scoring keys. Disclosure of the individual item responses and scoring keys will compromise the objectivity and fairness of the test as well as the validity of future tests resulting in the Department being unable to use the testing battery as an individual assessment tool.

Dated: December 21, 2010.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–33030 Filed 12–30–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD89

Special Regulation: Areas of the National Park System, National Capital Region

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) proposes to amend the regulations on demonstrations and special events for the National Capital Region. This proposed rule would revise the definition of "demonstration" as well as specify the conditions under which solicitation of gifts, money, goods, or services could occur.

DATES: Comments must be received by March 4, 2011.

ADDRESSES: You may submit your comments, identified by Regulatory Information Number 1024–AD89, by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

—*Mail or hand delivery:* National Park Service, Regional Director, Division of Park Programs, 1100 Ohio Drive, SW., Room 128, Washington, DC 20242.

FOR FURTHER INFORMATION CONTACT: Robbin Owen, Chief, Division of Park Programs, National Park Service, National Capital Region, 1100 Ohio Drive, SW., Room 128, Washington, DC 20242. Telephone: (202) 619–7225. Fax: (202) 401–2430.

SUPPLEMENTARY INFORMATION:

Background

Revise the Definition of "Demonstration"

This proposed rule would revise the definition of demonstration at 36 CFR 7.96 (g)(1)(i) by eliminating the term "intent or propensity" where it appears in the definition and replace it with the term "reasonably likely." In *Boardley* v. *Department of the Interior,* 605 F. Supp. 2d 8 (D.D.C. 2009) the United States District Court for the District of Columbia commented on the demonstration definition for the National Capital Region under 36 CFR 7.96 (g)(1)(i). The Court commented the definition could raise problems, because it allowed NPS officials to restrict speech based on their determination that a person intended to draw a crowd with their conduct. Such a determination could easily rest on impermissible grounds, such as an official's perception that certain expression is controversial or inappropriate, which would be a content-based decision, impermissible under the First Amendment. While the NPS has not applied the regulation in such an impermissible manner, and has since issued a clarifying memorandum to preclude such a determination, this proposed rule would revise the definition of demonstration to minimize any possibility of a decision based on impermissible grounds.

Amendment of the Solicitation Regulation

This proposed rule also would amend the provision regarding soliciting, in order to be consistent with the United States Court of Appeals for the District of Columbia decision in *ISKCON of Potomac* v. *Kennedy,* 61 F.3d 949 (DC Cir. 1995).

In *ISKCON of Potomac,* the Court of Appeals held that the NPS's regulatory ban of soliciting, which the NPS traditionally construed as applying only to the in-person solicitation of immediate donations, was not "narrowly tailored." The Court recognized that:

> * * *[t]he conduct of a special event within a small, well-defined permit area will have some effect on the ambiance of the Mall. But we cannot see how allowing in-person solicitations within the permit area will add to whatever adverse impact will result from the special event itself. The effects of solicitation will be confined to the permit area, and those who wish to escape them may simply steer clear of the authorized demonstration or special event. 61 F.3d at 956.

The Court also said:

> Our holding allows only those individuals or groups participating in an authorized demonstration or special event to solicit donations within the confines of a restricted permit area such as that assigned to ISKCON. It does not require the NPS to let rampant panhandling go unchecked. 61 F.3d at 956.

Following the *ISKCON of Potomac* decision, as an interim measure, the NPS posted a notice at its Washington, DC, National Capital Region Division of Park Programs permit office as well as in the Superintendent's Compendium of regulations for the National Mall and Memorial Parks, stating that soliciting would be allowed if it occurred within the confines of a permit area as part of a permitted ongoing activity. The soliciting regulation itself, however, also must be amended.

Consistent with *ISKCON of Potomac,* this proposed amendment would allow individuals or groups who are participating in a permitted demonstration or special event to solicit donations within the confines of a restricted permit area. Such soliciting is authorized only when provided for in a permit. Groups seeking to solicit donations as part of a demonstration or special event will need to describe the activities in their permit application.

This proposed rule also formalizes the long-standing view that soliciting is limited to the in-person soliciting of immediate donations.

This proposed rule deals with soliciting and not sales. Any attempt to offer or sell items, whether directly or by the use of deceit, is governed by the NPS sales regulation, at 36 CFR 7.96 (k), which limits items to be sold on park lands to books, newspapers, leaflets, pamphlets, buttons, and bumper stickers. As the NPS explained it its prefatory statement to its sales regulation, at 60 FR 17648 (1995),

> * * * restricted merchandise cannot be "given away" and a "donation accepted" or one item "given away" in return for the purchase of another item; such transactions amount to sales.

Finally, it has been the NPS's long-standing application of its regulations that demonstrations and special events, whether under permit or not, are not allowed in the restricted areas at 36 CFR 7.96 (g)(3)(ii). To better ensure that everyone fully understands that demonstrations and special events, with or without a permit, are not allowed in these restricted areas, NPS proposes to amend its introductory sentence to clearly indicate that no demonstrations or special events are allowed in the designated restricted areas.

Compliance with Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and the Office of Management and Budget, (OMB), has not reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material

way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule only effects management and operations of National Park Service areas within the National Capital Region.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. The rule modifies existing NPS regulations to be consistent with recent Federal Court decisions.

Regulatory Flexibility Act (RFA)

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The rule expands opportunities for individuals and organizations to solicit funds, goods or services associated with a special event for which a permit has been issued. Other organizations with interest in the rule will not be effected economically.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act, (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule does not have significant takings implications. It pertains specifically to operation and management of locations within the NPS–National Capital Region. A takings implication assessment is not required.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175)

Under the criteria in Executive Order 13175, we have evaluated this rule and determined that it has no potential effects on federally recognized Indian Tribes. The rule only applies to management and operation of NPS areas within the National Capital Region.

Paperwork Reduction Act (PRA)

The Office of Management and Budget has approved the information collections in this rule and has assigned control number 1024–0021, expiring on November 30, 2013. We estimate the burden associated with this information collection to be ¾ hour. The information collection activities are necessary for the public to obtain benefits in the form of special park use permits.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because the rule is covered by a categorical exclusion. We have determined that the proposed rule is categorically excluded under 516 DM 12.5 A (10) insofar as it is a modification of existing NPS regulations that does not increase public use to the extent of compromising the nature and character of the area or causing physical damage to it. Further, the rule will not result in the introduction of incompatible uses which might compromise the nature and characteristics of the area or cause physical damage to it. Finally, the rule will not cause conflict with adjacent ownerships or land uses, or cause a nuisance to adjacent owners or occupants.

We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under the National Environmental Policy Act.

Information Quality Act (IQA)

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, *etc.*

Public Participation

All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or

comments received, go to *http://www.regulations.gov* and enter "1024–AD89" in the "Keyword or ID" search box.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 is revised to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, DC Code 10–137 (2001) and DC Code 50–2201.07 (2001).

2. In § 7.96:

A. Revise paragraph (g)(1)(i);

B. Revise paragraph (g)(3)(ii) introductory text;

C. Revise paragraph (g)(3)(ii)(D);

D. Add paragraph (g)(3)(ii)(E);

E. Remove maps following paragraph (g)(7); and

F. Revise paragraph (h).

The revisions and addition read as follows:

§ 7.96 National Capital Region.

* * * * *

(g) *Demonstrations and special events*—(1) *Definitions* (i) The term "demonstration" includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct which involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers. This term does not include casual park use by visitors or tourists that is not reasonably likely to attract a crowd or onlookers.

* * * * *

(3) * * *

(ii) *Other park areas.* Demonstrations and special events are not allowed in the following other park areas:

* * * * *

(D) The Vietnam Veterans Memorial, except for official annual Memorial Day and Veterans Day commemorative ceremonies.

(E) Maps of the park areas designated in this paragraph are as follows. The darkened portions of the diagrams show the areas where demonstrations or special events are prohibited.

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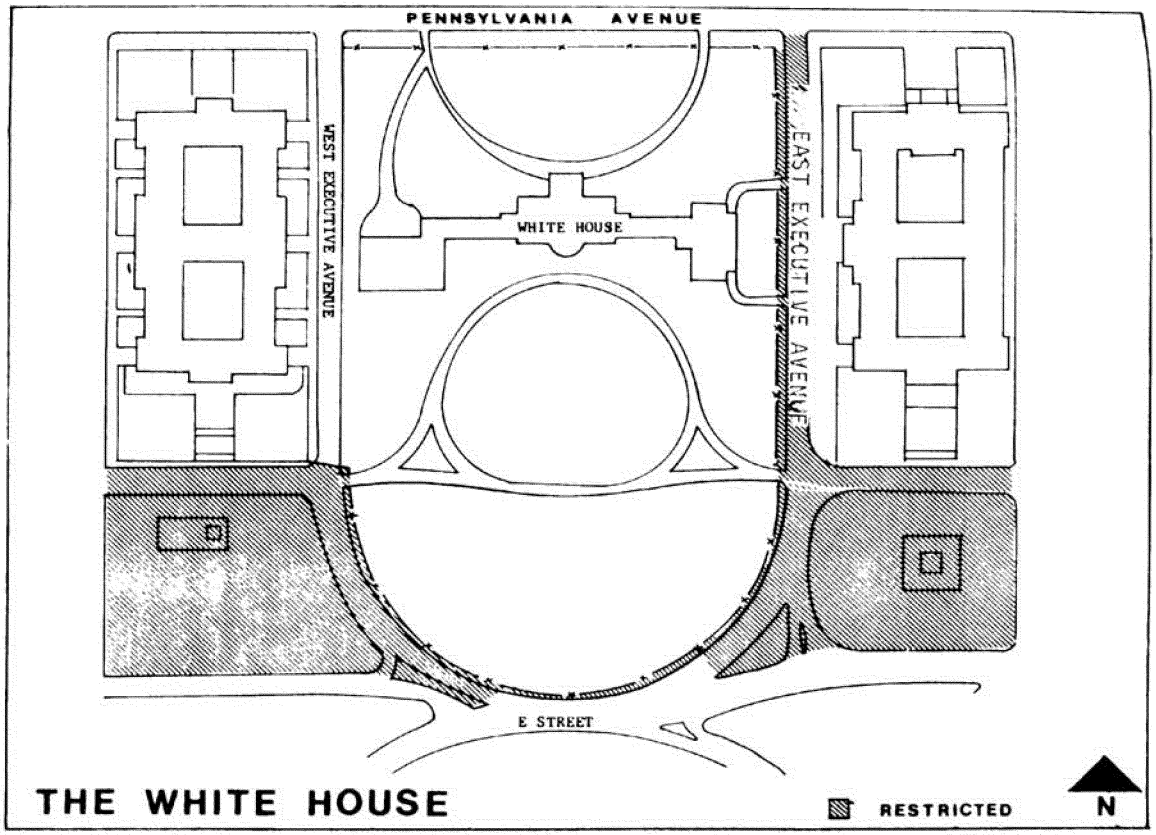
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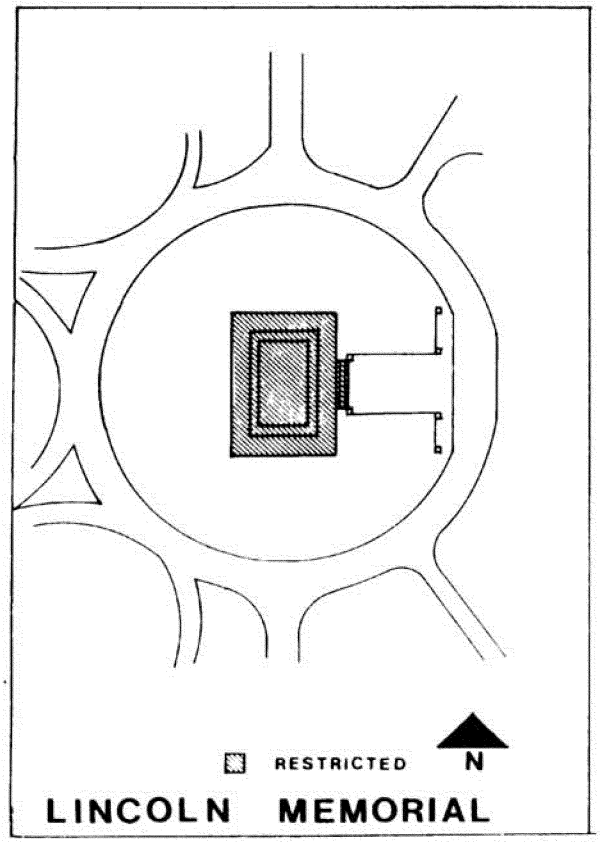
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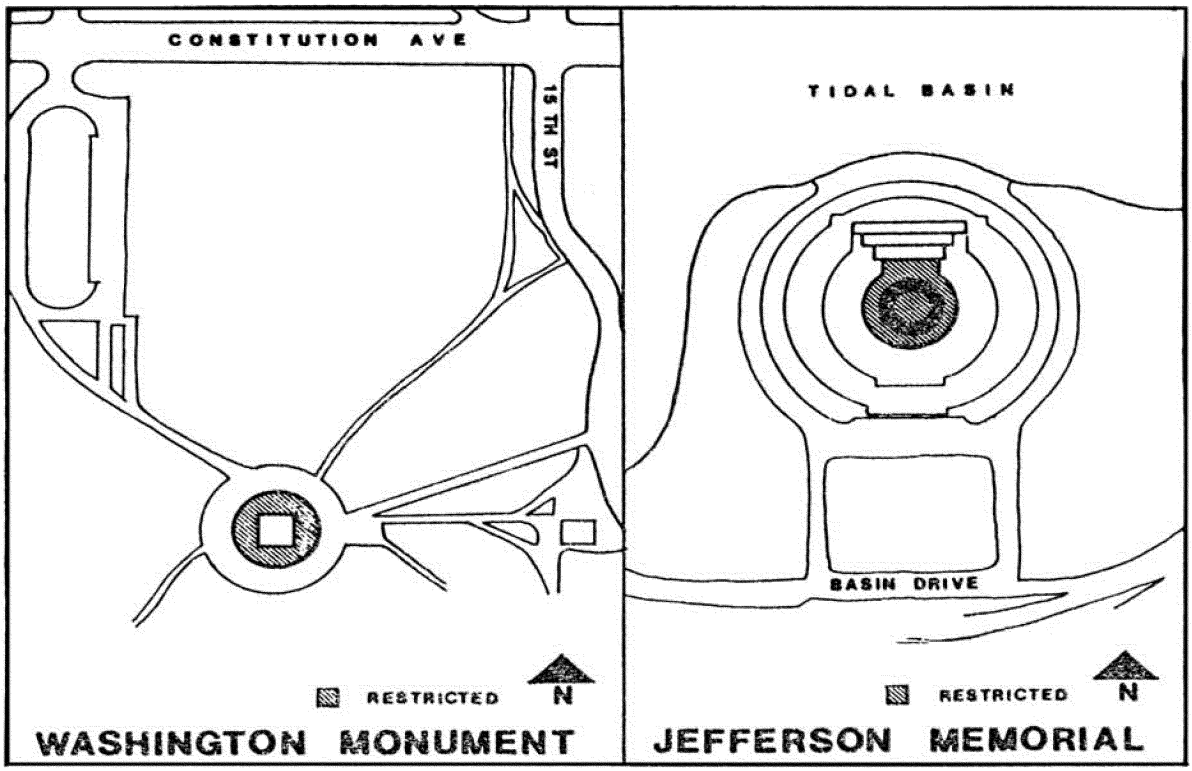

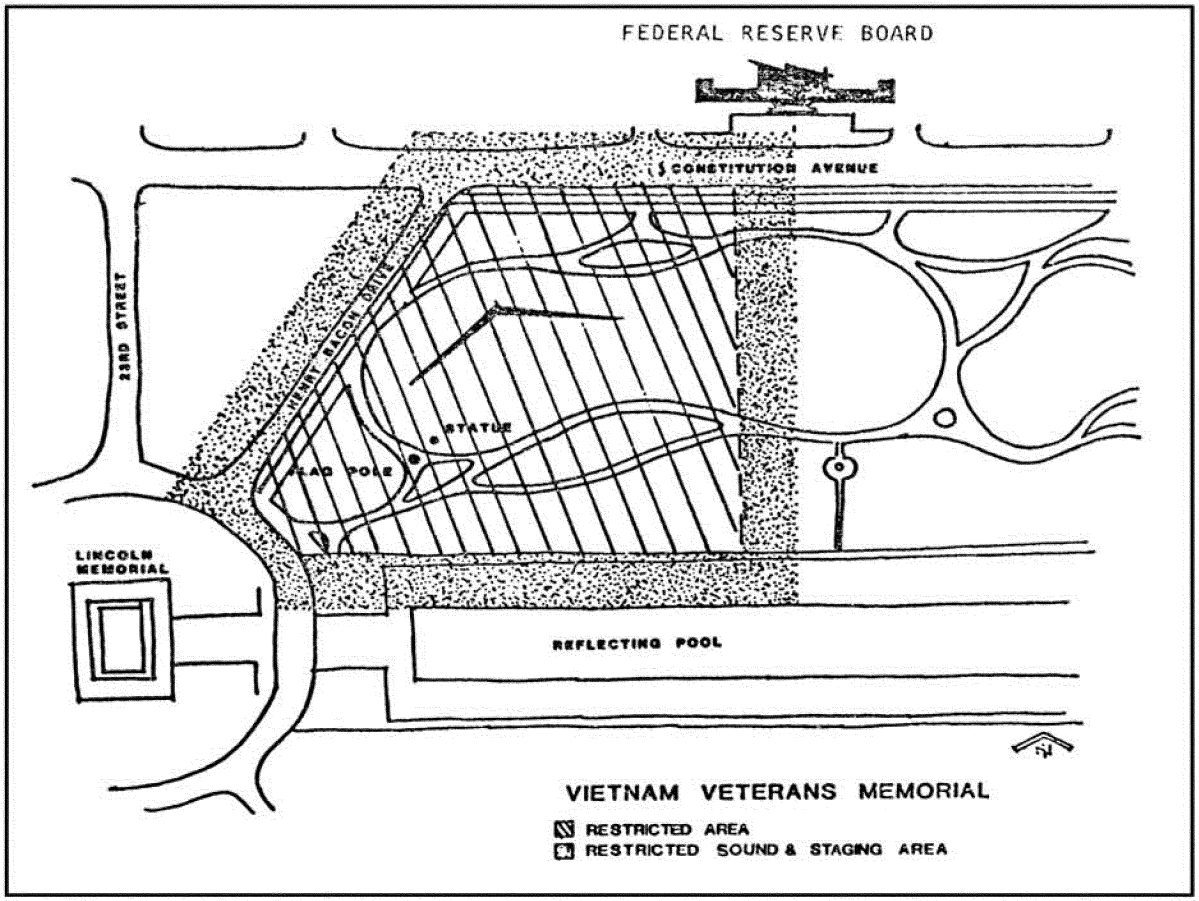

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* * * * *

(h) *Soliciting under permit.* (1) The in-person soliciting or demanding gifts, money, goods or services is prohibited, unless it occurs as part of a permit issued for a demonstration or special event.

(2) Persons permitted to solicit must not:

(i) Give false or misleading information regarding their purposes or affiliations;

(ii) Give false or misleading information whether any item is available without donation.

* * * * *

Dated: December 22, 2010.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2010–33071 Filed 12–30–10; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60–1 and 60–2

RIN 1250–ZA00

Interpretive Standards for Systemic Compensation Discrimination and Voluntary Guidelines for Self-Evaluation of Compensation Practices Under Executive Order 11246; Notice of Proposed Rescission

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of proposed rescission.

SUMMARY: The Office of Federal Contract Compliance Programs (OFCCP) is proposing to rescind two guidance documents addressing compensation discrimination: Interpreting Nondiscrimination Requirements of Executive Order 11246 with respect to Systemic Compensation Discrimination (Standards) and Voluntary Guidelines for Self-Evaluation of Compensation Practices for Compliance with Executive Order 11246 with respect to Systemic Compensation Discrimination (Voluntary Guidelines). OFCCP is proposing to rescind the Standards which have limited OFCCP's ability to effectively investigate, analyze and identify compensation discrimination. In so doing, OFCCP will continue to adhere to the principles of Title VII of the Civil Rights Act of 1964, as amended (Title VII) in investigating compensation discrimination and will reinstitute flexibility in its use of investigative approaches and tools. OFCCP also proposes to establish procedures for investigating compensation discrimination through the traditional means of using its compliance manual, directives and other staff guidance. OFCCP is proposing to rescind the Voluntary Guidelines because they are largely unused by the Federal Government contracting community and have not been an effective enforcement strategy.

DATES: Comments must be received on or before March 4, 2011.

ADDRESSES: You may submit comments, identified by number 1250–ZNE, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 693–1304 (for comments of 6 pages or fewer).
- *Mail:* Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, Room N3422, 200 Constitution Avenue, NW., Washington, DC 20210.

Receipt of submissions will not be acknowledged; however, the sender may request confirmation that a submission has been received by telephoning OFCCP at (202) 693–0102 (voice) or (202) 693–1337 (TTY) (these are not toll-free numbers).

All comments received, including any personal information provided, will be available online at *http://www.regulations.gov* and for public inspection during normal business hours at Room C3325, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals needing assistance to review comments will be provided with appropriate aids such as readers or print magnifiers. Copies of this Notice of Proposed Rescission will be made available in the following formats: Large print; Braille; electronic file on computer disk; and audiotape. To schedule an appointment to review the comments and/or to obtain this Notice of Proposed Rescission in an alternate format, contact OFCCP at the telephone numbers or address listed above.

FOR FURTHER INFORMATION CONTACT: Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, NW., Room N3422, Washington, DC 20210. Telephone: (202) 693–0102 (voice) or (202) 693–1337 (TTY).

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor's OFCCP enforces Executive Order 11246 which requires Federal Government contractors and subcontractors to provide equal employment opportunity through affirmative action and nondiscrimination based on race, color, national origin, religion, or sex. Compensation discrimination is one form of discrimination prohibited by the Executive Order.

OFCCP enforces contractors' compliance with this obligation primarily by conducting compliance evaluations. (*See* 41 CFR 60–1.20.) OFCCP's longstanding policy is to follow Title VII principles when conducting analyses of potential discrimination under Executive Order 11246, including compensation discrimination. Compensation discrimination may occur on an individual basis, or systemically, that is, it is widespread in an organization due to discriminatory compensation systems. OFCCP traditionally has established procedures for investigating compensation discrimination, as well as other forms of discrimination, through instructions for its compliance officers contained in the OFCCP Federal Contract Compliance Manual (FCCM), directives and other staff guidance materials.

Identifying and remedying compensation discrimination has been an important part of OFCCP compliance efforts for many years. Concerns about compensation discrimination led OFCCP in Calendar Year (CY) 2000 to begin requiring contractors to submit compensation data requested in the scheduling letter at the outset of a compliance evaluation as a matter of course and as part of the data reported in a new Equal Opportunity Survey, which covered contractors were required to submit to OFCCP. (The Scheduling Letter was approved under the Paperwork Reduction Act OMB NO. 1215–0072; see 65 FR 68022, 68036 (November 13, 2000) for the notice regarding the Equal Opportunity Survey.) In CY 2000, OFCCP also began requiring contractors to proactively conduct in-depth analyses of their compensation systems to ensure that those systems were not discriminatory. (*See* 41 CFR 60–2.17(b)(3).)

OFCCP changed its approach to investigating compensation discrimination in 2006. On June 16, 2006, OFCCP published in the **Federal Register** two final guidance documents related to identifying compensation discrimination under Executive Order 11246 that contained interpretations of OFCCP regulations and Title VII principles: Interpreting Nondiscrimination Requirements of Executive Order 11246 with respect to Systemic Compensation Discrimination