

recommendation for a nonselected program or activity is transmitted to FEMA by the single point of contact, the Director follows the procedures of § 4.10 of this part.

(e) The Director considers comments which do not constitute a state process recommendation submitted under these regulations and for which the Director is not required to apply the procedures of § 4.10 of this part, when such comments are provided by a single point of contact, by the applicant or directly to FEMA by a commenting party.

§ 4.10 How does the Director make efforts to accommodate intergovernmental concerns?

(a) If a state process provides a state process recommendation to FEMA through its single point of contact, the Director either:

- (1) Accepts the recommendation;
- (2) Reaches a mutually agreeable solution with the state process; or
- (3) Provides the single point of contact with such written explanation of the decision, as the Director in his or her discretion deems appropriate. The Director may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section, the Director informs the single point of contact that:

- (1) FEMA will not implement its decision for at least ten days after the single point of contact receives the explanation; or
- (2) The Director has reviewed the decision and determined that, because of unusual circumstances, the waiting period of at least ten days is not feasible.

(c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification 5 days after the date of mailing of such notification.

§ 4.11 What are the Director's obligations in interstate situations?

(a) The Director is responsible for:

- (1) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(2) Notifying appropriate officials and entities in states which have adopted a process and which select FEMA's program or activity;

(3) Making efforts to identify and notify the affected State, areawide, regional, and local officials and entities in those States that have not adopted a process under the Order or do not select FEMA's program or activity;

(4) Responding pursuant to § 4.10 of this part if the Director receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which the review, coordination, and communication with FEMA have been delegated.

(b) The Director uses the procedures in § 4.10 if a state process provides a state process recommendation to FEMA through a single point of contact.

§ 4.12 How may a State simplify, consolidate, or substitute Federally required State plans?

(a) As used in this section:

(1) "Simplify" means that a State may develop its own format, choose its own submission date, and select the planning period for a State plan.

(2) "Consolidate" means that a State may meet statutory and regulatory requirements by combining two or more plans into one document and that the State can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a State may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a State may decide to try to simplify, consolidate, or substitute federally required state plans without prior approval by the Director.

(c) The Director reviews each state plan that a State has simplified, consolidated, or substituted and accepts the plan only if its contents meet federal requirements.

§ 4.13 May the Director waive any provision of these regulations?

In an emergency, the Director may waive any provision of these regulations.

PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

§ 9.8 [Amended]

2. Section 9.8(b)(2) is amended by removing the phrase "and OMB Circular A-95".

3. Section 9.8(c)(4)(i) is removed.

§ 9.12 [Amended]

4. Section 9.12(a) is amended by removing the first sentence.

PART 59—GENERAL PROVISIONS

§ 59.22 [Amended]

5. Section 59.22(d) is removed.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§ 60.2 [Amended]

6. Section 60.2(i) is removed.

PART 76—STATE ASSISTANCE PROGRAM FOR THE NATIONAL FLOOD INSURANCE PROGRAM

§ 76.4 [Amended]

7. Section 76.4(c)(3)(vii) is removed.

PART 300—DISASTER PREPAREDNESS ASSISTANCE

§ 300.5 [Amended]

8. Section 300.5(i) is amended by removing from the introductory paragraph the words "the appropriate provisions of OMB Circular A-95 Revised. Evaluation, review and coordination of Federal and Federally-assisted programs (January 2, 1976);"

9. Section 300.5(i)(1) is removed.

10. Section 300.5(i)(2)(v) is removed.

11. Section 300.5(i)(3)(i) is amended by removing the words "The State clearinghouse."

PART 302—CIVIL DEFENSE—STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAMS (CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES)

§ 302.5 [Amended]

12. Section 302.5(b) is amended by removing in the introductory paragraph the following: "(including the requirement of a 45 day period for comment by the Governor)."

Dated: June 9, 1983.

Louis O. Giuffrida,
Director.

[FR Doc. 83-10446 Filed 6-23-83; 8:45 am]
BILLING CODE 6718-01-M

**FEDERAL EMERGENCY
MANAGEMENT AGENCY**
**List of Programs and Activities Which
Are Subject to FEMA Regulation 44
CFR Part 4**

AGENCY: Federal Emergency
Management Agency (FEMA).

ACTION: Notice.

The programs listed below are those FEMA financial assistance programs which are subject to FEMA rule 44 CFR Part 4, "Intergovernmental Review of Federal Emergency Management Agency Programs and Activities."

1. Financial assistance under the Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2251 <i>et seq.</i> , including without limitation:		4. Earthquake Hazards Reduction Act, 42 U.S.C. 7701, <i>et seq.</i>	
(a) Emergency Management Assistance	83.503	5. Disaster preparedness grants	83.505
(b) Population Protection Planning	83.514	6. Earthquake and hurricane preparedness planning grants	83.506
(c) Shelter Surveys	83.509	7. Grants, loans, or other financial assistance under secs. 402 and 414 of the Disaster Relief Act of 1974, as amended, 42 U.S.C. 5172, 5184	83.516
(d) State Radiological Defense Officers	83.511	8. State fire incident reporting assistance under Federal Fire Prevention and Control Act	83.407
(e) Radiological Systems Maintenance	83.508		
(f) State and Local Maintenance and Services	83.504		
(g) State and Local Warning and Communications	83.513		
(h) State and Local Emergency Operating Centers	83.512		
(i) Emergency Management Training	83.403		
2. The State assistance program under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001, <i>et seq.</i>	83.501		
3. Acquisition of flood damaged structures under sec. 1362 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4103	83.502		

