person to whom the General Counsel has delegated

authority under this part. General Counsel also means the Inspector General of NARA (or a person to whom the Inspector General has delegated authority under this part) when a demand is made for records of NARA's Office of the Inspector General, or for the testimony of an employee of NARA's Office of the Inspector General.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, legislative body, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

NARA means the National Archives and Records Administration.

NARA employee or employee means:

(1) Any current or former officer or employee of NARA, except that this definition does not include former NARA employees who are retained or hired as expert witnesses concerning, or who agree to testify about, matters available to the public or matters with which they had no specific involvement or responsibility during their employment with NARA;

(2) Any other individual hired through contractual agreement by or on behalf of NARA or who has performed or is performing services under such an agreement for NARA;

(3) Any individual who served or is serving in any consulting or advisory capacity to NARA, whether formal or informal; and

(4) Any individual who served or is serving in any volunteer or internship capacity to NARA.

Records or agency information means:

(1) Archival records, which are permanently valuable records of the United States Government that have been transferred to the legal custody of the Archivist of the United States;

(2) Operational records, which are those records that NARA creates or receives in carrying out its mission and responsibilities as an executive branch agency. This does not include archival records as defined above in this section;

(3) All documents and materials which are NARA agency records under the Freedom of Information Act, 5 U.S.C. 552, as amended;

(4) Presidential records as defined in 44 U.S.C. 2201; historical materials as defined in 44 U.S.C. 2101; records as defined in 44 U.S.C. 2107 and 44 U.S.C. 3301;

(5) All other documents and materials contained in NARA files; and

(6) All other information or materials acquired by a NARA employee in the performance of his or her official duties or because of his or her official status.

Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

§ 1251.4 May employees provide records or give testimony in response to a demand without authorization?

No, except as otherwise permitted by § 1251.14 of this part, no employee may produce records and information or provide any testimony relating to agency information in response to a demand, or other legal request, without the prior, written approval of the General Counsel.

§ 1251.6 How does the General Counsel determine whether to comply with a demand for records or testimony?

The General Counsel may consider the following factors in determining whether or not to grant an employee permission to testify on matters relating to agency information, or permission to produce records in response to a demand:

(a) NARA's compliance with the demand is required by federal law, regulation or rule, or is otherwise permitted by this part;

(b) The purposes of this part are met;

(c) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(d) NARA has an interest in the decision that may be rendered in the legal proceeding;

(e) Allowing such testimony or production of records would assist or hinder NARA in performing its statutory duties;

(f) Allowing such testimony or production of records would involve a substantial use of NARA resources;

(g) Responding to the demand would interfere with the ability of NARA employees to do their work;

(h) Allowing such testimony or production of records would be in the best interest of NARA or the United States;

(i) The records or testimony can be obtained from the publicly available records of NARA or from other sources;

(j) The demand is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand arose;

(k) Disclosure would violate a statute, Executive Order or regulation;

(l) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential commercial or financial information, otherwise protected information, or information which would otherwise be inappropriate for release;

(m) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceeding, or compromise constitutional rights;

(n) Disclosure would result in NARA appearing to favor one litigant over another;

(o) Disclosure relates to documents that were created by another agency;

(p) A substantial Government interest is implicated;

(q) The demand is within the authority of the party making it;

(r) The demand is sufficiently specific to be answered; and

(s) Other factors, as appropriate.

§ 1251.8 Who is authorized to accept service of a subpoena demanding the production of records or testimony?

(a) Demands for testimony, except those involving an employee of NARA's Office of the Inspector General, must be addressed to, and served on, the General Counsel, National Archives and Records Administration, Suite 3110, 8601 Adelphi Road, College Park, MD 20740–6001.

(b) Demands for the testimony of an employee of NARA's Office of the Inspector General must be addressed to, and served on, the Inspector General, National Archives and Records Administration, Suite 1300, 8601 Adelphi Road, College Park, MD 20740–6001.

(c) Demands for the production of NARA operational records, except those of the Office of the Inspector General, must be addressed to, and served on, the General Counsel.

