

dockets, the FAA has concluded that this rule should be suspended pending action to resolve the problems associated with Docket 86-AWA-13.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Accordingly, pursuant to the authority delegated to me, the effective date of the final rule published on page 15310 of the Federal Register on April 23, 1986, is suspended until further notice.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, DC, on August 5, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-18042 Filed 8-11-86; 8:45 am]

BILLING CODE 4910-13-M

#### DELAWARE RIVER BASIN COMMISSION

##### 18 CFR Part 410

#### Amendment of Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its July 30, 1986 business meeting the Delaware River Basin Commission amended its *Water Code* and *Administrative Manual—Part III Water Quality Regulations* in relation to interstate disinfection requirements. The amendment suspends stream bacterial criteria for Delaware River Zones 2, 3 and 4 (from Trenton to Marcus Hook) for a limited period of time to conduct a

two-year study to determine whether water quality in shellfishing areas can be adequately protected if dischargers in Zones 2-4 are allowed to practice seasonal disinfection.

EFFECTIVE DATE: October 1, 1987.

ADDRESS: Copies of the Commission's *Water Code* and *Administrative Manual—Part III Water Quality Regulations* are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission: Telephone (609) 883-9500.

SUPPLEMENTARY INFORMATION: The Commission held a public hearing on this amendment on July 30, 1986 as noticed in the June 17, 1986 *Federal Register*, Vol. 51, No. 116. At that time, it was believed that related State standards could be revised by October 1, 1986. It has since been determined that applicable Pennsylvania standards cannot be revised in time. Consequently, the study has been rescheduled to begin one year later, October 1, 1987. Based upon testimony received and further deliberation, the Commission has temporarily amended its *Water Code* and *Administrative Manual—Part III Water Quality Regulations*.

#### List of Subjects in 18 CFR Part 410

Water pollution control.

#### PART 410—[AMENDED]

1. The authority citation for 18 CFR Part 410 continues to read as follows:

Authority: Delaware River Basin Compact (75 Stat. 688).

2. The *Water Code* and *Administrative Manual—Part III Water Quality Regulations*, which are referenced in 18 CFR Part 410, are amended by inserting the following new temporary section in section 3.30 to read:

The application of subsections 3.30.2C8, 3.30.3C8, and 3.30.4C8 to all existing dischargers in Zones 2, 3 and 4 is temporarily suspended from October 1, 1987 to April 30, 1988 unless reinstated earlier in whole or in part by order of the Executive Director. This section shall expire on May 1, 1988.

Delaware River Basin Compact, 75 Stat. 688.

Susan M. Weisman,

Secretary.

August 5, 1986.

[FR Doc. 86-18046 Filed 8-11-86; 8:45 am]

BILLING CODE 6360-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

##### 21 CFR Parts 211, 310, and 314

[Docket No. 84N-0311]

#### Adverse Drug Experience Reporting Requirements for Marketed Prescription Drugs Without Approved New Drug or Abbreviated New Drug Applications

##### Correction

In FR Doc. 86-14881 beginning on page 24476 in the issue of Thursday, July 3, 1986, make the following correction: On page 24477, in the second column, in the second complete paragraph, in the eighth line from the bottom, "Poisson" was misspelled.

BILLING CODE 1505-01-M

#### DEPARTMENT OF THE TREASURY

##### 31 CFR Part 16

#### Interim Regulations Governing Prepayment of Loans Made by the Federal Financing Bank and Guaranteed by the Rural Electrification Administration

AGENCY: Department of the Treasury.

ACTION: Interim regulations; request for comments.

SUMMARY: The regulations which follow implement the provisions of the undesignated paragraph relating to the prepayment of loans by rural electric and telephone systems of Chapter I of Title I of the Act entitled "An Act Making Urgent Supplemental Appropriations for the Fiscal Year Ending September 30, 1986, and for Other Purposes" (Pub. L. No. 99-349), enacted July 2, 1986 ("Act"). The Act imposes strict limitations on loans that may be prepaid. The Act specifies that certain loans held by the Federal Financing Bank ("FFB"), a wholly-owned government instrumentality under the supervision of the Secretary of the Treasury, and guaranteed by the Administrator of the Rural Electrification Administration ("REA") could be prepaid by the borrower without payment of any premium otherwise legally due the FFB unless the Secretary of the Treasury determines that such prepayment would have an adverse effect on the operation of the FFB.

