

forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing.

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing state requirements nor does it substitute a new Federal requirement.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: January 9, 1995.
Patrick M. Tobin,
Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:
Authority: 42.U.S.C. 7401-7671q.

Subpart RR—Tennessee

2. Section 52.2219 is revised to read as follows:

§ 52.2219 Identification of plan—conditional approval.

(a) EPA is conditionally approving the following revisions to the Tennessee SIP contingent on the State of Tennessee meeting the schedule to correct deficiencies associated with the following rules which was committed to in letters dated October 7, 1994, and December 16, 1994, from the State of Tennessee to EPA Region IV.

(1) Rule 1200-3-18-.01 Definitions: Subparagraph (1), the definition of "volatile organic compound," effective April 22, 1993.

(2) Rule 1200-3-18-.02 General Provisions and Applicability: Paragraph (8) effective April 22, 1993.

(3) Rule 1200-3-18-.06 Handling, Storage and Disposal of Volatile Organic Compounds (VOC's): Paragraph (1) effective April 22, 1993.

(4) Rule 1200-3-18-.39 Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins: Subparagraph (5)(a)(2) effective April 22, 1993.

(5) Rule 1200-3-18-.86 Performance Specifications for Continuous Emission Monitoring of Total Hydrocarbons: Subparagraph (11)(c) effective April 22, 1993.

- (b) [Reserved]
- (c) [Reserved]

3. Section 52.2220 is amended by adding paragraph (c)(123) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(123) A revised chapter 1200-3-18 "Volatile Organic Compounds" was submitted by the Tennessee Department of Air Pollution Control (TDAPC) to EPA on May 18, 1993, to replace the current chapter 1200-3-18 in the Tennessee SIP. This chapter had been revised to meet the requirements of the 1990 Clean Air Act Amendments commonly referred to as the "VOC RACT Catch-Up" requirements. Rule 1200-3-18-.28 "Perchloroethylene Dry Cleaners" which was federally approved in 59 FR 18310 on April 18, 1994, will remain effective.

(i) Incorporation by reference.

(A) Revisions to the State of Tennessee regulations which were effective on April 22, 1993.

(1) Chapter 1200-3-18 "Volatile Organic Compounds," except for subchapter 1200-3-18-.24, subparagraph 1200-3-18-.03 (2)(b), (1)(b)(2)(vii), and subparagraphs 1200-3-18-.79 (1)(a)(3), (1)(c), and (1)(d).

(ii) Other material. None.

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4. Section 52.2225 is amended by revising paragraph (b) to read as follows:

§ 52.2225 VOC rule deficiency correction.

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(b) Revisions to chapter 1200-3-18 "Volatile Organic Compounds" were submitted by Tennessee on May 18, 1993, to meet the requirements added by the 1990 Clean Air Act Amendments (CAAA) commonly referred to as the "VOC RACT Catch-up" requirements. The following deficiencies remain in Tennessee chapter 1200-3-18 and must be corrected.

(1) Rule 1200-3-18-.01 (1): The definition of "volatile organic compound" must be revised to delete perchloroethylene from the

list of compounds that have negligible photochemical reactivity.

(2) Rule 1200-3-18-.02 (8): Tennessee must revise this paragraph to provide that an official of the company certify the reports instead of the owner or operator. This paragraph must also be amended to require NO_x emissions to be reported.

(3) Rule 1200-3-18-.06 (1): The term "minimum reasonably attainable" must be explained or defined.

(4) Rule 1200-3-18-.33: This rule for the manufacture of synthesized pharmaceutical products has been amended by the State since the official submittal. The State of Tennessee has committed to submit the revised rule to EPA by January 1, 1996.

(5) Rule 1200-3-18-.38: This rule for leaks from synthetic organic chemical, polymer, and resin manufacturing equipment sets the level of concentration of pure component at 20%. This level must be changed to 10%.

(6) Rules 1200-3-18-.39 (5)(a)(2) and 1200-3-18-.86 (11)(c): The conversion factors must be corrected.

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 201-39

[FIRMR Amendment 4]

RIN 3090-AF17

Amendment of FIRMR To Remove Provisions for Using GSA Nonmandatory Schedule Contracts for FIP Resources

AGENCY: Information Technology Service, GSA.

ACTION: Final rule.

SUMMARY: This rule revises Federal Information Resources Management Regulation (FIRMR) provisions regarding Federal Information Processing (FIP) multiple award schedule (MAS) contract orders. Specifically, the rule removes the requirement to synopsise orders in excess of \$50,000 placed against MAS contracts and incorporates the new guiding principles for FIP MAS orders, including a \$2,500 "micro-purchase" threshold. The micro-purchase procedures will speed up the acquisition process for low dollar, low risk FIP acquisitions. These changes are examples of GSA's ongoing efforts to improve the MAS program and streamline the procurement process. GSA strongly encourages agencies to use the schedules program as a proven method to purchase commercial goods in a manner that is both time and cost effective.

DATES: This rule is effective March 29, 1995.

FOR FURTHER INFORMATION CONTACT: Judy Steele, FTS/Commercial (202) 501-3194 (v) or (202) 501-0657 (tdd).

SUPPLEMENTARY INFORMATION: (1) A notice of proposed rulemaking was published in the Federal Register on February 23, 1994. This notice removed all provisions for using GSA nonmandatory schedule contracts for FIP resources from the FIRMR. Thirty-four (34) comments were received on the proposed rule. All comments were considered, and, where possible, incorporated into the final rule. For example, several respondents requested that the FIP MAS procedures remain in the FIRMR to ensure that all ordering activities and schedule vendors would know where to find them. Respondents also suggested incorporation of the MAS "guiding principles" into the FIRMR procedures. This rule has been revised to reflect their concerns.