* Program subject to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

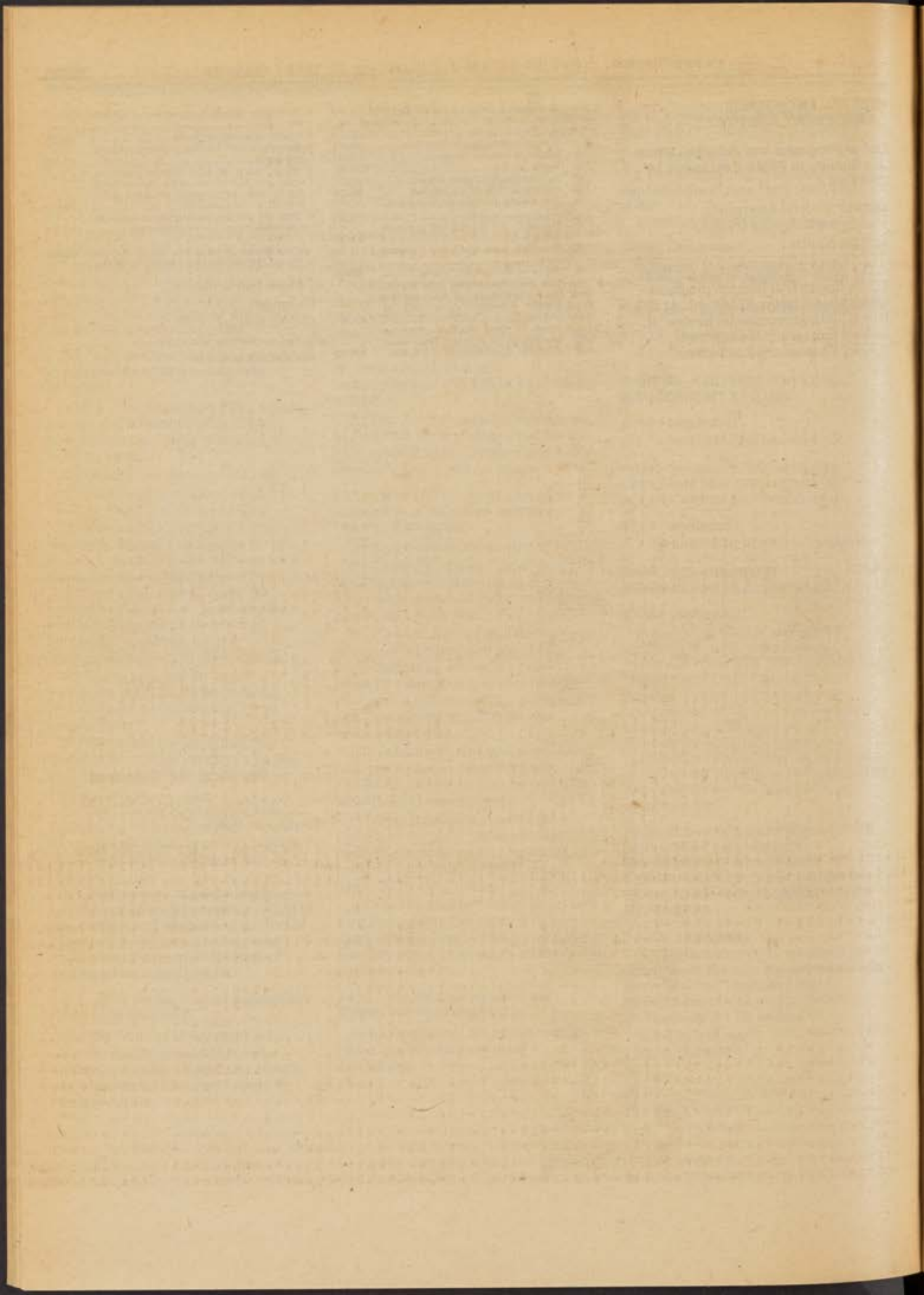
Dated: June 9, 1983.

George Jett,

General Counsel.

[FR Doc. 83-16447 Filed 6-23-83; 8:45 am]

BILLING CODE 6718-01-M



federal register

Friday
June 24, 1983

Part XX

General Services Administration

**Intergovernmental Review of General
Services Administration Programs and
Activities; Final Rule and
State Process Selection Listing; Notice**

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-6

[FPMR Amendment A-35]

Intergovernmental Review of General Services Administration Programs and Activities

AGENCY: General Services
Administration

ACTION: Final rule.

SUMMARY: This regulation implements Executive Order 12372, "Intergovernmental Review of Federal Programs." The regulation applies to Federal financial assistance and direct Federal development programs and activities of the General Services Administration (GSA). Executive Order 12372 and this regulation, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A-95. They also implement section 401 of the Intergovernmental Cooperation Act.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. MacKinnon, Director, Special Projects Staff (DX) (202-535-7215).

SUPPLEMENTARY INFORMATION:

On January 24, 1983, GSA, along with 25 other Federal agencies, published Notices of Proposed Rulemaking (NPRM) to carry out Executive Order 12372 or notices proposing that their programs not be subject to the Order (48 FR 3232-3238). Subsequently, two more agencies published NPRMs, bringing to 28 the total number of proposals subject to public comment. GSA, in conjunction with the other 27 Federal agencies and OMB, published a notice in the Federal Register on April 21, 1983 (48 FR 17101), reopening the comment period, scheduling a public meeting for May 5, 1983, and requesting comments on several tentative responses to comments.

Including comments received by OMB and other Federal agencies and which were also incorporated in GSA's rulemaking docket, GSA received approximately 160 comments on government-wide issues during the comment period. In addition, GSA received two comments specifically related to the inclusion or exclusion of GSA's programs from the coverage of the Order or other issues pertaining only to GSA.

In preparing the final rule, GSA considered these comments as well as testimony at public meetings held in Washington, DC, on March 2, 1983, and

May 5, 1983, and a hearing before the Senate Intergovernmental Relations Subcommittee on March 3, 1983.

Following consultation with OMB and the other 22 Federal agencies that are issuing a final rule, GSA has made several changes from the proposed rule. GSA is fully committed to carrying out Executive Order 12372, and intends through this regulation to communicate effectively with State and local elected officials and to accommodate their concerns to the greatest extent possible.

Several State, local, and regional agencies asked that the regulation not become effective on April 30, 1983, as the NPRM had contemplated. Postponing the effective date would give State and local elected officials more time to establish the State processes and to consider which Federal programs they wish to select for coverage. Responding to these requests, the President amended the Executive Order on April 8, 1983, extending the effective date of this final regulation until September 30, 1983 (48 FR 15587, April 11, 1983). GSA's existing requirements and procedures under OMB Circular A-95 will continue in effect until September 30, 1983.

Introduction to the Rules

The President signed Executive Order 12372, "Intergovernmental Review of Federal Programs," July 14, 1982 (47 FR 30959, July 16, 1982). The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. The Executive Order:

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance and direct Federal development;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not;
- Allows States to simplify, consolidate, or substitute State plans; and
- Revokes OMB Circular No. A-95.

Salient Features of the Policies Implementing E.O. 12372

Three major elements comprise the scheme for implementing the Executive Order. These are the State process, the single point of contact, and the Federal agency's "accommodate or explain" response to State and local comments submitted in the form of a recommendation.

State Process

The State process is the framework under which State and local officials carry out intergovernmental review activities under the Executive Order. The rule requires only two components for the State process: (1) A State must tell the Federal agency which programs and activities are being included under the State process, and (2) a State must provide an assurance that it has consulted with local officials whenever it changes the list of selected programs and activities. (The Executive Order provides that States are also to consult with local governments when establishing the State process.) Any other components are at the discretion of the State. This lack of prescriptiveness gives State and local officials the flexibility to design a process that responds to their interests and needs.

A State is not required to establish a State process. However, if no process is established, the provisions of the Executive Order and the implementing rules (other than indicating how Federal agencies will operate under such situations) are not applied. Existing consultation requirements of other statutes or regulations (except Circular A-95) would continue in effect, including those of the Intergovernmental Cooperation Act of 1968 and the Demonstration Cities and Metropolitan Development Act of 1966. The intergovernmental consultation provisions of Circular A-95 end as September 30, 1983.

While not required by the rule, most State processes will likely include the following components:

- A designated single point of contact;
- Delegations of review and comment responsibilities to particular State, areawide, regional, or local entities;
- Procedures to coordinate and manage the review and comment on proposed Federal financial assistance or direct Federal development, and to aid in reaching a State process recommendation;
- A means of consulting with local officials; and
- A means of giving notice to prospective applicants for Federal assistance as to how an application is to be managed under the State process.

Federal agencies will list those programs and activities eligible for selection under the scope of the Order. After consulting with local elected officials, the State selects which of these Federal programs and activities are to be reviewed through the State process

and sends OMB the initial list of selected programs and activities. Subsequent changes to the list are provided directly to the appropriate Federal agencies.

The Federal agency provides the State process with notice of proposed actions for selected programs and activities.

For any proposed action under a selected program or activity, the State has among its options those of: Preparing and transmitting a State process recommendation through the single point of contact; forwarding the views of commenting officials and entities without a recommendation; and not subjecting the proposed action to State process procedures.

For proposed actions under programs or activities not selected, the Federal agency would provide notice, opportunities for review, and consideration of comments consistent with the provisions of other applicable statutes or regulations.

Single Point of Contact

The State single point of contact, which may be an official or organization, is the only party that can initiate the "accommodate or explain" response by Federal agencies. The single point of contact does so by transmitting a State process recommendation. (The terms "accommodate or explain" and State process recommendation are explained later.) As indicated, there is to be only one single point of contact. The other functions undertaken by the single point of contact are submitting for Federal agency consideration any views differing from a State process recommendation, and receiving a written explanation of a Federal agency's nonaccommodation. No other responsibilities are prescribed by the Federal Government for the single point of contact, although a State could choose to broaden the single point of contact role.

The single point of contact need not submit for Federal agency consideration those views sent to the single point of contact by commenting officials and entities regarding proposed actions where there is no State process recommendation. Commenting officials and entities can submit such views directly to the Federal agency.

A State need not designate a single point of contact. However, if a State fails to designate a single point of contact, no other entity or official can transmit recommendations and be assured of an accommodate or explain response by the Federal agency. Comments or views may be transmitted by these other entities or officials, but

need only be considered by the Federal agency in accordance with Section 401 of the Intergovernmental Cooperation Act and other relevant statutory provisions.

"Accommodate or Explain"

When a single point of contact transmits a State process recommendation, the Federal agency receiving the recommendation must either: (1) Accept the recommendation; (2) reach a mutually agreeable solution with the parties preparing the recommendation; or (3) provide the single point of contact with a written explanation for not accepting the recommendation or reaching a mutually agreeable solution, i.e., nonaccommodation.

If there is nonaccommodation, the Agency is generally required to wait 15 days after sending an explanation of the nonaccommodation to the single point of contact before taking final action.

A "State process recommendation" is developed by commenting State, areawide, regional, and local officials and entities participating in the State process and transmitted by the single point of contact. The recommendation can be a consensus, or views may differ. A State process recommendation which is a consensus,—i.e., the unanimous recommendation of the commenting parties—of areawide, regional, and local officials and entities can be transmitted. All directly affected levels of government need not comment on the proposed action being reviewed to form a State process recommendation. Also, the State government need not be party to a State process recommendation.

A State process recommendation can be transmitted on proposed actions under either selected or nonselected programs or activities.

Section-by-Section Analysis

In making changes from the NPRM to this final rule, GSA altered the section and paragraph numbers of various portions of the rule. So that these changes will be easier to follow, we are providing a table showing where each portion of the proposed rule is covered in the final rule:

Proposed rule (section)	Final rule (Section)
101-6.2101	101-6.2101.
101-6.2102	101-6.2102.
101-6.2103	101-6.2103.
101-6.2104	101-6.2104.
101-6.2105(a)	101-6.2106(b).
101-6.2105(b)	101-6.2106(d).
101-6.2105(c)	101-6.2106(c).
101-6.2106(a)	101-6.2106(b).
101-6.2106(b)	101-6.2107(a) Reserved.
101-6.2106(c)	101-6.2106(a).
101-6.2106(d)	Deleted.
101-6.2107(a)	101-6.2110(a).

Proposed rule (section)	Final rule (Section)
101-6.2107(b)	101-6.2110(b), (c).
101-6.2108	101-6.2111.
101-6.2109	101-6.2112.
101-6.2110	101-6.2113.

Portions of the final rule not listed in this table (§ 101-6.2105, § 101-6.2106(a), § 101-6.2107(b), and § 101-6.2108(c) are new.

Section 101-6.2101. What is the purpose of these regulations?

There is only one substantive change to this section, but it is an important one. The NPRM, while citing Section 401 (31 USC 6506) of the Intergovernmental Cooperation Act as authority, did not specifically contain provisions to implement some of its requirements. This statute provides conditions for intergovernmental policy and administration of development assistance programs. The text of Section 401 is printed in the Department of Agriculture's final rule published elsewhere in this issue (see Supplementary Information section of USDA's document).

A broad spectrum of commenters, including State, local, and regional agencies, interest groups, and members of Congress, said that the regulations implementing Executive Order 12372 should also provide that Federal agencies carry out their responsibilities under this statute. In response, paragraph (a) of this section now cites not only the Executive Order but also section 401 of the Intergovernmental Cooperation Act. Other provisions in these regulations carry out GSA's responsibilities under this statutory provision.

Section 401 emphasizes that Federal actions should be as consistent as possible with planning activities and decisions at State, regional, and local levels. GSA, when considering and making efforts to accommodate comments and recommendations it receives under these regulations, recognizes its responsibilities under this section.

A few commenters suggested deleting the language in paragraph (c) of this section which says that the regulations were not intended to create any right of judicial review. The rule retains this language. Clearly, the purpose of the Executive Order and these regulations is to foster improved cooperation between GSA and other Federal agencies on one hand, and State and local elected officials on the other. The Order and these regulations presuppose, and rely on, the good faith of Federal, State and local officials in communicating with one another and seeking to understand

one another's concerns. To regard these regulations as rigid procedures intended to provide new opportunities for litigation would be wholly contrary to their purpose. Agencies have statutory responsibilities under the laws on which these rules are based. In some cases, courts have held agency actions to be judicially reviewable under these statutes. By retaining paragraph (c) in the regulation, GSA is stating only that these regulations are not grounds for judicial review of agency action beyond those afforded by the underlying statutes.

Section 101-6.2102. What definitions apply to these regulations?

Commenters did not object to the definitions in the proposed rule. However, a few commenters asked that various additional terms be defined. GSA does not believe it is necessary to define any of these additional terms. The term "environmental impact statement" is a well-known term of art in environmental law and planning, is mentioned in the National Environmental Policy Act, and is discussed in numerous court decisions. This term is not used in the regulation. In any event, GSA would not use the term in any but its commonly understood sense.

GSA chose not to include a definition of "direct Federal development," or "Federal financial assistance." Experience in other regulatory areas (e.g., civil rights regulations with respect to Federal financial assistance) has shown that it is difficult to craft a concise, understandable, and comprehensive definition. An abstract definition always carries with it the danger of inadvertently leaving something in that should be excluded or leaving something out that should be included. Moreover, in these cases, the list of program inclusions accompanying this rulemaking provide adequate operational information upon which State and local elected officials can act.

GSA also decided not to try defining "emergency" and "unusual circumstances." With respect to terms like these, the dangers of overinclusiveness and underinclusiveness are particularly great. The purpose of an emergency waiver provision or discretion to deviate from certain requirements in unusual circumstances is to give Federal agencies flexibility to deal with unforeseen situations and other problems beyond the agencies' control. As stated in the preamble to the proposed rules, GSA expects to use such provisions sparingly, and only when absolutely necessary. Thus it would be

counterproductive to attempt, through a definition, to limit this flexibility by anticipating all possible circumstances when it might be needed.

GSA also does believe a definition of "accommodate" is necessary. The concept of accommodation is addressed in § 101-6.2110. In this section, the Administrator accepts the State process recommendation or reaches a mutually agreeable solution. If GSA does not provide an accommodation in one of these two ways, it must provide an explanation. Since GSA believes the section describes sufficiently what is meant by accommodation, a further definition of the term is not helpful.

Finally, GSA considered whether to include a definition of the term "State process recommendation." GSA concluded that a definition of this term would not materially help clarify those situations in which GSA has an obligation to "accommodate or explain" in response to comments and recommendations. The term's function is discussed at great length in earlier and subsequent sections of this preamble and this should provide sufficient information as to its meaning.

Section 101-6.2103. What programs and activities of GSA are subject to these regulations?

This section is substantively very similar to paragraph 3(a) of the NPRM. A substantial number of commenters contended that it was contrary to the intent of the Order for the Federal Government to exclude any programs or activities from coverage under the Order and these regulations, and that elected officials participating through the State process are the only proper parties to decide what should be excluded from the State process. Other commenters objected to the various criteria used by the Federal agencies in developing their lists of programs and activities that were being proposed for exclusion. Although GSA has not proposed any exclusions, one commenter requested the exclusion of the National Historical Publications and Records Grants program. After review, GSA determined that there is not sufficient reason for this requested exclusion.

The Order does not purport to cover all Federal programs and activities. Its scope is limited to Federal financial assistance and direct Federal development programs and activities, and the order mandates consultation only when State and local governments provide non-Federal funds for, or are directly affected by, the proposed Federal action. Programs and activities not falling into either of these categories are clearly outside the scope of the

Order (e.g., Coast Guard search and rescue activities, procurement of military weapon systems). Many national security actions, even those affecting State and local jurisdictions, involve classified information. It is meaningless to expect State and local review of national security matters, for example, when access to the plans or documents for the proposed Federal action is not possible for national security reasons. It is appropriate for Federal agencies to decide which of their activities are Federal financial assistance or direct Federal development.

There are also actions related to Federal financial assistance or direct Federal development activities where review and comment as provided by the Executive Order would be superfluous or futile. Certain basic Federal Government functions either have public participation procedures of their own (e.g., rulemaking under the Administrative Procedure Act) or are internal government processes in which State and local coordination and consultation are not appropriate (e.g., formulation of GSA's budget proposals transmitted to OMB, or OMB's recommendations to the President concerning budget formulation).

To provide information on the activities and programs eligible for selection for State processes, GSA is publishing a notice listing these "included" programs and activities. This information is being published in a separate notice rather than as part of this rule to allow future changes to be made more conveniently. GSA will seek public comment on proposed future program or activity exclusions as these occur.

Section 101-6.2104. What are the Administrator's general responsibilities under the Order?

There were no substantive comments about this section, which restates many of the provisions of the Executive Order. It is unchanged from the NPRM.

Section 101-6.2105. What is the Administrator's obligation with respect to Federal interagency coordination?

Some comments, including those suggesting a Federal single point of contact, asked GSA and other Federal agencies to do more in ensuring that Federal agencies communicate not only with State and local elected officials but also with each other. GSA believes this point is well taken. Many programs and projects require information or approvals from a number of Federal agencies, and Federal interagency

communication is as important, in many cases, as intergovernmental communication. Consequently, GSA is adding a new section, the language of which is derived from subsection 401(d) of the Intergovernmental Cooperation Act. The section provides that the Administrator, to the extent practicable, will consult with and seek advice from all other substantially affected Federal departments and agencies in an effort to assure full coordination between such agencies and GSA regarding programs and activities covered under these regulations.

Section 101-6.2106 What procedures apply to the selection of programs and activities under these regulations?

Paragraph (a) of this section is new. It makes clear that any program or activity published in the *Federal Register* list prescribed by § 101-6.2103 is eligible for selection for a State process. The paragraph also declares, more explicitly than the NPRM, that States are required to consult with local elected officials before selecting programs and activities for coverage. This addition responds to comments that asked that the States' obligation in this regard, as well as in the establishment of a State process, be spelled out in the rule. OMB previously wrote the Governors asking each to provide such an assurance when the State submits its initial list of selected programs and activities.

Several commenters also suggested that these regulations should more firmly require local involvement (e.g., a letter of concurrence) in the establishment of State processes. The Executive Order requires, and OMB's letter to the Governors has reiterated, that there must be consultation between State and local elected officials in the establishment of the process. The Order clearly contemplates that official processes under the Order are established by State and local elected officials in cooperation and consultation with one another. GSA believes that these requirements are clear and that further administrative requirements imposed by regulations are unnecessary and would, in many cases, delay or interfere with the establishment of a State process. In particular, GSA does not believe that the Order contemplates so rigid a requirement as a sign-off by an official of each local jurisdiction in a State before a process may be valid.

Paragraphs (b), (c) and (d) of this section derive from paragraphs (a), (c) and (b), respectively, of § 101-6.2105 of the NPRM. There were no comments objecting to the substance of these paragraphs in the NPRM. Language added to paragraph (c) of the final rule

specifies that the State must submit to the Administrator with each change in its program selections an assurance that local elected officials were consulted about the change. This language emphasizes the continuing obligation of States to involve local elected officials in decisions concerning what programs are selected for the State process. The paragraph also allows GSA to establish deadlines for States to inform the Administrator of changes in program selections. The primary reason for this provision is to expedite processing of assistance applications and to reach decisions on projects at times of heavy workload, such as the end of the fiscal year. For example, deadlines could be set to avoid on short notice having to make midstream changes in coordination procedures. In addition, GSA has made some editorial changes for better clarity.

A number of commenters asked what procedures apply when a State chooses not to adopt a process under the Order or when a particular program or activity is not selected for a State process. This question is answered in paragraph (b) of § 101-6.2107, discussed below.

Section 101-6.2107 How does the Administrator communicate with State and local officials concerning GSA's programs and activities?

The notice provided for by this section is not necessarily exclusive. For example, many programs and activities have independent consultation or notification requirements, which apply even if a program is not selected for a State process. GSA must pursue such notification and consultation practices under these authorities even where the program or activity is selected for a State process. GSA may also take the initiative at any time to contact any interested person or entity about one of GSA's programs or activities. Further, GSA need not rely on the State process or the single point of contact to bring about this communication or consultation.

When GSA notifies the State process with respect to a proposed action concerning a program or activity that has been selected for the State process, notification of areawide, regional, and local entities for purposes of sections 401 is the responsibility of the State process. The single point of contact could be the information channel for this purpose. GSA need not notify areawide, regional, and local entities separately in this situation, but may do so.

Paragraph (b) is new, and is intended to respond to concerns expressed by commenters on how GSA communicates with local elected officials in situations

where a State does not have a State process or where the State process does not cover a particular program or activity. GSA will carry out its responsibilities in these situations by providing notice to State, areawide, regional or local officials or entities that would be directly affected by the proposed Federal financial assistance or direct Federal development. This notice may be either through publication (e.g., a notice in the *Federal Register* or in a publication widely available in the area potentially affected by the proposed Federal action) or direct (e.g., a letter to the mayor of an affected city). The notice will alert the directly affected entities concerning the proposed action and identifying who in GSA should be contacted for more information.

Section 101-6.2108 How does the Administrator provide States the opportunity of commenting on proposed Federal financial assistance and direct Federal development?

More commenters—over a third of the total—addressed § 101-6.2106(c) of the NPRM (redesignated § 101-6.2106(a) in the final rule) than any other provision in the proposed regulation. The NPRM proposed that, except in unusual circumstances, the Administrator would give States at least 30 days to comment on any proposed Federal financial assistance or direct Federal development. Almost all commenters discussing this point felt 30 days was too brief a period to develop comments, particularly when disagreements among various interested parties within the State need to be resolved. Commenters requested a number of longer comment periods, including 35, 45, 50, and 60 days. Some commenters suggested that an additional period—normally between 15 and 30 days—be available to States either at their discretion or when disputes needed to be resolved.

In response to these comments, GSA has decided to lengthen the comment period to 60 days in all cases (including interstate matters).

The Administrator will establish, by notice to the single point of contact or to directly affected entities, a date from which the 30 or 60 day comment period will begin to run. This information could be provided, for example, in program specific announcements concerning the availability of grants. Where a program or activity is not selected for the State process, GSA will provide notice, including any adjustments to the comment period that may be necessary, to directly affected State, areawide, regional and local entities regarding the proposed Federal action. Because

paragraphs (a) and (b) now provide that the Administrator will establish this starting date, the language of the NPRM permitting the Administrator to establish deadlines for submission of various materials is no longer necessary and has been deleted. When establishing deadlines, the Administrator will ensure that commenting parties under the State process are afforded adequate time to review and comment on an application or project proposal.

Paragraph (b) of this section is derived from § 101-6.2106(a) of the NPRM. The provisions of this section apply to cases in which review, coordination, and communication with GSA have been delegated. This paragraph is intended to make clear that when this responsibility is delegated, these procedures apply just as if the matter were handled at the State level.

Paragraph (d) of § 101-6.2106 of the NPRM has been dropped. A new § 101-6.2109 of the final rule describes how the Administrator receives and responds to comments.

Section 101-6.2109 How does the Administrator receive and respond to comments?

This new section replaces § 101-6.2106(d) of the NPRM and elaborates in substantially greater detail the Administrator's obligations concerning the receipt of and response to comments. Section 101-6.2106(d) had provided that the Administrator would respond as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and the Federal agencies.

About a quarter of all comments received discussed this "single point of contact" concept, with a majority of those comments opposing the required establishment of a single point of contact or expressing serious concerns about how it would work. Some of these comments wanted to permit multiple points of contact within a State instead of only one. The reasons expressed for this opposition or concern fell into two major categories. First, some commenters felt a single point of contact would be an unnecessary extra layer of bureaucracy imposed on their State process. Second, some commenters felt the single point of contact could, in effect, veto recommendations made by local or regional entities or reduce the comments of such entities to second-class status. In other words, their view was that using a single point of contact would inhibit, rather than facilitate, transmission to Federal agencies of the

concerns of local elected officials, and regional and areawide entities.

In response to these comments, and consistent with the amended Executive Order and GSA's decision explicitly to implement through these regulations section 401 of the Intergovernmental Cooperation Act, GSA has made substantial changes to this paragraph.

Nonetheless, the concept of the single point of contact is being retained. Satisfactory implementation of the Executive Order requires a means of handling the communication and information flow between Federal-State/local and State/local-Federal entities and officials in as simple and understandable a way as possible. Designating a single point of contact will serve this end better, in our view, than a multiplicity of communications channels. If all Federal agencies and all parties within a State know that a particular office or official performs this State/local-Federal communications link for the State process, much confusion and guesswork which otherwise could occur can be eliminated.

We emphasize that, from our perspective, the primary role of the single point of contact is to act as a conduit—a means of transmission—for the comments of State and local elected officials on proposed Federal actions. It does not matter to GSA whether this single point of contact also has a substantive role in preparing comments. That is up to the State and local elected officials who establish each State process. GSA is concerned only that the single point of contact communicate those comments and recommendations to GSA.

Paragraph (a) obligates the Administrator to follow the "accommodate or explain" procedures of § 101-6.2110 if two conditions are met. First, the State must have designated a single point of contact. Second, the single point of contact must have transmitted a State process recommendation. (The single point of contact, and not the applicant, must transmit the recommendation to GSA.) If these conditions are not met, the Administrator will still consider all comments received, but the "accommodate or explain" obligation will not apply.

The State process recommendation provision is intended to clarify the reciprocal responsibilities of the State and Federal agencies under the Executive Order. The Order is an important part of the Administration's Federalism policy. Federalism means, among other things, that Federal agencies should give greater deference to, and make greater efforts to

accommodate, the concerns of State and local elected officials than has sometimes been the case in the past. But Federalism also means, in the Administration's view, that State and local officials themselves have a responsibility to attempt to solve intrastate problems without resort to intervention from Washington. Where States and other directly affected parties carry out these responsibilities by forging a State process recommendation, it is highly appropriate for the Federal Government to give these recommendations the increased attention that the "accommodate or explain" process provides. We wish to emphasize that, in any case, GSA will always fully consider all comments it receives under these regulations.

GSA's practical, as well as theoretical, reasons for stressing consensus building were described in the NPRM. We expect that carrying out GSA's "accommodate or explain" responsibility will be greatly aided when a single, unified position is presented for response. However, several commenters said that it would be difficult to achieve, or undesirable to attempt consensus with respect to some projects or programs. Many of these comments were in connection with the 30-day review period proposed by the NPRM, saying that more than 30 days was needed if consensus were to be reached. The extension of the review period to 60 days in the final rule should mitigate this concern.

In addition, GSA will respond as provided in § 101-6.2110 to a State process recommendation which does not represent a consensus. This means that the single point of contact will not have to submit a recommendation representing unanimous agreement for the recommendation to receive an "accommodate or explain" response from GSA under these rules. Moreover, because the single point of contact is required under paragraph (b)(2) of this section to pass through comments that differ from the State process recommendation, all officials and entities within a State are assured that comments that differ from the State process recommendation on a particular program or project will be seen and considered by GSA.

Paragraph (b)(1) provides that the single point of contact need not transmit comments from directly affected entities when there is no State process recommendation. However, the single point of contact should advise the commenting officials and entities when a State process recommendation is not being transmitted so that these entities

will have sufficient time to send their views directly to GSA before the review and comment period ends. These entities may also choose to send their comments directly to GSA concurrent with their sending them to the State process.

Paragraph (b)(2) obligates the single point of contact to transmit to GSA all comments received concerning a selected program or activity that differ from a State process recommendation. This requirement will ensure that, as section 401 specifies, GSA considers all views from State, areawide, regional, and local entities or officials. It should also reassure commenters that the views of concerned officials are not subject to any "pocket veto" by the single point of contact.

In paragraphs (c) and (d), GSA makes provision for responding to comments in situations where there is no State process, or for programs that are not selected for a State process. Paragraph (c) provides that in the absence of a State process, or if the single point of contact does not transmit a State process recommendation, State, areawide, regional and local officials and entities may submit comments to GSA. GSA is obligated to consider these comments. Paragraph (d) makes a similar provision for situations where the State process does not cover a particular program or activity of GSA.

Paragraph (e) simply reiterates GSA's obligation to consider all the comments it receives from State, areawide, regional and local officials and entities under these regulations, whether they are transmitted through a single point of contact or otherwise provided to GSA. This obligation derives directly from section 401.

Section 101-6.2110 How does the Administrator make efforts to accommodate intergovernmental concerns?

Paragraph (a) of this section now provides that if a State process provides a State process recommendation to GSA through a single point of contact, GSA becomes obligated to accommodate or explain. This means that GSA need not accommodate or explain comments that: (1) Do not constitute or form the State process recommendation, or (2) are not provided through a single point of contact. GSA will fully consider all such comments, but there will be no "accommodate or explain" obligation.

As under the proposed regulations, "accommodating" a State process recommendation means either accepting that recommendation or reaching a mutually agreeable solution with the State process. In response to a

substantial number of comments, subparagraph (a)(3) of the final rule provides that all explanations of nonaccommodation will be in writing. This is not to say that GSA may not also inform the single point of contact of a nonaccommodation by telephone, other telecommunication, or in a personal meeting. However, whether or not such conversation or communication occurs, GSA will always send a written explanation of the nonaccommodation.

As under the proposed rule, GSA will not implement a decision for ten days after the single point of contact receives the explanation. A few commenters suggested that this waiting period should be longer than ten days; however, GSA believes that to avoid unduly delaying the award of Federal financial assistance or the start of direct Federal development, a longer period should not be provided. GSA believes that ten days will be adequate time for the State process to formulate an appropriate political response if the issue is sufficiently important within the State.

GSA has included a new paragraph (c) in the regulation to clarify when the ten-day waiting period begins to run. If GSA has made a telephone call (or other oral communication) to the single point of contact advising of the nonaccommodation and providing an explanation, the ten-day period begins to run from the date of that communication, even though the written explanation arrives later. If GSA sends a letter but does not make a telephone call, the ten-day period begins on the date the single point of contact is presumed to have received it. This presumptive date of receipt is five days from the date on which the letter is sent, a period consistent with the longstanding successful practice of the Social Security Administration, and longer than that used for presumptive receipt of official papers in many other legal contexts. In effect, GSA will be free to begin carrying out its decision on the sixteenth day after the day GSA sent the letter.

Some commenters indicated what they sought most was Federal agency responsiveness to their comments. These commenters felt the lack of responsiveness was a significant failing of the intergovernmental process under OMB Circular A-95. In providing explanations of nonaccommodation, GSA will make an effort to be as responsive as practicable consistent with GSA's responsibilities to accomplish program objectives and to expend funds in a sound financial manner.

Section 101-6.2111 What are the Administrator's obligations in interstate situations?

This section is based on § 101-6.2108 of the NPRM. One feature of the NPRM section—the provision of 45 days for comment in interstate situations—has been dropped because the comment period in the final rule is 60 days in all cases.

GSA received several comments on handling of interstate situations. Most of these comments asked for greater Federal guidance or involvement in interstate situations, especially when various affected States did not agree with one another. Some commenters also said that greater attention should be given to the role of interstate metropolitan areas and the designated areawide entities that represent them.

GSA does not believe it is necessary to change the proposed regulation to provide any particular procedure for resolving interstate conflicts. It is clearly in GSA's interest to have affected States mutually agree on GSA's programs and projects that affect interstate situations. On a case-by-case basis, as appropriate, GSA will work with officials of States involved in an interstate situation in an attempt to secure this agreement. This should not be a regulatory requirement, however.

GSA believes that designated areawide agencies in interstate metropolitan areas have an important role to play. Consequently, paragraph (a)(3) now specifically mentions designated areawide entities among those which GSA will make efforts to notify in interstate situations. OMB will periodically provide GSA with a list of designated interstate areawide entities. Paragraph (a)(4) provides that the recommendation of a designated interstate areawide entity will be given "accommodate or explain" treatment by GSA if it is sent through a State single point of contact, and if the areawide entity has been delegated a review and comment role for the program or activity being commented on by a State process.

For example, the Metropolitan Washington, DC Area Council of Governments (COG) represents jurisdictions in an interstate area including parts of Maryland, Virginia and the District of Columbia. If that Council of Governments was delegated a specific review role, and makes a recommendation on a proposed action by GSA, and that recommendation is transmitted to GSA through the single point of contact of either Maryland, Virginia, or the District of Columbia, GSA is obligated to accommodate or

explain. If a State process recommendation differing from the Washington COG recommendation is also transmitted by another State's single point of contact, GSA would also accommodate or explain that recommendation as well.

Section 101-6.2112 How may a State simplify, consolidate or substitute Federally required State plans?

This section is unchanged from the NPRM. GSA did receive a number of comments on this section, however. Several agreed that States should be able to simplify State plans, but objected to allowing States to consolidate their plans. The reason for these objections differed; most appeared to be from those who feared that consolidation of State plans would cause the interests of particular groups or particular programs to be ignored. As this section merely implements the requirement of the Order that Federal agencies allow the consolidation of State plans, GSA had little discretion in developing this provision. In addition, GSA has the obligation to ensure that any simplified or consolidated State plan continues to meet all Federal requirements. For example, a consolidated plan that failed to meet statutory or regularly requirements for a particular program would not be accepted.

One commenter recommended that an appeals process be established to deal with situations in which Federal agencies disapprove modified State plans. GSA believes that such a process is not necessary, because if a federal agency disapproves a modified plan for failure to meet Federal requirements, the State can appeal the decision through normal agency mechanisms. In any event, during the review process before disapproval, GSA will work with States to resolve problems that could impede approval.