DATE: This interim regulation is effective on August 12, 1986. However, before



issuing final regulations, the Department will consider comments submitted by the public. Comments must be received on or before September 11, 1986.

**ADDRESS:** Send comments to the Office of the General Counsel, Department of the Treasury, Room 2026, 15th Street and Pennsylvania Avenue NW., Washington, DC 20220.

**FOR FURTHER INFORMATION CONTACT:** John E. Bowman, Senior Counsel for Finance, Office of the General Counsel, Department of the Treasury, (202) 566-8737.

#### Procedural Requirements

The interim rule is not a major rule for purposes of Executive Order 12291. Any annual effect on the economy or increase in costs for any Federal agency associated with the rule results directly from the Act and not from its implementation by the Department. Moreover, since the Act requires that these regulations be published and effective within 30 days of July 2, 1986, it is impracticable to follow the procedures of the Executive Order pursuant to section 8(a)(2) thereof.

Although public comments are being solicited with respect to this interim rule, the notice and public procedure requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). In addition, because the Act requires that these regulations are to be published and effective within thirty days of July 2, 1986, the Department finds that notice and public procedure thereon are impracticable in accordance with 5 U.S.C. 553(b)(B) and that good cause exists to dispense with the requirement for a delayed effective date in accordance with 5 U.S.C. 553(d)(3). As no notice of proposed rulemaking is required, this interim rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### Paperwork Reduction Act

The requirements to collect information contained in these interim regulations have been reviewed and approved by the Office of Management and Budget pursuant to section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Comments on these requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of the Secretary, Washington, DC 20503, and to the Department of the Treasury at the address previously specified.

Subtitle A of Title 31, Code of Federal Regulations, is amended by adding Part 16 to read as follows:

### **PART 16—REGULATIONS GOVERNING THE PREPAYMENT OF LOANS MADE BY THE FEDERAL FINANCING BANK AND GUARANTEED BY THE RURAL ELECTRIFICATION ADMINISTRATION**

#### **Subpart A—Definitions**

Sec.

16.100 Definitions.

#### **Subpart B—Qualifications for Prepayment**

16.200 General rule.

16.201 Lessening the threat of bankruptcy.

16.202 Substantial savings to customers.

16.203 Adverse effect on the operation of the FFB.

#### **Subpart C—Procedures**

16.300 Certification by the borrower.

16.301 Verification by the Administrator.

16.302 Notification by the Secretary.

16.303 OMB Control Number.

Authority: Title I, Chapter I, Pub. L. 99-349; 31 U.S.C. 321.

#### **Subpart A—Definitions:**

##### **§ 16.100 Definitions.**

In this Part, unless the context indicates otherwise:

(a) "Act" means Chapter I of Title I of the Act entitled "An Act Making Urgent Supplemental Appropriations for the Fiscal Year Ending September 30, 1986, and for Other Purposes" (Pub. L. No. 99-349).

(b) "Administrator" means the Administrator of the Rural Electrification Administration.

(c) "Borrower" means any entity defined in sections 904 or 922 of the Rural Electrification Act of 1936, as amended (7 U.S.C. section 901, *et seq.*), ("React") which had outstanding on July 2, 1986, a loan from the FFB, which loan is guaranteed by the Administrator pursuant to Section 936 of the React.

(d) "Customer" means any person or entity receiving central station electric service or telephone service on a retail basis from a borrower or a member of a borrower.

(e) "FFB" means the Federal Financing Bank.

(f) "Loan" means the entire amount of any obligation, note, bond or other instrument of indebtedness ("Note") of the borrower in favor of the FFB which shall have been outstanding on July 2, 1986. Any Note(s) issued subsequent to the issue date of an original Note in substitution for all or part of the original Note shall, together with the original Note, be deemed one and the same Note.

(g) "Secretary" means the Secretary of the Treasury.

#### **Subpart B—Qualification for Prepayment**

##### **§ 16.200 General rule.**

To qualify for prepayment of a loan pursuant to the Act, (1) a borrower must certify either that prepayment will lessen the threat of bankruptcy to the borrower as described in § 16.201 below, or that prepayment will result in substantial savings to its customers as described in § 16.202 below, and (2) the Secretary must determine that in his opinion prepayment will not adversely affect the operation of the FFB as described in § 16.203 below.