(d) Demands for records of the Inspector General must be addressed to, and served on, the Inspector General.

(e) Demands for the production of records stored in a Federal Records Center (FRC), including the National Personnel Records Center, must be addressed to, and served on, the director of the FRC where the records are stored. NARA honors the demand to the extent required by law, if the agency having legal title to the records has not imposed any restrictions. If the agency has imposed restrictions, NARA notifies the authority issuing the demand that NARA abides by the agency-imposed restrictions and refers the authority to the agency for further action.

(f) Demands for the production of materials designated as Federal archival records, Presidential records or donated historical materials administered by NARA must be addressed to, and served

on either: the Assistant Archivist for Records Services—Washington, DC (for records located in Headquarters); Director of Archival Operations (for records located in the regions); or the appropriate Presidential Library Director.

(g) For matters in which the United States is a party, the Department of Justice should contact the General Counsel instead of submitting a demand for records or testimony on its own or another agency's behalf.

(h) The demanding party is responsible for complying with all service requirements, including any additional requirements contained in the Federal Rules of Civil Procedure or other statutory or regulatory authority.

(i) Contact information for each NARA facility may be found at 36 CFR part 1253.

§ 1251.10 What are the filing requirements for a demand for documents or testimony?

You must comply with the following requirements, as appropriate, whenever you issue a demand to a NARA employee for records, agency information or testimony:

(a) Your demand must be in writing and must be served on the appropriate party as identified in § 1251.8.

(b) Demands for production of records that are governed by the Privacy Act require authorization of a court of competent jurisdiction as defined in § 1251.3.

(c) Your written demand (other than a demand pursuant to the Federal Rules of Civil Procedure in a case in which NARA is a party, in which case you must comply with the requirements of that rule) must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on NARA to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than a NARA employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used instead of testimony;

(7) A description of all previous decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties may require with each NARA employee for time spent by the employee in connection with the request for testimony.

(d) NARA reserves the right to require additional information to process your demand.

(e) Your demand (other than a demand pursuant to the Federal Rules of Civil Procedure in a case in which NARA is a party, in which case you must comply with the requirements of that rule) should be submitted at least 45 days before the date that records or testimony is required. Demands submitted in less than 45 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(f) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with your demand.

(g) The information collection contained in this section has been approved by the Office of Management and Budget under the Paperwork Reduction Act under the control number 3095–0038.

§ 1251.12 How does NARA process your demand?

(a) After service of a demand for production of records or for testimony, an appropriate NARA official reviews the demand and, in accordance with the provisions of this, determines whether, or under what conditions, to produce records or authorize the employee to testify on matters relating to agency information.

(b) NARA processes demands in the order in which we receive them. NARA will not complete and return certifications, affidavits, or similar documents submitted with a demand for records, but if requested will certify records in accordance with NARA's published fee schedule at 36 CFR part 1258. Absent exigent or unusual circumstances, NARA responds within 45 days from the date of receipt. The time for response depends upon the scope of the demand.

(c) The General Counsel may grant a waiver of any procedure described by this part where a waiver is considered necessary to promote a significant interest of NARA or the United States or for other good cause.

§ 1251.14 Who makes the final determination on compliance with demands for records or testimony?

The General Counsel makes the final determination on demands to employees for testimony. The appropriate NARA official authorized to accept service, as described in § 1251.8, makes the final determination on demands for the production of records. The NARA official notifies the requester and, as necessary, the court or other authority of the final determination and any conditions that may be imposed on the release of records or information, or on the testimony of a NARA employee. If the NARA official deems it appropriate not to comply with the demand, the official communicates the reasons for the noncompliance as appropriate.

§ 1251.16 Are there any restrictions that apply to testimony?

(a) The General Counsel may impose conditions or restrictions on the testimony of NARA employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) NARA may offer the employee's written declaration instead of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee must not:

(1) Disclose confidential or privileged information; or

(2) For a current NARA employee, testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of NARA unless testimony is being given on behalf of the United States.

§ 1251.18 Are there any restrictions that apply to the production of records?