A few commenters recommended there be a Federal "single point of contact" for State plans or other purposes. GSA believes this idea would not work, because of differing agency responsibilities under the wide variety of program statutes that various Federal agencies carry out. In addition, Federal agencies need to retain existing delegations of State plan approval authority. However, GSA and other Federal agencies will each designate focal points with whom States can deal on State plan matters. In addition, the Federal agencies having State plans intend to establish an informal interagency steering group, which will meet quarterly to discuss State plan matters. Through this steering group, as

well as by interagency contacts in specific situations, Federal agencies will coordinate with each other in cases when States consolidate plans across Federal lines. This coordination should promote consistent determinations among and within agencies on State plans.

Finally, one commenter suggested that the Federal agencies develop a model State plan format that could be used by the States. While GSA is willing to provide suggestions in response to specific State questions (including providing formats that have been used successfully by other States), GSA believes that States should be free to develop their own formats to reflect their own situations. Consequently, GSA will not develop model formats, since formats developed as models for the voluntary use of States could come to be regarded, either by Federal agencies or by States, as required. A list of State plans that may be simplified, consolidated, or substitutional for, appears elsewhere in today's Federal Register and will be updated periodically. GSA presently has no State plans appearing on this list.

Section 101-6.2113 May the Administrator waive any provision of these regulations?

This provision is unchanged from the NPRM, although the section number is changed. A few commenters objected to this waiver provision, apparently in the belief that it was a loophole allowing Federal noncompliance with the Executive Order. GSA is strongly committed to compliance with the Order, and will use the emergency waiver provision only in those rare instances where an unanticipated situation makes prompt action necessary without full compliance with all provisions of these regulations. If GSA uses the emergency waiver provision, GSA will attempt, to the extent feasible and meaningful, to involve the State process in subsequent decisionmaking concerning the matter about which the waiver was used. In addition, GSA will keep records of all situations in which the emergency waiver was used.

Other Comments

In addition to comments specifically pertaining to various features of these regulations, there are several other comments made to GSA to which GSA would like to respond. Several commenters said that the Office of Management and Budget should have a stronger oversight role, thus ensuring that Federal agencies carry out their obligations under the Order and these

regulations. Behind these comments seems to be a concern that Federal agencies are not really interested in consulting with State and local governments and a view that, in the absence of an OMB "policing" role, agencies would tend to ignore these obligations.

GSA wants to state unequivocally that it is fully committed to implementing all of the provisions of the Order and these regulations, and will act quickly to respond to complaints from State, areawide, regional and local officials and entities that mistakes or omissions have been made with respect to GSA's obligations. Carrying out this Order faithfully and forcefully is an important part of the Administration's Federalism policy, and the Administration's policymaking officials intend the policy to be carried out fully by everyone in their agencies.

OMB will have a general oversight role with respect to Federal agency implementation of the Order, including the required preparation of a report in late 1984 concerning the operation of the new process. OMB will periodically review agency records of nonaccommodations and waivers. OMB has advised the agencies, however, that a detailed operating review or "policing" relationship would not be consistent with the role of OMB vis-a-vis the other Federal agencies. OMB is not intended to have day-to-day operational responsibilities with respect to Federal programs. Concerning these regulations, as with respect to other agency operational responsibilities, the officials of GSA are responsible to the Administrator, who in turn is responsible to the President for carrying out important Administration policy.

Finally a number of commenters reminded GSA and other agencies that we should continue to follow existing statutory requirements that affect many Federal agencies, with respect to environmental impact statements, historic preservation, civil rights, etc. GSA will continue to follow all such crosscutting requirements and other independent consultation requirements. To the extent that it is feasible to do so, GSA will work with States to integrate handling of some of these crosscutting requirements with the official State process. However, regardless of the structure of a State's process or whether there is a State process at all, GSA will continue to meet all legal requirements in these areas.

In a related question, some commenters asked how certain requirements concerning environmental impact statements, coastal zone

management, and health systems agencies would be handled administratively under these regulations. Under the A-95 system, clearinghouses often coordinated responses to Federal agencies relating to these matters. Under the Executive Order system, a State could, if it wished, designate the single point of contact or other entity to circulate documents and to bear the administrative responsibility for coordination and review. Federal agencies could also continue any arrangements or relationships with entities in the State that now exist to facilitate this review and comment. Where it is feasible, we encourage a coordinated response under these regulations and other coordination requirements.

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

GSA has determined that this is not a major rule under Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The rule will simplify consultation with GSA and allow State and local governments to establish cost effective consultation procedures. For this reason, GSA believes that any economic impact the regulation has will be positive. In any event, it is unlikely that its economic impact will be significant. Consequently, GSA certifies, under the Regulatory Flexibility Act, that this rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it does not require the collection or retention of information.

List of subjects in 41 CFR Part 101-6 Intergovernmental relations

For the reasons set out in the Preamble, the General Services Administration amends Title 41, Code of Federal Regulations, by adding a new Subpart 101-6.21 to Part 101-6 to read as follows:

PART 101-6—MISCELLANEOUS REGULATIONS

Subpart 101-6.21—Intergovernmental Review of General Services Administration Programs and Activities

Sec.
101-6.2100 Scope of subpart.
101-6.2101 What is the purpose of these regulations?

- Sec.
101-6.2102 What definitions apply to these regulations?
101-6.2103 What programs and activities of GSA are subject to these regulations?
101-6.2104 What are the Administrator's general responsibilities under the Order?
101-6.2105 What is the Administrator's obligation with respect to Federal interagency coordination?
101-6.2106 What procedures apply to the selection of programs and activities under these regulations?
101-6.2107 How does the Administrator communicate with State and local officials concerning GSA's programs and activities?
101-6.2108 How does the Administrator provide States an opportunity to comment on proposed Federal financial assistance and direct Federal development?
101-6.2109 How does the Administrator receive and respond to comments?
101-6.2110 How does the Administrator make efforts to accommodate intergovernmental concerns?
101-6.2111 What are the Administrator's obligations in interstate situations?
101-6.2112 How may a State simplify, consolidate, or substitute Federally required State plans?
101-6.2113 May the Administrator waive any provision of these regulations?

Authority: Executive Order 12372, July 14, 1982 (47 FR 30959), as amended April 8, 1983 (48 FR 15887); Sec. 401 of the Intergovernmental Cooperation Act of 1968 as amended (31 U.S.C. 6506)

§ 101-6.2100 Scope of subpart.

This subpart implements Executive Order 12372, "Intergovernmental Review of Federal Programs", for Federal financial assistance and direct Federal development programs of the General Services Administration (GSA).

§ 101-6.2101 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982, and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State processes and on State, areawide, regional and local coordination for review of proposed Federal financial assistance and direct Federal development.

(c) These regulations are intended to aid the internal management of GSA, and are not intended to create any right or benefit enforceable at law by a party against GSA or its officers.

§ 101-6.2102 What definitions apply to these regulations?