##### **§ 16.201 Lessening the threat of bankruptcy.**

A borrower will be deemed to face a threat of bankruptcy if it is currently unable to meet a substantial portion of its debt service payments to the FFB and other creditors as they fall due in the ordinary course of business or if the borrower may reasonably anticipate, based on cash flow projections, that within the next 6 months it will become unable to pay a substantial portion of its debts as they fall due in the ordinary course of business. To establish that prepayment will lessen the threat of bankruptcy a borrower must show either that prepayment will improve the borrower's cash flow so that the borrower will cease to be unable to pay all or a substantial portion of its debts as they fall due in the ordinary course of business or, if the borrower is participating in a workout plan with its creditors to avoid a probable bankruptcy, that the prepayment will have a significant effect on meeting the objectives of the plan. To be eligible under this provision the borrower must be able to demonstrate that a good faith effort has been made to increase electric or telephone service rates to customers to meet operational and debt service costs. Such efforts would be evidenced by rate filings for increases with State regulatory authorities over the 24 months previous to the application date or increases or evidence of imposition of rate increases by the borrower.

##### **§ 16.202 Substantial savings to customers.**

To establish that prepayment will result in substantial savings to customers, a borrower must show that prepayment will result in an immediate reduction in the annual rates of all customers of a borrower equal to a savings of 25% or more of the total dollar amount which would otherwise be paid during the 12 month period immediately



following the date of prepayment for telephone or electric service by a customer. Such reduction must result solely from lower annual accrued (whether or not paid) interest costs required on the same principal balance of the loan following prepayment to the FFB and refinancing.

**§ 16.203 Adverse effect on the operation of the FFB.**

The FFB was established by Congress expressly to assure the coordination of all Federal and federally assisted borrowing programs with overall Federal fiscal and debt management policies so as to reduce the costs of Federal and federally assisted borrowings from the public and to assure that such borrowings are financed in a manner least disruptive of private financial markets and institutions through the purchase of obligations issued, sold, or guaranteed by Federal agencies (12 U.S.C. 2281 *et seq.*). In part to implement these goals, the policies and guidelines for Federal credit programs set forth in Circular No. A-70 (Revised) of the Office of Management and Budget generally require that borrowings backed by a 100% Federal guarantee be held only by the FFB or another Federal agency, since such fully guaranteed loans are the credit risk equivalent of a Treasury security. Under OMB Circular No. A-70, the Secretary may waive this requirement if he determines that the loans will be financed in a manner that is least disruptive of the private financial markets. OMB Circular No. A-70 generally directs that loans from private lenders should be structured so that the Federal guarantee does not exceed 80% of the amount borrowed.

The Act provides the Secretary with the discretion, in a particular case of a borrower most in need of financial assistance, to permit a prepayment. In determining in the individual case whether prepayment will adversely affect the operation of the FFB, the Secretary will take into consideration the following factors:

(a) Whether a refinancing involves the issuance in the private market of obligations or derivatives of obligations on which the United States guarantees more than 80% of the payments of principal and interest;

(b) Whether a refinancing involves the issuance in the private market or obligations that are transferrable to third parties without the prior written consent of the Secretary subsequent to initial sale or placement in the private market;

(c) The cost to the FFB of prepayment of a loan by the borrower at par,

considering the price the FFB otherwise would be entitled to receive (other than pursuant to the Act).

**Subpart C—Procedures**

**§ 16.300 Certification by the borrower.**

(a) *Lessening the threat of bankruptcy of the borrower.* Any borrower seeking to prepay a loan under this subsection shall submit to the Administrator a written statement certifying to the Secretary that prepayment of the loan will lessen the threat of bankruptcy of the borrower. Such statement shall be signed by the chief executive officer of the borrower and shall include and incorporate by reference the following information:

(1) The loan the borrower wishes to prepay.

(2) A certified resolution of the board of directors of the borrower approving the certification to the Secretary pursuant to this section and approving the request for prepayment of the loan.

(3) A detailed analysis certified by a public accounting firm satisfactory to the Secretary of the borrower's cash flow for the next 6 months showing:

(i) That the borrower is unable to meet a substantial portion of its debt service payments to the FFB and other creditors as they fall due in the ordinary course of business, or that the borrower may reasonably anticipate, based on cash flow projections, that within the next 6 months it will become unable to pay a substantial portion of its debts as they fall due in the ordinary course of business; and

(ii) That prepayment will improve the borrower's cash flow so that either the borrower will cease to be unable to pay all or a substantial portion of its debts as they fall due in the ordinary course of business or the prepayment will have a significant effect on meeting the objectives of a workout plan the borrower is then participating in with its creditors to avoid a probable bankruptcy.

(4) A certified copy of all documents of the borrower which will show a description of rates charged by the borrower to each customer category over the past 24 months and all rate filings during this period and the disposition of each.

(5) A statement of expected costs before and after prepayment/refinancing showing expected principal amortization and interest costs, together with underlying interest rates, actual or assumed. Interest costs under the refinancing should include all fees and commissions for legal, underwriting, servicing, and any other costs incurred as a result of refinancing.

(6) A copy of a firm commitment from a purchaser/lender that includes:

(i) Interest rate commitments,

(ii) The expiration of such interest rate commitments,

(iii) A statement that either the obligations shall not be transferrable or assignable by the purchaser/lender purchasing such obligations to another party under any circumstances without specific written consent of the Secretary or that the obligations may be freely transferrable or assignable only as an undivided pro rata interest in a pool of obligations no more than 80% of which (on a par value basis at any time over the life of the pool) is made up of obligations guaranteed by the Administrator pursuant to the REAct. The remaining obligations making up the pool shall not be guaranteed, collateralized or secured in any manner whatsoever, in whole or in part, directly or indirectly by an obligation of the United States Government or any of its agencies.

(7) A certificate of incumbency for the chief executive officer signing the statement.

(b) *Substantial savings to customers.* Any borrower seeking to prepay a loan under this subsection shall submit to the Administrator a written statement certifying to the Secretary that prepayment of the loan will result in substantial savings to customers of at least 25% on an annual basis. Such statement shall be signed by the chief executive officer of the borrower and shall include and incorporate by reference the following information:

(1) The loan the borrower wishes to prepay.

(2) A certified resolution of the board of directors of the borrower approving the statement to be submitted to the Administrator pursuant to this section and approving the request for prepayment of the loan.

(3) A detailed analysis, certified by a public accounting firm satisfactory to the Secretary, showing that the annual interest savings to the borrower, expressed as a percentage of its total operating revenues (including any patronage capital), during the 12 month period immediately following the date of prepayment shall equal or exceed 25%.

(4) A certified resolution of the board of directors of the borrower approving the lower rate to customers on which the analysis in paragraph (b)(3) of this section is based. If the borrower is subject to regulation by a public utility commission, a copy, certified by the board of directors of the borrower, of the appropriate application to the commission requesting the lower rate.



(5) A statement of expected costs before and after prepayment/refinancing showing expected principal amortization and interest costs, together with underlying interest rates, actual or assumed. Interest costs under the refinancing should include all fees and commissions for legal, underwriting, servicing, and any other costs incurred as a result of refinancing.

(6) A copy of a firm commitment from a purchaser/lender that includes:

(i) Interest rate commitments,  
(ii) The expiration of such interest rate commitments,

(iii) A statement that either the obligations shall not be transferable or assignable by the purchaser/lender purchasing such obligations to another party under any circumstances without specific written consent of the Secretary or that the obligations may be freely transferable or assignable only as an undivided pro rata interest in a pool of obligations no more than 80% of which (on a par value basis at any time over the life of the pool) is made up of obligations guaranteed by the Administrator pursuant to the REAct. The remaining obligations making up the pool shall not be guaranteed, collateralized or secured in any manner whatsoever, in whole or in part, directly or indirectly by an obligation of the United States Government or any of its agencies.

(7) A certificate of incumbency for the chief executive officer signing the statement.

#### **§ 16.301 Verification by the Administrator.**

(a) Upon receipt of a certification described in § 16.300 the Administrator shall review the certification and the accompanying material for accuracy and completeness. If the Administrator finds the certification in order, he shall forward it to the Secretary accompanied by a statement by the Administrator that the certification contains all the information required by § 16.300 above, that any historical data used in the required analysis are accurate and conform to information provided to the REA in accordance with REA filing requirements and that assumptions used in the analysis are reasonable in the opinion of the Administrator. The Administrator shall also affirm to the Secretary that the REA guarantee on amounts loaned or to be advanced by the FFB to the borrower subsequent to July 2, 1986, under a Note which has been prepaid as to the outstanding loan thereunder, shall continue in full force and effect in accordance with the terms of the applicable agreement between REA and the FFB.

