

- FAX: 301-827-6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described in the *Electronic Submissions* portion of this paragraph.

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to <http://www.fda.gov/ohrms/dockets/default.htm>, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.fda.gov/ohrms/docket/default.htm> and insert the docket number(s), found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Center for Food Safety and Applied Nutrition at 1-888-SAFEFOOD, FAX: 1-877-366-3322, or by e-mail: industry@fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 9, 2004 (69 FR 71562), FDA issued a final rule to implement section 306 of the Bioterrorism Act. The regulation requires the establishment and maintenance of records by persons who manufacture, process, pack, transport, distribute, receive, hold, or import food in the United States. Such records are to allow for the identification of the immediate previous sources and the immediate subsequent recipients of food. Persons subject to the regulation who employ 500 or more FTEs had to be in compliance by December 9, 2005, and those who employ 11-499 FTEs had to be in compliance by June 9, 2006. Persons who employ 10 or fewer FTEs have until December 11, 2006 to be in

compliance. "Person" includes an individual, partnership, corporation, and association.

On September 12, 2005, FDA issued the first edition of a guidance entitled "Questions and Answers Regarding Establishment and Maintenance of Records." On November 22, 2005, FDA issued a second edition of that guidance. This document is the third edition of that guidance entitled "Questions and Answers Regarding Establishment and Maintenance of Records (Edition 3)" and responds to questions regarding persons covered by the regulation; persons excluded by the regulation, including additional guidance on the farm and restaurant exclusions; and what information is required in the records established and maintained by warehouse distribution facilities. It is intended to help the industry better understand and comply with the regulation in 21 CFR part 1, subpart J. FDA is issuing this guidance as a Level 1 guidance. The guidance represents the agency's current thinking on the topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public.

Consistent with FDA's good guidance practices regulation § 10.115(g)(2) (21 CFR 10.115), the agency will accept comments, but it is implementing the guidance document immediately, in accordance with § 10.115(g)(2), because the agency has determined that prior public participation is not feasible or appropriate. As noted, persons who employ 500 or more FTEs had to begin to establish and maintain records identifying the immediate previous sources and immediate subsequent recipients of food by December 9, 2005, and those who employ 11-499 FTEs had to be in compliance by June 9, 2006. Persons who employ 10 or fewer FTEs have until December 11, 2006 to be in compliance. Clarifying the provisions of the final rule will facilitate prompt compliance with these requirements and complete the rule's implementation.

FDA continues to receive large numbers of questions regarding the records final rule, and is responding to these questions under § 10.115 as promptly as possible, using a question-and-answer format. The agency believes that it is reasonable to maintain all responses to questions concerning establishment and maintenance of records in a single document that is periodically updated as the agency receives and responds to additional questions. The following four indicators will be employed to help users of this guidance identify revisions: (1) The guidance will be identified as a revision of a previously issued document, (2) the

revision date of the guidance will appear on its cover, (3) the edition number of the guidance will be included in its title, and (4) questions and answers that have been added to the original guidance will be identified as such in the body of the guidance.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the guidance at any time. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments and the guidance may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance at <http://www.cfsan.fda.gov/guidance.html> or <http://www.cfsan.fda.gov/~dms/recguid3.html>

Dated: June 22, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6-10239 Filed 6-28-06; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9262]

RIN 1545-BF57

Computer Software Under Section 199(c)(5)(B); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains a correction to temporary regulations (TD 9262) that were published in the **Federal Register** on Thursday, June 1, 2006 (71 FR 31074) concerning the application of section 199 of the Internal Revenue Code, which provides a deduction for income attributable to domestic production activities, to certain transactions involving computer software.

DATES: These corrections are effective June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Paul Handleman or Lauren Ross Taylor, (202) 622-3040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under section 199 of the Internal Revenue Code.

Need for Correction

As published, the correction notice (TD 9262) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (TD 9262), which was the subject of FR Doc. 06-4828, is corrected as follows:

1. On page 31075, column 1, in the preamble, under the paragraph heading *“Qualified Production Activities Income,”* first paragraph of the column, line 3, the language “mean: (A) Tangible personal property;” is corrected to read “mean: (A) tangible personal property;”.