"GSA" means the U.S. General Services Administration.

"Order" means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983, and titled "Intergovernmental Review of Federal Programs."

"Administrator" means the Administrator of General Services or an official or employee of GSA acting for the Administrator under a delegation of authority.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 101-6.2103 What programs and activities of GSA are subject to these regulations?

The Administrator publishes in the Federal Register a list of GSA's programs and activities that are subject to these regulations.

§ 101-6.2104 What are the Administrator's general responsibilities under the Order?

(a) The Administrator provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, GSA.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Administrator, to the extent permitted by law:

- (1) Uses the State process to determine official views of State and local elected officials;
- (2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;
- (3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;
- (4) Allows the States to simplify and consolidate existing Federally required State plan submissions;
- (5) Where State planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required State plans;

(6) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 101-6.2105 What is the Administrator's obligation with respect to Federal interagency coordination?

The Administrator, to the extent practicable, consults with and seeks advice from all other substantially affected Federal departments and agencies in an effort to assure full coordination between such agencies and GSA regarding programs and activities covered under these regulations.

§ 101-6.2106 What procedures apply to the selection of programs and activities under these regulations?

(a) A State may select any program or activity published in the Federal Register in accordance with § 101-6.2103 of this Part for intergovernmental review under these regulations. Each State, before selecting programs and activities, shall consult with local elected officials.

(b) Each State that adopts a process shall notify the Administrator of the GSA programs and activities selected for that process.

(c) A State may notify the Administrator of changes in its selections at any time. For each change, the State shall submit to the Administrator an assurance that the State has consulted with elected local elected officials regarding the change. GSA may establish deadlines by which States are required to inform the Administrator of changes in their program selections.

(d) The Administrator uses a State's process as soon as feasible, depending on individual programs and activities, after the Administrator is notified of its selections.

§ 101-6.2107 How does the Administrator communicate with State and local officials concerning GSA's programs and activities?

(a) [Reserved]

(b) The Administrator provides notice to directly affected State, areawide, regional, and local entities in a State of proposed Federal financial assistance or direct Federal development if:

(1) The State has not adopted a process under the Order; or

(2) The assistance or development involves a program or activity not selected for the State process.

Note.—This notice may be made by publication in the Federal Register or other appropriate means, which GSA in its discretion deems appropriate.

§ 101-6.2108 How does the Administrator provide States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) Except in unusual circumstances, the Administrator gives State processes or directly affected State, areawide, regional and local officials and entities at least:

(1) [Reserved]

(2) 60 days from the date established by the Administrator to comment on proposed direct Federal development or Federal financial assistance.

(b) This section also applies to comments in cases in which the review, coordination, and communication with GSA have been delegated.

§ 101-6.2109 How does the Administrator receive and respond to comments?

(a) The Administrator follows the procedures in § 101-6.2110 if:

(1) A State office or official is designated to act as a single point of contact between a State process and all Federal agencies, and

(2) That office or official transmits a State process recommendation for a program selected under § 101-6.2106.

(b)(1) The single point of contact is not obligated to transmit comments from State, areawide, regional or local officials and entities where there is no State process recommendation.

(2) If a State process recommendation is transmitted by a single point of contact, all comments from State, areawide, regional, and local officials and entities that differ from it must also be transmitted.

(c) If a State has not established a process, or is unable to submit a State process recommendation, State, areawide, regional and local officials and entities may submit comments to GSA.

(d) If a program or activity is not selected for a State process, State, areawide, regional and local officials and entities may submit comments to GSA. In addition, if a State process recommendation for a nonselected program or activity is transmitted to GSA by the single point of contact, the Administrator follows the procedures of § 101-6.2110 of this Part.

(e) The Administrator considers comments which do not constitute a

State process recommendation submitted under these regulations, and for which the Administrator is not required to apply the procedures of § 101-6.2110 of this Part, when such comments are provided by a single point of contact, or directly to GSA by a commenting party.

§ 101-6.2110 How does the Administrator make efforts to accommodate intergovernmental concerns?

(a) If a State process provides a State process recommendation to GSA through its single point of contact, the Administrator either:

(1) Accepts the recommendation;

(2) Reaches a mutually agreeable solution with the State process; or

(3) Provides the single point of contact with such written explanation of its decision, as the Administrator in his or her discretion deems appropriate. The Administrator may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section, the Administrator informs the single point of contact that:

(1) GSA will not implement its decision for at least ten days after the single point of contact receives the explanation; or

(2) The Administrator has reviewed the decision and determined that, because of unusual circumstances, the waiting period of at least ten days is not feasible.

(c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification 5 days after the date of mailing of such notification.

§ 101-6.2111 What are the Administrator's obligations in interstate situations?

(a) The Administrator is responsible for:

(1) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(2) Notifying appropriate officials and entities in States which have adopted a process and which have selected a GSA program or activity;

(3) Making efforts to identify and notify the affected State, areawide, regional, and local officials and entities in those States that have not adopted a process under the Order or have not selected a GSA program or activity; and

(4) Responding pursuant to § 101-6.2110 of this Part if the Administrator

receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which the review, coordination, and communication with GSA have been delegated.

(b) The Administrator uses the procedures in § 101-6.2110 if a State process provides a State process recommendation to GSA through a single point of contact.

§ 101-6.2112 How may a State simplify, consolidate, or substitute Federally required State plans?

(a) As used in this section:

(1) "Simplify" means that a State may develop its own format, choose its own

submission date, and select the planning period for a State plan.

(2) "Consolidate" means that a State may meet statutory and regulatory requirements by combining two or more plans into one document and that the State can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a State may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a State may decide to try to simplify, consolidate, or substitute Federally required State plans without prior approval by the Administrator.

(c) The Administrator reviews each State plan that a State has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 101-6.2113 May the Administrator waive any provision of these regulations?

In an emergency, the Administrator may waive any provision of these regulations.

Dated: June 17, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-16938 Filed 6-23-83; 9:45 am]

BILLING CODE 5820-96-M

**GENERAL SERVICES
ADMINISTRATION****State Process Selection Listing**

Section 101-6.2104 of the preamble to Part 101-6—Miscellaneous Regulations, which is printed elsewhere in today's Federal Register, specifies that the General Services Administration will publish a listing of "included" programs and activities for State selection in accordance with the provisions of Executive Order 12372. The following programs of the General Services Administration are hereby listed as

being eligible for selection for State processes in accordance with the terms of the Executive Order, and Part 101-6.

Public Buildings Construction

41 CFR 101-18.100 (e) Lease Construction Projects.

Public Buildings Construction

41 CFR 101-19.100 Intergovernmental Consultation on Federal Projects.

Real Property Disposal Program

41 CFR 101-47.303-2 Disposals to Public Agencies.

Records Management

41 CFR 105-65.203 State Records Program Organization.

Requests for additional information should be addressed to: General Services Administration (DX), Washington, DC 20405.

Dated: June 17, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-16939 Filed 6-23-83; 8:45 am]

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