(2) To address recurring issues of concern to GSA customer agencies, the General Accounting Office (GAO), and MAS contractors, GSA initiated a MAS Improvement Project in October 1990. GSA prepared a uniform set of "guiding principles" to simplify and expedite the ordering process for all types of MAS buys. According to a recent GAO report, agencies state that a reason for failing to comply with the MAS ordering procedures is that it is too time-consuming and difficult. One major objective of the MAS Improvement Project consistent with those concerns was to streamline and unify the procedures for ordering products and services provided under the MAS program. In line with this objective, this rule removes the FIRMR requirement that agencies synopsise orders valued at \$50,000 or higher that are placed against FIP MAS contracts. Since the FIP MAS contracts are now indefinite delivery/indefinite quantity contracts, there is no longer a legal requirement to synopsise these orders.

GAO has also previously suggested that the ordering procedures for low dollar value items be less stringent than the procedures which apply to high dollar value orders. A micropurchase threshold of \$2,500 is incorporated in the guiding principles which will alleviate that situation. Below the \$2,500 threshold, agencies are allowed to place an order to any FIP schedule contractor without seeking competition. Above \$2,500, agencies must consider reasonably available information about products offered under MAS contracts to ensure that the selection meets the agency's needs at the lowest overall

cost. The guiding principles also reflect that MAS contractors no longer are required to pass on a price reduction extended to only one agency for a specific order to all MAS users. This rule incorporates GSA's guiding principles for MAS acquisitions.

(3) Explanation of the specific changes being made by this issuance are shown below:

(a) Subpart 201-39.5 is removed to delete the synopsizing requirements related to the FIP MAS contracts.

(b) Section 201-39.601-2 is removed since synopsizing is no longer required.

(c) Section 201-39.803-3 is revised to add the MAS "guiding principles" which streamline and simplify the procedures for using the FIP MAS contracts.

(d) The FIRMR Index reference is revised to change the phrase "GSA nonmandatory schedule contract" to "GSA nonmandatory FIP schedule contract" to differentiate the FIP MAS contracts from the newly nonmandatory FSS MAS contract programs.

(4) This rule was submitted to, and approved by, the Office of Management and Budget in accordance with Executive Order 12866, Regulatory Planning and Review. The rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (U.S.C. 601 et seq.).

(5) The Paperwork Reduction Act does not apply because the FIRMR changes do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 41 CFR Part 201-39

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Property management, Records management, and Telecommunications.

For the reasons set forth in the preamble, GSA is amending 41 CFR Part 201 as follows:

PART 201-39—ACQUISITION OF FEDERAL INFORMATION PROCESSING (FIP) RESOURCES BY CONTRACTING

1. The authority citation for part 201-39 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

Subpart 201-39.5—[Reserved]

2. Subpart 201-39.5 is removed and reserved.

§ 201-39.601-2 [Removed and reserved]

3. Section 201-39.601-2 is removed and reserved.

4. Section 201-39.803-3 is revised to read as follows:

§ 201-39.803-3 Procedures.

(a) Prior to selecting a GSA nonmandatory FIP schedule contract and placing an order, the agency shall justify any restrictive requirement (e.g., an "all or none" requirement or a requirement for "only new" equipment).

(b) Ordering activities can place orders of \$2,500 or less with any GSA nonmandatory FIP schedule contractor. GSA has already determined the prices of items under these contracts to be fair and reasonable.

(c) To reasonably ensure that a selection represents the best value and meets the agency's needs at the lowest overall cost alternative, before placing a MAS order of more than \$2,500, an ordering activity should—

(1) Consider reasonably available information about products offered under Multiple Award Schedule contracts; this standard is met if the ordering activity does the following:

(i) Considers products and prices contained in any GSA MAS automated information system (e.g., Information Resources Management—On-line Schedules System); or

(ii) If automated information is not available, reviews at least three (3) price lists.

(2) In selecting the best value item at the lowest overall cost (the price of the item plus administrative costs), the ordering activity may consider such factors as—

(i) Special features of one item not provided by comparable items which are required in effective program performance;

(ii) Trade-in considerations;

(iii) Probable life of the item selected as compared with that of a comparable item;

(iv) Warranty conditions; and

(v) Maintenance availability.

(3) Give preference to the items of small business concerns when two or more items at the same delivered price will meet an ordering activity's needs.

(d) MAS contractors will not be required to pass on to all schedule users a price reduction extended only to an individual agency for a specific order. There may be circumstances where an ordering activity finds it advantageous to request a price reduction, such as where the ordering activity finds that a schedule product is available elsewhere at a lower price, or where the quantity of an individual order clearly indicates the potential for obtaining a reduced price.

(e) Ordering activities should document orders of \$2,500 or less by identifying the contractor the item was purchased from, the item purchased, and the amount paid. For orders over \$2,500, MAS ordering files should be documented in accordance with internal agency practices. Agencies are encouraged to keep documentation to a minimum.

(f) Requirements or orders shall not be fragmented in order to circumvent the applicable MOL.

5. The reference to "GSA nonmandatory schedule contract" in the FIRM Index is revised to "GSA nonmandatory FIP schedule contract."

Dated: January 19, 1995.

Julia M. Stasch,

Acting Administrator of General Services.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7612]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA, Energy.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Deputy Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary

because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Deputy Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows: