of educational assistance allowance. The pertinent section of the Code of Federal Regulations governing charges to entitlement of a veteran or eligible person has not stated whether a charge against entitlement will be made for the amount of accrued interest, administrative costs of collection, court costs and marshal fees when such an overpayment is discharged in bankruptcy, is waived or is compromised. This amended regulation provides that an unrecovered portion of interest, administrative costs of collection, court costs or marshal fees will not result in a charge against a veteran's or eligible person's entitlement. This will be done by first deducting the amount of any such outstanding costs.

EFFECTIVE DATE: March 4, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW, Washington, DC 20420, (202) 389–2092.

SUPPLEMENTARY INFORMATION: On pages 45629 and 45630 of the **Federal Register** of November 1, 1985, there was published a proposal to amend 38 CFR 21.1045 to provide a method for calculating the charge to entitlement when an overpayment of educational assistance allowance is discharged in bankruptcy, is waived and is not recovered, or is compromised.

Interested people were given 33 days to submit comments, suggestions or objections. The VA (Veterans Administration) received no comments, suggestions or objections. Accordingly, the agency is making the proposal final.

The VA has determined that this regulation is not a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs has certified that this amended regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this regulation are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 4, 1986.

Everett Alvarez, Jr.,

Acting Administrator.

PART 38—[AMENDED]

38 CFR Part 21 is amended by revising § 21.1045, paragraph (h) to read as follows:

§ 21.1045 Entitlement charges.

* * * * *

(h) *Overpayment cases.* The VA will make a charge against entitlement for an overpayment only if the overpayment is discharged in bankruptcy, is waived, and is not recovered, or is compromised. (38 U.S.C. 1661)

(1) If the overpayment is discharged in bankruptcy or is waived and is not recovered, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, admininstrative costs of collection, court costs and marshal fees).

(2) If the overpayment is compromised and the compromise offer is less than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(3) If the overpayment is compromised and the compromise offer is equal to or greater than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be determined by:

(i) Subtracting from the sum paid in the compromise offer the amount attributable to interest, admininstrative costs of collection, court costs and marshal fees,

(ii) Subtracting the remaining amount of the overpayment balance determined in paragraph (h)(3)(i) of this section from the amount of the original overpayment (exclusive of interest, admininstrative costs of collection, court costs and marshal fees),

(iii) Dividing the result obtained in paragraph (h)(3)(ii) of this section by the amount of the original debt (exclusive of interest, administrative costs of collection, court costs and marshal fees), and

(iv) Multiplying the percentage obtained in paragraph (h)(3)(iii) of this section by the amount of the entitlement otherwise chargeable for the period of the original overpayment (38 U.S.C. 1671)

* * * * *

[FR Doc. 86–6331 Filed 3–21–86; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 21

Veterans Education; Waiver of Two-Year Operation Requirement

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The law generally requires a course to be in operation for two years before it can be approved for VA (Veterans Administration) training. The law contains several exceptions to this general rule and permits waivers by regulation in certain instances. This regulatory change liberalizes the pertinent regulation to make a waiver easier to obtain for a course offered pursuant to a contract with the Department of Transportation at a Coast Guard station.

EFFECTIVE DATE: March 10, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389–2092.

SUPPLEMENTARY INFORMATION: On Pages 34722 and 34723 of the **Federal Register** of August 27, 1985, there was published a notice of intent to amend Part 21 to permit the waiver of the two-year operation requirement for certain courses offered under contract with the Department of Transportation at Coast Guard stations. Interested people were given 28 days to submit comments, suggestions or objections. The VA received two letters. Both were from executives of educational organizations.

One writer stated that he had "no problem" with the proposal. The other writer had several comments.

His letter stated that the VA should define what the word "course" meant in the proposal. He stated that the VA was going beyond the intent of the Congress in applying the two-year operation requirement to any course that can be applied to a degree. He stated further that the incident of abuse the two-year operation requirement is supposed to correct has never been made public. He opposed the proposal because he believed that to support it would be tantamount to agreeing that the VA has authority to regulate in this area.

It is true that sometimes the word "course" appears in the Code of Federal Regulations in the sense of a unit subject such as History 101 or Basic Welding, and at other times it is used to refer to all the unit subjects in a program of education. However, in this the Code of Federal Regulations is mirroring the use of the term in the law. In this instance the VA believes the law means one or more unit subjects leading to an objective. The agency does not believe that it should define "course" one way or the other in the absence of an amendment to the law which would provide separate terms for the two uses of the word.

Contrary to the writer's assertions, the law requires that the two-year operation requirement be applied in some instances to courses that lead to a degree. It is clear from the legislative history that the Congress intended that the application be made. The incident of abuse to which the writer refers was made public in the Senate report which accompanied the pertinent legislation and in the course of public hearings which were held on the subject during the 1970's.

38 U.S.C. 1789(a) states,

"The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than two years."

Subsection (b) of that section provides several exceptions to that general rule including one in (b)(4) for any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree, and another exception in (b)(6) for—

"Any course offered by an educational institution under a contract with the Department of Defense that: (A) Is given on, or immediately adjacent to, a military base; (B) is available only to active duty military personnel and/or their dependents and (C) has been approved by the State approving agency of the State in which the base is located.

The Administrator may waive the requirements of clause (6) of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government."

However, subsection (c) of that section states that in certain instances the exception to the two-year operation requirement provided in (b)(4) for courses leading to a standard college degree is not to be applied. Subsection (c) states—

"Notwithstanding the provisions of subsection (b) (1), (2), (3), or (4) of this section, the provisions of subsection (a) shall apply to any course offered by a branch or extension of—

(1) a public or other tax-supported institution where the branch or extension is located outside of the area of the taxing jurisdiction providing support to such institution; or

(2) a proprietary profit or proprietary nonprofit educational institution where the branch or extension is located beyond the normal commuting distance of such institution.

The Administrator may waive the requirements of this subsection, in whole, or in part, if the Administrator determines, pursuant regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government."

Hence, if a proprietary, nonprofit institution of higher learning which has its main campus in Los Angeles contracts with the Department of Transportation to offer courses leading to a baccalaureate degree at Coast Guard stations in North Carolina, the two-year operation requirement found in subsection (a) must be applied in the absence of a liberalizing regulation. Subsection (b)(6) is not broad enough and subsection (c) cancels the exception found in subsection (b)(4).

Subsection (c) was added to section 1789 in the Veterans' Education and Employment Assistance Act of 1976 (Pub. L. 94–502). The Senate report (94–1243) which accompanied this legislation was available to the public. It states in part:

"The basic rationale of the current exceptions to the two-year rule has come under serious question in recent years. Certain institutions, both public and proprietary, have suddenly developed many branch campuses throughout the United States . . . .

The increase in veteran enrollments in schools establishing multi-branch campuses has often been spectacular. In one instance a small institution of higher learning (accredited by a regional accrediting association), which had only a handful of veterans enrolled at its single campus, in less than a year developed branch campuses (which often were rented rooms in local motels) in over 40 States and increased their veteran-student population to over 13,000."

The report goes on to quote from testimony given by VA officials at hearings during 1976. The report then states:

"While the Committee does not undertake to assess either the quality of the instruction offered at all of these branch campuses or the motives of all those who promote such arrangements, the situation does present great potential for abuse, and in several instances that potential appears to have been realized.

At a minimum, the Committee concurs with the Veterans' Administration's testimony concerning the validity of the legislative premise which gives special exceptions to degree-granting institutions."

The report then states that this is the reason that subsection (c) was added to the law.

The VA believes, therefore, that there is ample reason to apply the two-year operation requirement to some courses which lead to a degree. The reasons are found in the law. The incident of abuse which the specific subsection of law requiring that application is designed to correct was made public at the time the subsection was added to the United States Code. Furthermore, the Administrator is empowered by law to waive the requirements in certain instances.

In this case the Administrator believes it to be in the interest of the Federal Government to enable Coast Guard members to use their GI Bill benefits to attend courses offered at their station when the courses are offered pursuant to a contract between an educational institution and the Department of Transportation. Consequently, the proposed amendment to the regulation governing the waiver of the two-year operation requirement is made final without change.

The VA has determined that this amended regulation is not a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), sections 601–612. Therefore, pursuant to 5 U.S.C. 605(b) this regulation is exempt from the inititial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because only a few educational institutions offer courses under contract with the Department of Transportation on or immediately adjacent to Coast Guard stations. Many of these are not small entities. Therefore, the number of affected small entities will not be substantial.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.11.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 10, 1986.

Everett Alvarez, Jr.,

Acting Administrator.

PART 21—[AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION, is amended by revising paragraphs (g)(1) introductory text and (g)(1)(i) of § 21.4251 to read as follows:

§ 21.4251 Period of operation of course.

* * * * *

(g) *Waivers*

* * * * *

(1) The Director of the VA field station of jurisdiction may exercise the waiver authority found in paragraph (a)(6) of this section to exempt from the 2-year operation requirement certain courses given pursuant to a contract with the Department of Defense or the Department of Transportation on or immediately adjacent to a military base or Coast Guard station located within a State. He or she may grant such a waiver only when he or she finds that:

(i) The school on an application sent through the State approving agency certifies that the course is available only to military personnel or Coast Guard personnel, their dependents, civilian employees of the base or station, persons who began the course while on active duty and who were discharged while remaining continuously enrolled in it or any combination of these classes of people. (38 U.S.C. 1789(b))

* * * * *

[FR Doc. 86–6333 Filed 3–21–86; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 21

Subsistence Allowance Payment Rates

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The amount of monthly subsistence allowance paid to veterans in a vocational rehabilitation program under chapter 31 was increased by 10 percent effective October 1, 1984 under Pub. L. 98–543, the "Veterans' Benefits Improvement Act of 1984". In addition the provisions of 38 CFR 21.260(b) are changed to clarify that payment of subsistence allowance for a veteran being provided nonpay work experience in a Federal agency may be made on less than a full-time basis.

EFFECTIVE DATE: This amendment is effective October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Boies, Assistant Director for Policy and Program Development, Vocational Rehabilitation and Counseling Service (282), Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 389–2886.

SUPPLEMENTARY INFORMATION: On pages 38862 and 38863 of the **Federal Register** of September 25, 1985, the VA published a proposed amendment to 38 CFR 21.260 concerning an increase in the monthly subsistence allowance paid to veterans participating in a vocational rehabilitation program authorized under 38 U.S.C. chapter 31. Interested persons were given 30 days in which to submit their comments, suggestions or objections to the proposed amendment. No comments, suggestions were received, and the amendment is hereby adopted as final without change.

The final regulation has been found to be nonmajor under E.O. 12291, Federal Regulation. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant effect on the economy.

The Administrator hereby certifies that this final rule will not, when promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that, the amendments simply make the regulation consistent with recent statutory changes. Thus, no regulatory burdens are imposed on small entities by this regulation.

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, claims, education, grant programs, loan programs, reporting requirements, schools, veterans, vocational education, vocational rehabilitation.

Aproved: February 27, 1986.

Everett Alvarez, Jr.,

Acting Administrator.

PART 21—[AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION, is amended by revising paragraph (b) of § 21.260 to read as follows:

§ 21.260 Subsistence allowance.

* * * * *

(b) *Rate of payment.* Subsistence allowance is paid at the following rates effective October 1, 1984.

Type of program	Monthly rate of subsistence allowance			
	No dependents	One dependent	Two dependents	Additional amount for each dependent over two
Institutional:[1]				
Full-time	$310	$384	$452	$33
¾ time	233	288	339	25
½	155	193	227	17
Nonpay on-job training in a Federal agency; training in the home; vocational course in a rehabilitation facility or sheltered workshop, independent instructor: Full-time only	310	384	452	33

Type of program	Monthly rate of subsistence allowance			
	No dependents	One dependent	Two dependents	Additional amount for each dependent over two
Nonpay work experience in a Federal agency:				
Full-time	310	384	452	33
¾ time	233	288	339	25
½ time	155	193	227	17
Farm cooperative; apprenticeship or other on-job training: [2] Full-time only	271	327	377	24
Combination (institutional and OJT) (Full-time only):				
Institutional greater than ½ time	310	384	452	33
OJT greater than ½ time [2]	271	327	377	24
Non-farm cooperative (Full-time only):				
Institutional	310	384	452	33
On-job	271	327	377	24
Improvement of rehabilitation potential: Full-time only	310	384	452	33
Independent living; Extended evaluation:				
Full-time	310	384	452	33
¾ time	233	288	339	25
½ time	155	193	227	17
¼ time	78	96	113	9

[1] Measurement of rate of pursuit (§§ 21. 4270–21.4275).
[2] For on-job training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.
(38 U.S.C. 1508(b), Pub. L. 98–543) (October 1, 1984)

* * * * *

[FR Doc. 86–6332 Filed 3–21–86; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A–3–FRL–2988–6]

Approval of a Delayed Compliance Order Issued by the Pennsylvania Department of Environmental Resources to Container Corporation of America

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to Container Corporation of America. The Order requires the company to bring air emissions from its graphic arts facility in Montgomery County, Pennsylvania into compliance with certain regulations contained in the federally-approved Pennsylvania State Implementation Plan (SIP) by December 31, 1985. Because of the Administrator's approval, compliance with the Order by December 31, 1985 will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule will take effect on March 24, 1986.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., Enforcement Policy & State Coordination Section (3AM21), Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107 (215) 597–6553.

ADDRESSES: A copy of the Delayed Compliance Order, and supporting material, are available for public inspection and copying (for appropriate charges) during normal business hours at the above address.

SUPPLEMENTARY INFORMATION: On March 26, 1985 the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 50 No. 58, a notice proposing approval of a Delayed Compliance Order (DCO) issued by the Pennsylvania Department of Environmental Resources to Containers Corporation of America. The basis for EPA's conclusions supporting the issuance of the DCO are set forth in that notice. The notice asked for public comments by April 25, 1985 on the EPA proposal.

No public comments were received in response to the notice. The delayed compliance order issued to Container Corporation of America is hereby approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Container Corporation of America on a schedule to bring its graphic arts facility in Montgomery County into compliance as expeditiously as practicable with Title 25 Pennsylvania Code, § 129.67, a part of the federally-approved Pennsylvania State Implementation Plan. The order also imposes interim requirements which meet section 113(d)(1)(C) and 113(d)(7) of the act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Container Corporation of America to delay compliance with SIP regulations covered by the Order until December 31, 1985. The company was unable to comply with these regulations prior to the completion date called for by the DCO because low solvent coatings were still being developed. EPA has determined that its approval of the Order shall be effective (the date of publication of this notice) because of the need to immediately place Container Corporation of America on a federally enforceable schedule under the Clean Air Act requiring compliance with the applicable requirements of the Implementation Plan.

List of Subject in 40 CFR Part 65

Air pollution control.

Dated: March 10, 1986.

Lee M. Thomas

Adminstrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 7413(d), 7601.

PART 65—DELAYED COMPLIANCE ORDER

2. By adding the following entry to the table in § 65.431 to read as follows:

§ 65.431 EPA Approval of State Delayed Compliance Orders Issued to major stationary sources.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Container Corporation of America.	Upper Providence Township, Montgomery County.	.....	Mar. 26, 1985.	Section 129.67 of Title 25.	Dec. 31, 1985.

[FR Doc. 86-6367 Filed 3-21-86; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201-2, 201-11, 201-23, 201-24, 201-30, 201-32, and 201-33

[FIRMR Amdt. 7]

Management of Federal Automatic Data Processing Equipment Obsolescence

AGENCY: Information Resources Management Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation prescribes policies and procedures regarding management of obsolescence in the Federal automatic data processing equipment (ADPE) inventory. The purpose is to address aging ADPE inventory problems. The intent is to provide additional guidance to help agencies recognize the economic and technical obsolescence of Federal ADPE in order to target system replacement opportunities and thereby increase economy and efficiency of automatic data processing in the Government.

EFFECTIVE DATE: May 23, 1986.

FOR FURTHER INFORMATION CONTACT: Phillip R. Patton, Policy Branch (KMPP), Information Resources Management Service, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: (1) Basic policies were promulgated in January 1981 to provide guidance and a regulatory foundation upon which agencies can institute programs to replace economically outdated systems within the competitive acquisition process. The Comptroller General, in his December 15, 1980 report (AFMD-81-9), concluded ". . . that agencies inhibited by obsolescent computer systems should replace the equipment, when economically justified, as expeditiously as possible under the current competitive acquisition process." While the report contained recommendations directed to heads of Federal agencies, it also recommended ". . . that GSA issue guidance to the agencies outlining the criteria to be used and the cost comparisons to be made in determining economic obsolescence." On March 22, 1982, GSA circulated for agency review and comment proposed FPR and FPMR amendments addressing obsolescence and other issues. On April 23, 1982, a further explanation of the proposed obsolescence provisions was provided to agencies. (Sharing provisions contained in the March 22, 1982, proposal have been implemented in FIRMR Amendment 4 dated June 1985 (50 FR 27142, July 1, 1985.) In February, 1985, GSA published a paper entitled "Assessing ADPE Obsolescence in Major Federal Systems."

(2) Notice of proposed rulemaking regarding this action was published in the **Federal Register** (50 FR 24785, June 13, 1985). All comments received have been considered.

(3) As a result of public comments received on the proposed regulation, the portion regarding technology updates has not been promulgated. This action does not preclude GSA from assisting Federal agencies in individual cases where expeditious replacement is appropriate to achieve economy and efficiency. In any event, the rules of full and open competition must be followed when replacing outdated ADPE.

(4) The regulation provides for obsolescence reviews that are intended to identify outdated ADPE that should be replaced with newer, more economical ADPE.

(5) Clarification is provided that the present value discount factor be specifically included in the analysis for obsolescence.

(6) In an additional initiative, except for excess ADP Fund equipment, the screening period for excess and exchange/sale ADPE is reduced from 90 calendar days to 60 calendar days thereby accelerating the reuse and disposal process.