2. On page 31075, column 1, in the preamble, under the paragraph heading *“Summary of Comments,”* last paragraph of the column, line 16, the language “include: (1) Whether an agreement” is corrected to read “include: (1) whether an agreement”.

3. On page 31075, column 3, in the preamble, under the paragraph heading *“Explanation of Provisions,”* first paragraph of the column, line 11, the language “applies if a taxpayer that derives gross” is corrected to read “applies if a taxpayer derives gross”.

4. On page 31076, column 1, in the preamble, under the paragraph heading *“Effective Date,”* first paragraph of the column, line 4, the language “regulations expires on or before May 25,” is corrected to read “regulations expires on or before May 22,”.

5. On page 31077, column 2, in the signature block, the language “Mark E. Mathews,” is corrected to read “Mark E. Matthews,”.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6-10248 Filed 6-28-06; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Occupational Safety and Health of Contractor Employees at Certain Energy Department Sites; Jurisdiction and Enforcement Responsibilities; Clarification Regarding State Plans—Arizona, California, Iowa, Kentucky, Minnesota, Nevada, New Mexico, North Carolina, Oregon, South Carolina, Utah, Virginia, Washington, and Wyoming

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final rule.

SUMMARY: This notice provides further clarification as to the jurisdiction and enforcement responsibilities of the Occupational Safety and Health Administration and 14 of its approved State Plans at various Department of Energy (DOE) sites which are not subject to the Atomic Energy Act (AEA). OSHA’s regulations in 29 CFR 1952 are amended to reflect this jurisdiction, as appropriate.

DATES: Effective Date: June 29, 2006.

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries, contact Kevin Ropp, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999. For technical inquiries, contact Barbara Bryant, Director, Office of State Programs, Room N-3700, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2244. An electronic copy of this **Federal Register** notice is available on OSHA’s website at www.osha.gov.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Labor (DOL) and the U.S. Department of Energy (DOE) previously clarified their regulatory authority over the occupational safety and health of private-sector contractor employees at a number of DOE government-owned or leased facilities that are not subject to the Atomic Energy Act (AEA). (65 FR 41492, July 5, 2000) Some of these facilities are either government-owned and government-operated (GOGO) or government-owned and contractor-operated (GOCO).

The Atomic Energy Act provides statutory authority to DOE to regulate occupational safety and health matters relating to private sector employees at facilities subject to the AEA. Section 4(b)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. (the Act), Section 653(b)(1), precludes OSHA coverage of working conditions over which other federal agencies have exercised statutory authority to prescribe or enforce standards for occupational safety or health. A 1992 Interagency Memorandum of Understanding provides that the Occupational Safety and Health Act shall not apply to government owned-contractor operated (GOCO) sites or other facilities with private sector employees for which DOE, pursuant to the AEA, has exercised its authority to regulate occupational safety and health.

By letter of June 18, 1999, and further clarified by letter on March 31, 2000, DOE provided OSHA with a list of DOE sites that were not covered by the AEA and requested OSHA’s concurrence with DOE’s views that the facilities and operations in question were subject to OSHA’s jurisdiction. These sites are primarily involved in fossil fuel energy research and power marketing administration. OSHA responded by letter on July 13, 1999, agreeing with DOE that OSHA has jurisdiction over the working conditions of private sector employers and employees at such facilities.

On July 5, 2000, OSHA published a notice in the **Federal Register** (65 FR 41492), listing these sites and stating that private sector employers and employees at these DOE facilities are subject to all standards, rules and requirements issued under the Occupational Safety and Health Act. The sites are:

Department of Energy (DOE) Non-Atomic Energy Act (AEA) Sites and Facilities

Western Area Power Administration
Headquarters, P.O. Box 3402, Golden, CO 80401-0098, Covers all or part of the following States: AZ*, CA*, CO, IA*, KS, MN*, MT, NE, ND, NM*, NV*, SD, TX, UT*, WY*

Southwestern Power Administration,
Headquarters, P.O. Box 1619, Tulsa, OK 74101, Covers all or part of the following States: AR, KS, LA, MO, OK, TX

Southeastern Power Administration,
Headquarters, 2 South Public Square, Elberton, GA 30635, Covers all or part of the following States: AL, FL, GA, IL, KY*, MS, NC*, SC*, VA*, WV

Bonneville Power Administration, 905 NE 11th Ave., P.O. Box 3621,