

Title: Identification of Proprietary Beam Time

APS Policy and Procedure Number: X.3.1.2

Revision: 0

Effective Date: 1 January 2005

Review period: 1 year

Supercedes revision: NA

Prepared by: AOD, Steve Davey

Title: Identification of Proprietary Beam Time

Summary: This policy and procedure describes how proprietary beam time use is tracked at the Advance Photon Source (APS).

Policy

Beam time at the APS falls into two categories: proprietary and nonproprietary. In exchange for the use of the APS, the *technical data* derived from results of experiments are, in general, expected to become part of the public domain and with certain rights to the data (as defined in an institution's APS User Agreement) reserved by the U. S. government. If an institution has executed a proprietary APS User Agreement and pays for the beam time, researchers may keep certain intellectual property rights to "*proprietary data*" (see Procedure Section 6 for a general definition) resulting from work performed at the APS.

If an experimenter seeks to keep the proprietary rights to data resulting from work performed at the APS, then prior to the start of the experiment, the experimenter must declare the beam time to be proprietary as part of the proposal/safety assessment process.

The APS will charge a proprietary user fee if 1) the user is using an APS beamline facility for any activity (such as experiment setup, mounting and aligning samples, screening samples, and data collection) that is part of the work which is, or is intended to be, proprietary, and 2) the APS is delivering user beam.

Proprietary time is charged by the hour, and an experimenter must compensate the APS at a predetermined hourly rate (current rates available from the APS User Account Specialist) from an appropriate prefunded User Account (refer to User Policy and Procedure for Proprietary User Accounts). Any fractions of an hour will be charged as a full hour.

As part of the APS experiment proposal/safety review process, an Experiment Authorization (EA) form is generated. Each EA will be identified for either proprietary or nonproprietary beam time. An EA for proprietary beam time is valid for a maximum of one week. If the proprietary beam time extends beyond one calendar week, a new EA must be generated, approved, and posted.

The APS will use the posting of the proprietary EA form to provide a basis for tracking the proprietary beam time. At the start of the beam time, the experimenter notifies the Floor Coordinator (FC), the approved EA is posted in the cabinet at the end of the beamline, and the FC logs the start time. At the end of the beam time, the experimenter again notifies the FC, the EA is removed, and the FC logs the time. The time that the EA is posted will be designated as *proprietary beam time*.

General Users:

Each proposal for General User beam time will be for either proprietary or nonproprietary beam time-but not both. All beam time assigned under a proprietary proposal will be charged unless the storage ring or beamline is not available to the user. A spokesperson for the experiment has two business days after the removal of the EA form to request that the APS amend its use records for either of the above mentioned reasons. The request is made via e-mail to the user account specialist (useracct@aps.anl.gov) and must provide the basis for the request.

Partner Users:

If a portion of the time that a proprietary EA is posted is not used for proprietary work (e.g., if the storage ring or beamline is down for an extended period of time **or** if a portion of the time was used for nonproprietary work), a spokesperson for the experimenter has two business days after the removal of the EA form to request that the APS amend its use records to reflect the actual amount of proprietary beam time. The request is made via e-mail to the user account specialist (useracct@aps.anl.gov) and must provide the basis for the request.

Procedure

1 Introduction

1.1 Purpose

This procedure describes the steps in identification of proprietary beam time use at the APS.

1.2 Scope

This procedure describes how the APS will track proprietary beam time use.

This procedure does not:

- define the terms and conditions to rights to *proprietary data* (see Section 6 for general definition),
- describe the process for paying for proprietary beam time (see “APS User Policies and Procedures,” Proprietary User Accounts).

1.3 Applicability

This procedure applies to all beam time used to collect proprietary data at the APS.

2 Preparation - Prerequisite Actions

Prior to the start of proprietary experiments at the APS, the experimenter must establish a prefunded Proprietary User Account according to APS user policies and procedures.

3 Acceptance Criteria

Unless an exception is sought as described in Section 4, the identification of proprietary beam time is automatic, based on the EA posting, and does not require signature/approval.

4 Procedure Action Steps - Performance

- 4.1 A General User declares beam time as proprietary or nonproprietary with the submission of their proposal. A Partner User declares the beam time as proprietary or nonproprietary with the submission of their ESAF.
- 4.2 The APS will request that the spokesperson for the experiment provide the cost code(s) for the account(s) that will fund the proprietary beam use. If the user account information is not available at the time of the submission of the ESAF, the spokesperson is responsible for contacting the user account specialist (useracct@aps.anl.gov) with the account information prior to the start of the beam time. These accounts are prepaid (see Section 5, Reference 2 for details).
- 4.3 At the start of an experiment, an experimenter uses the ESAF system to generate an EA form. The EA will be tagged in APS records as proprietary or nonproprietary. (Note: an EA for proprietary beam time may be posted for up to one week. If the experiment is to be continued beyond a week, a new EA must be completed and posted.)
- 4.4 When the experiment starts, at the request of the experimenter, the EA form will be posted at the beamline by the FC. The FC will record the start time on the EA and will update the APS beam-use database.
- 4.5 When the experiment is completed, at the request of the user, the EA form will be removed by a FC. The FC will record the end time on the EA and will update the beam-use database.
- 4.6 If an experimenter seeks to correct the proprietary beam-use record, a spokesperson for the experiment will have two business days after the removal of the EA form, to e-mail the user account specialist (useracct@aps.anl.gov) requesting that the record be modified. The request should include the basis of the request (e.g., if the storage ring is down for an extended period of time while the EA was posted).

4.7 The user account specialist will debit the specified user account(s) for the beam time.

5 References - Source Requirements

1. APS standard proprietary User Agreements
2. APS Policy and Procedure for Establishing and Maintaining Proprietary User Accounts

6 Appendix

Definitions

(1) "Technical Data" means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may include, for example, document research, experimental, developmental, demonstration, or engineering work to be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media, such as drawings or photographs, text in specifications or related performance or design-type documents, or computer software (including computer programs, computer software databases, and computer software documentation). Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identification and related information. Technical data as used in this subpart does not include financial reports, cost analyses, and other information incidental to contract administration.

(2) "Proprietary Data" means technical data that embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:

- i. Are not generally known or available from other sources without obligation concerning their confidentiality;
- ii. Have not been made available by the owner to others without obligation concerning their confidentiality; and
- iii. Are not already available to the government without obligation concerning their confidentiality.