(7) Explanations for the changes being made by this issuance are shown below:

a. Part 201-2, Definitions of Words and Terms, is amended by adding two definitions to § 201-2.001, Definitions, that are essential to the treatment of issues relating to the obsolescence and reuse of ADPE: They are:

1. "Match list;"

2. "Outdated ADPE;" and

b. Part 201-11, Competition, is amended by adding § 201-11.002-2, Follow-on acquisitions under other than full and open competition, to ensure that the special justification provisions of FAR 6.302-1(a)(2)(ii) regarding follow-on contracts are not used to perpetuate any contract which involves obsolete ADPE.

c. Part 201-23, Delegation of Authority, is amended by changing § 201-23.104-1, Automatic data processing equipment (ADPE), to require a delegation of procurement authority for requirements for outdated ADP equipment at the same threshold level as that for only one responsible source or a specific make and model specification for ADPE.

d. Part 201-24, Acquisition Policies, is amended by adding § 201-24.206, Acquisition of outdated ADPE, to establish a general policy regarding the acquisition of outdated ADPE. Outdated ADPE shall not generally be a source of supply for the Government unless that ADPE is determined to be the lowest overall cost source.

e. Part 201-30, Management of ADP Resources, is amended, as follows:

1. Part 201-30.009, Analysis of alternatives for satisfying a requirement, is amended to require that newer functionally-similar ADPE alternatives be reviewed when the continued use of currently installed outdated ADPE is being considered as a viable alternative.

2. Section 201-30.009-2, Analysis for obsolescence, is added to provide policy guidance to agency managers in conducting an obsolescence review. It sets forth the cost factors that should be considered in the obsolescence review analysis. It also provides guidance as to when obsolescence reviews should be conducted on a priority basis.

f. Part 201-32, Contracting for ADP Resources, is amended as follows:

1. Section 201-32.203 is revised to provide that one of the other factors to be considered in determining the lowest overall cost for ADP equipment systems is whether the proposed ADPE is current technology and not outdated.

2. Section 201-32.206 is also revised to provide that the outdated ADPE acquisition policy provisions be applied to orders for outdated ADPE from GSA nonmandatory ADP schedules.

g. Part 201-33, Reuse of ADP Equipment, is revised to provide agency guidance on the reuse of outdated ADPE in conjunction with the treatment of the same subject in other FIRMR parts. Part 201-33 is amended as follows:

1. Section 201-33.003, Reutilization of excess ADPE, is revised to advise agencies that they should determine whether their ADP requirements can be efficiently and economically satisfied from the reuse program. Requests for reuse of outdated ADPE are subject to the provisions of § 201-33.012. Outdated ADPE will not generally be offered for agency screening for reuse.

2. Section 201–33.011, Reporting excess or exchange/sale ADPE, is revised to change the screening period for excess and exchange/sale ADPE from 90 calendar days to 60 calendar days. It is also changed to require agencies, when reporting "outdated" ADPE, to annotate the SF 120 accordingly.

3. A new § 201–33.012, Reuse of outdated ADPE, is added to this part to provide regulatory coverage on the reporting and reuse of outdated ADPE.

(8) The General Services Administration has determined that this rule is no a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Governmentwide management regulation that will have little or not net cost effect on society.

List of Subjects in 41 CFR Parts 201–2, 201–11, 201–23, 201–24, 201–30, 201–32, and 201–33.

Competition, Computer technology, Government records management, Government property management, Government procurement, Information resources activities, and Telecommunications.

PART 201–2—DEFINITIONS OF WORDS AND TERMS

1. The authority citation for Part 201–2 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201–2.001 is amended to add (alphabetically) definitions to read as follows:

§ 201–2.001 Definitions.

* * * * *

"Match list" means a GSA maintained list of agency requested outdated ADPE that will be screened against reported outdated ADPE.

* * * * *

"Outdated ADPE" means any ADPE that is over eight years old (based on the initial commercial installation date of the equipment) and is no longer in current production.

* * * * *

PART 201–11—COMPETITION

1. The table of contents of Part 201–11 is amended by adding an entry for § 201–11.002–2; and the authority citation for Part 201–11 continues to read as follows:

201–11.002–2 Follow-on acquisitions under other than full and open competition.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201–11.002–2 is added to read as follows:

§ 201–11.002–2 Follow-on acquisitions under other than full and open competition.

The special justification provisions of FAR 6.302–1(a)(2)(ii) regarding follow-on contracts shall not be used to perpetuate any contract for obsolete automatic data processing equipment (ADPE), or for ADPE used primarily to execute software that requires general redesign to satisfy mission needs in an economic and efficient manner. For these purposes, obsolete ADPE means ADPE for which an analysis under § 201–30.009–2 shows that cost savings are obtainable with newer ADPE technology.

PART 201–23—DELEGATIONS OF AUTHORITY

1. The authority citation for Part 201–23 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201–23.104–1 is amended by revising paragraph (c)(2) to read as follows:

§ 201–23.104–1 Automatic data processing equipment (ADPE).

* * * * *

(c) * * *

(2) $250,000 purchase price or basic monthly rental charges (including attendant maintenance costs) that do not exceed an annual rate of $100,000 for:

(i) Requirements available from only one responsible source;

(ii) Requirements using specific make and model specifications; or

(iii) Requirements for outdated ADPE or requirements that include one or more components of outdated ADPE when the outdated component's purchase price or rental charges exceed the applicable threshold in this paragraph (c)(2).

PART 201–24—ACQUISITION POLICIES

1. The table of contents for Part 201–24 is amended by revising the entry for § 201–24.206; and the authority citation for Part 201–24 continues to read as follows:

201–24.206 Acquisition of outdated ADPE.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201–24.206 is revised to read as follows:

§ 201–24.206 Acquisition of outdated ADPE.

(a) The acquisition of (1) outdated ADPE and (2) ADPE that is no longer being installed by the commercial (non-government) market to satisfy requirements for commercially available, general purpose ADPE, most often does not achieve lowest overall cost, price and other factors considered over the system/item life. This is due to factors such as higher price/performance ratios, lower reliability, decreased functionality, and higher energy consumption.

(b) Outdated ADPE and ADPE that is no longer being installed by the commercial (non-government) market shall not be acquired unless it is determined to be the lowest overall cost source for fulfilling the Government's need, price and other factors considered over the system/item life. None of the following actions shall be taken unless they achieve lowest overall cost, price and other factors considered, over the system/item life:

(1) Reuse of Government excess outdated ADPE. (See § 201–33.012.)

(2) Specification of outdated ADPE as a mandatory requirement in a Government solicitation.

(3) Award of a contract for delivery of outdated ADPE, including options to acquire additional optional quantities.

PART 201–30—MANAGEMENT OF ADP RESOURCES

1. The table of contents for Part 201–30 is amended by revising the entry for § 201–30.009–2; and the authority citation for Part 201–30 continues to read as follows:

201–30.009–2 Analysis of obsolescence.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201–30.009 is amended by revising the introductory text of paragraph (a), adding paragraph (b) and removing paragraph (c), to read as follows:

§ 201–30.009 Analysis of alternatives for satisfying a requirement.

(a) A comparative cost analysis shall be performed for each identified requirement or when planning (see § 201–16.002) indicates the possible existence of outdated ADPE. The purpose of the analysis is to determine which alternative will meet the user's needs at the lowest overall cost over the system/item life. The alternatives to be considered shall include, but are not limited to the following:

* * * * *

(b) Where the analysis includes evaluation of the continued use of outdated ADPE, the analysis shall also evaluate the newer functionally-similar ADPE alternatives. Identifiable and quantifiable costs that are directly related to the costs of obsolescence (e.g., maintenance and operation, energy consumption, floor space, personnel, and other applicable factors) shall be considered (see § 201–30.009–2(a)).

3. Section 201–30.009–2 is revised to read as follows:

§ 201–30.009–2 Analysis for obsolescence.

(a) An obsolescence review is a limited comparative cost analysis performed to determine whether total overall systems life cost savings are obtainable with newer ADPE technology, relative to operation of outdated ADPE (either the CPU or other components of the total mainframe ADP system). The analysis shall include (but not necessarily be limited to) consideration of the following items for both the existing outdated ADPE and the replacement ADPE as appropriate:

(1) System acquisition costs: Purchase price of replacement system or net lease cost of replacement system including emulators and simulators;

(2) System operating costs:

(i) Maintenance and operations costs (preventive maintenance and unscheduled downtime),

(ii) Energy cost (operating and cooling of central processing units (CPUs) and peripherals), and

(ii) Timesharing service to supplement capacity lost due to downtime;

(3) Hidden costs of equipment operation:

(i) Personnel (e.g., operators, programmers, and systems analysts) costs such as unscheduled personnel overtime and manual labor to replace normally automated functions, and

(ii) Floor space costs (CPUs, peripherals, and personnel);

(4) Auxiliary hardware costs:

(i) Uninterruptable power supplies,

(ii) Front end data communication processors,

(iii) Peripheral equipment controllers,

(iv) Communication adapters, and

(v) Hardware optimizers;

(5) Conversion cost, if applicable;

(6) Administrative costs of the acquisition process; and

(7) Present value of money (see § 201–24.208(b)).