(a) The General Counsel may impose conditions or restrictions on the release of records and agency information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, NARA may condition the release of records and agency information on an amendment to the existing protective order or confidentiality agreement.

(b) Typically, original NARA records will not be produced in response to a demand. Instead of the original records, NARA provides certified copies for evidentiary purposes (see 28 U.S.C. 1733; 44 U.S.C. 2116). Such copies must be given judicial notice and must be admitted into evidence equally with the originals from which they were made (see 44 U.S.C. 2116). If the General Counsel so determines, under exceptional circumstances, original NARA records may be made available for examination in response to a demand, but they are not to be presented as evidence.

§ 1251.20 Are there any fees associated with producing records or providing testimony?

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to NARA.

(b) *Fees for records.* Fees for producing records include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time are calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication are the same as those charged by NARA in part 1258 of this title.

(c) *Witness fees.* Fees for attendance by a witness include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees are determined based upon the rule of the Federal district court closest to the location where the witness appears.

(d) *Payment of fees.*

(1) Witness fees for current NARA employees must be submitted to the General Counsel and made payable to the Treasury of the United States.

(2) Fees for the production of records, including records certification fees, must be submitted to the official who makes the final determination on demands for the production of records, as described in § 1251.14, and made payable to the National Archives Trust Fund (NATF).

(3) Applicable fees paid to former NARA employees providing testimony should be paid directly to the former employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(e) *Certification (authentication) of copies of records.* NARA may certify that records are true copies in order to facilitate their use as evidence. Request certified copies from NARA at least 45 days before the date they are needed. We charge a certification fee for each document certified.

(f) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of good cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(g) *De minimis fees.* Fees are not assessed if the total charge is $10.00 or less, or as otherwise stated in NARA policy.

§ 1251.22 Are there any penalties for providing records or testimony in violation of this part?

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by NARA or as ordered by a Federal court after NARA has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former NARA employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current NARA employee who testifies or produces official records and information in violation of this part is subject to disciplinary action.

PART 1256—PUBLIC AVAILABILITY AND USE OF FEDERAL RECORDS

■ 4. The authority citation for part 1256 continues to read as follows:

Authority: 44 U.S.C. 2101–2118; 22 U.S.C. 1461(b); 5 U.S.C. 552; E.O. 12958 (60 FR 19825, 3 CFR, 1995 Comp., p. 333; E.O. 13292, 68 FR 15315, 3 CFR, 2003 Comp., p. 196; E.O. 13233, 66 FR 56023, 3 CFR, 2001 Comp., p. 815.

§ 1256.4 [Removed]

■ 5. Remove § 1256.4.

Dated: December 19, 2008.

Adrienne C. Thomas,

Deputy Archivist of the United States.

[FR Doc. E8–30885 Filed 12–24–08; 8:45 am]

BILLING CODE 7515–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009–9, CP2009–10, CP2009–11; Order No. 153]

International Mail Contracts

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding Global Direct Contracts to the Competitive Product List and announcing the Postal Service's execution of two related contracts. These actions are consistent with changes in a recent law governing postal operations and a recent Postal Service request. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective December 29, 2008.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION: *Regulatory History,* 73 FR 74213 (December 5, 2008).

I. Background

The Postal Service seeks to add a new product identified as Global Direct Contracts to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

On November 17, 2008, the Postal Service filed a formal request pursuant to 37 U.S.C. 3642 and 39 CFR 3020 *et seq.* to add Global Direct Contracts to the Competitive Product List.[1] The Postal Service indicates that Governors' Decision No. 08–10, July 16, 2008, establishes prices and classifications not of general applicability for Global Direct Contracts.[2] The Request has been assigned Docket No. MC2009–9.

[1] Request of the United States Postal Service to Add Global Direct Negotiated Service Agreements to the Competitive Products List, and Notice of Filing (Under Seal) Two Functionally Equivalent Agreements, November 17, 2008 (Request).

[2] *See* Docket No. MC2008–7, Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts, July 16, 2008 (Governors' Decision No. 08–10), establishing prices and classifications not of general applicability for Global Direct and Global Bulk Economy Contracts, as well as for