(b) Agency ADP managers should give obsolescence reviews priority and should evaluate their ADPE resources for obsolescence regularly to determine whether the cost of operating outdated ADPE is greater than the cost of acquiring and operating technologically newer ADPE. Indicators of obsolescence include:

(1) Maintenance services or parts are becoming unavailable or are no longer provided by the original equipment manufacturer (OEM);

(2) An operating system is not or will no longer be supported by the OEM;

(3) Records indicate a degradation in equipment reliability affecting the supported mission;

(4) Maintenance costs are accounting for an increasingly higher portion of overall operating costs;

(5) Energy consumption, including necessary environmental control, is relatively high; and

(6) Non-compatibility with recent and more cost-effective software enhancements, such as automatic documentation, date dictionaries, coding optimizers, and extensive software libraries.

(c) When the cost of operating outdated ADPE is greater than the cost of acquiring and operating technologically newer ADPE, agencies should replace the equipment as expeditiously as possible under the current competitive acquisition process.

PART 201–32—CONTRACTING FOR ADP RESOURCES

1. The authority citation for Part 201–32 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 481(c).

2. Section 201–32.203 is amended by adding a new paragraph (h) and redesignating and revising paragraphs (h) and (i) as (i) and (j) respectively to read as follows:

§ 201–32.203 Factors to be considered in determining lowest overall cost for ADP equipment systems.

* * * * *

(h) The proposed ADPE represents current technology and is not outdated.

(i) The continued availability of operating system software support and maintenance services beyond the initial system/item life that would enhance the probability of reutilization of the ADPE within the Government.

(j) The potential for supporting other agencies through the ADP sharing program.

3. Section 201–32.206 is amended by revising paragraph (a)(2) to read as follows:

§ 201–32.206 Use of GSA nonmandatory ADP schedule contracts.

(a) * * *

(2) An order against a GSA nonmandatory ADP schedule contract is placed under competitive procedures when (i) the ordering agency follows the procedures of this § 201–32.206 (but see § 201–11.002–2 where technical and requirements personnel use a specific make and model specification) and (ii) the order provides the lowest overall cost alternative to meet the needs of the Government. However, the use of a GSA nonmandatory ADP schedule contract for requirements available from only one responsible source shall be certified, justified, and approved in accordance with FAR 6.303 and 6.304. If responsible alternative sources are available (see FAR Part 7 for market survey procedures), the availability of items under a GSA nonmandatory ADP schedule contract shall not preclude or waive the requirement to seek (through alternative contracting procedures) the lowest overall cost alternative to meet the needs of the Government. In addition, the availability of those items under a GSA nonmandatory ADP schedule contract shall not preclude or otherwise detract from procuring the items (including peripheral equipment or items for augmenting an existing system) from a number of different sources if this action will be in the best interest of the Government. Any restrictive requirement (e.g., an "all or none" requirement or a requirement for "only new" equipment) shall not be used unless specifically justified. Also, any outdated ADPE ordered from a GSA nonmandatory ADP schedule must meet the acquisition policy provisions set forth in § 201–24.206.

* * * * *

PART 201–33—REUSE OF ADP EQUIPMENT

1. The table of contents for Part 201–33 is amended by adding § 201–33.012; and the authority citation for Part 201–33 continues to read as follows:

201–33–012 Reuse of outdated ADPE.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201–33.003 is revised to read as follows:

§ 201–33.003 Reutilization of excess ADPE.

Federal agencies shall determine whether their ADP requirements can be efficiently and economically satisfied by using excess or exchange/sale ADPE. Agency procedures shall include screening of availability lists. To obtain maximum reutilization and to minimize the procurement of new ADPE, excess and exchange/sale ADPE shall be made available for transfer to other Federal agencies in accordance with the provisions of this Part 201–33. Excess auxiliary or accessorial items with a

unit original acquisition cost (OAC) of $1,500 or less shall be made available for transfer to other Federal agencies in accordance with the provisions of FPMR Subpart 101–43.3. Any need for excess ADPE expressed by a Federal agency, including the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations, shall take precedence over disposal, provided such a need is made known to GSA prior to shipment or delivery in case of donation or prior to removal of the property from Government control in case of sale. Outdated ADPE will not be offered by GSA for agency screening; reuse shall be subject to the provisions of § 201–33.012.

3. Section 201–33.011 is amended by revising paragraphs (a), (c), and (d)(6) to read as follows:

§ 201–33.011 Reporting excess or exchange/sale ADPE.

* * * * *

(a) The SF 120 shall be submitted to the above address by the holding agency at least 60 calendar days before the anticipated release date as determined by the holding agency. This report is exempt from reports control in accordance with FRMR Subpart 101–45.6. Excess ADPE in the hands of Government contractors may be reported on an appropriate contractor inventory appended to an SF 120, provided that the reporting format includes an adequate commercial description and other appropriate data required by paragraph (b) of this section.

* * * *

(c) By the time Government-owned ADPE becomes excess to an agency's needs it may be outdated in relation to new technology, or the supplier may no longer produce the equipment or develop and maintain software necessary for the operation of equipment. Accordingly, information such as the availability of software packages, engineering drawings, maintenance manuals and other technical literature relating to Government-owned ADPE shall be included on the SF 120. The SF 120 shall include the notation "Outdated ADPE" when the ADPE meets the definition set forth in § 201–2.001.

(d) * * *

(6) The name and telephone number of the contracting officer. Until this information is received, the equipment will not be entered into exchange/sale screening. Exchange/sale reports received with inadequate screening time (in noncompliance with the 60 day requirement in this § 201–33.011), will be disapproved and entered into screening as excess ADPE. If there is any change to a cash or exchange offer subsequent to the submission of an SF 120, a revised SF 120 indicating the new cash or exchange offer shall be promptly submitted to GSA. Agencies will be advised promptly, in writing, of the date the original or revised SF 120 is received by GSA. Such equipment shall not be sold or exchanged prior to written authorization from GSA. (SF 120 is illustrated in Appendix E of the looseleaf edition of the FIRMR.)

4. Sections 201–33.012 is added to read as follows:

§ 201–33.012 Reuse of outdated ADPE.

(a) Outdated ADPE may be used to satisfy requirements only if it is the lowest overall cost means of fulfilling the Government need, price, and other factors considered over the system/item life. Requesting agencies shall conduct an obsolescence review in accordance with § 201–30.009–2 before they make a request to reuse outdated ADPE including exchange/sale and excess ADPE. GSA will not list outdated ADPE on availability lists. GSA will normally process the SF 120 for excess ADPE that is outdated directly to the GSA regions for surplus disposal after review as provided in paragraph (b) of this section. GSA will review the SF 120 for exchange/sale ADPE that is outdated prior to processing as provided in paragraph (b) of this § 201–33.012.

(b) Agencies may initiate action to request transfer and reuse of outdated ADPE in accordance with the following procedures.

(1) Under certain limited circumstances reuse of outdated ADPE will provide the lowest overall cost solution to satisfying an ADP requirement. When an agency determines it has such a requirement, it shall provide a description of the ADPE and a copy of the obsolescence review to GSA (KMA), Washington, DC 20405. This GSA office will review the justification and either (i) approve the request and advise GSA (KHE) to authorize transfer to the agency as an exception to normal procedures if such equipment is reported or (ii) advise the requesting agency of GSA denial of the reuse. When GSA (KMA) approves the request, GSA (KHE) will hold the request on a "match list" for review against incoming SF 120's and advise the requesting agency. When a match is made, the requesting agency will be authorized to submit an SF 122 to GSA in lieu of surplus disposal or reimbursable sale of the outdated ADPE. Agency requests will expire on the first anniversary of placement on the "match list" unless the requesting agency submits an extension request to GSA (KHE) stating that the equipment is still required. The extension shall expire after six additional months.

(2) If the SF 120 submission is for exchange/sale ADPE is outdated, GSA will notify the agencies on the "match list" of the amount of the exchange reimbursement anticipated to the holding agency. Requesting agencies shall, in response, determine whether the outdated ADPE will still provide the lowest overall cost solution when the reimbursement from the requesting agency to the holding agency is taken into account.

Note.—GSA publishes a listing of outdated ADPE periodically in a FIRMR bulletin published in Appendix B of the looseleaf edition of the FIRMR.

Dated: January 21, 1986.

T.C. Golden,

Administrator of General Services.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 42 and 47

[CGD 86–016]

Combination Load Lines

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: This interim final rule corrects an unintended inequity in the present load line regulations. Some unmanned deck cargo barges which operate in both the Great Lakes and the ocean (dual service) are limited in how deeply the barge may be loaded by two different stability requirements rather than by the use of the geometric freeboard tables applicable to the vast majority of vessels. Currently there is no specified method to display these different stability limitations on barges in ocean service. The current practice is to use a single International (oceans) load line mark corresponding to the ocean stability limitation. This places an unfair burden on these dual service barges because similar barges which operate exclusively on the Great Lakes are allowed to load to a deeper draft during the summer, using the Great Lakes summer load line mark. This interim final rule allows the use of the