(b) In the event that the Administrator is unable to make the findings specified in paragraph (a) of this section, the Administrator shall return the certification to the borrower submitting it and require such additional information as the Administrator determines is necessary to make such findings.

#### **§ 16.302 Notification by the Secretary.**

Upon receipt of the certification of a borrower in accordance with § 16.300 above and the statement of the Administrator required under § 16.301 above, the Secretary shall review the information and shall determine whether prepayment of a loan by the borrower will have an adverse effect on the operation of the FFB, as described above in § 16.203. The Secretary shall notify the borrower and the Administrator whether prepayment will be permitted or denied because of adverse effect on the FFB.

#### **§ 16.303 OMB Control Number.**

The information collection requirements in this part were approved by the Office of Management and Budget under control no. 1505-0094.

Dated: August 7, 1986.

Charles O. Sethness,  
Assistant Secretary of the Treasury  
(Domestic Finance).

[FR Doc. 86-18060 Filed 8-7-86; 2:32 pm]

BILLING CODE 4812-25-M

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[A-1-FRL-3063-2]

#### **Approval and Promulgation of Implementation Plans; Massachusetts; Temporary Sulfur-in-Fuel Revision for the Boston Housing Authority's Mary Ellen McCormick, and Maverick Family Development Facilities in Boston**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is today approving a revision to the Massachusetts State Implementation Plan (SIP) which will allow the Boston Housing Authority's Mary Ellen McCormick and Maverick Family Development facilities in Boston, Massachusetts to increase the sulfur content of their residual fuel oil for up to 30 months. The burning of less expensive, higher sulfur content fuel oil will provide these sources with some of the capital needed to implement

permanent energy conservation measures.

**EFFECTIVE DATE:** August 12, 1986.

**FOR FURTHER INFORMATION CONTACT:** Cynthia L. Greene, (617) 223-5133; (FTS) 223-5133.

**ADDRESSES:** Copies of the Massachusetts submittal, which is incorporated by reference, are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 2313, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC; and the Department of Environmental Quality Engineering, 8th Floor, One Winter Street, Boston, Massachusetts 02108.

**SUPPLEMENTARY INFORMATION:** On February 19, 1986, the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a SIP revision for the Boston Housing Authority's Mary Ellen McCormick and Maverick Family Development facilities, in Boston, Massachusetts. The revision allows the burning of 2.2% sulfur fuel oil in their boilers for 30 months or less. During this time period, the Boston Housing Authority's facilities have committed to implementing permanent energy conservation measures. The facilities will use the savings realized during the temporary (30 months or less) utilization of less expensive 2.2% sulfur fuel oil to defray the costs of implementing the permanent energy conservation measures. The facilities will return to burning 0.5% sulfur fuel oil by February 12, 1989.

#### **Background**

This temporary sulfur-in-fuel revision is being approved pursuant to the provisions of Regulation 310 CMR 7.19, "Interim Sulfur-in-Fuel Limitation for Fossil Fuel Utilization Facilities Pending Energy Conservation Measures." EPA approved the addition of this regulation to the Massachusetts SIP on March 19, 1981, (46 FR 82677). It specifies the requirements and conditions which sources must meet in order to qualify for temporary sulfur-in-fuel relaxations and the procedures which the Massachusetts DEQE must use to determine that the emissions will not violate any National Ambient Air Quality Standards (NAAQS). Only sources rated at less than 250 million Btu per hour heat input, which are currently burning residual fuel oil, and have made a commitment to



either (a) convert to an alternate fuel, or (b) implement conservation measures, are eligible for a temporary sulfur-in-fuel revision not to exceed 30 months. Further details on the requirements of Regulation 310 CMR 7.19 and EPA's reasons for approving it were discussed in a Notice of Proposed Rulemaking (NPR) published on December 16, 1980 (45 FR 82675). In the NPR, EPA also proposed approval of all individual sources that meet the eligibility requirements of this regulation.

#### EPA Evaluation

EPA has determined that the DEQE has approved the Boston Housing Authority's request to burn higher sulfur fuel oil at their Mary Ellen McCormick and Maverick Family Development facilities in accordance with the provisions of Regulation 310 CMR 7.19, and agrees that no air quality standards will be violated by the temporary burning of 2.2% sulfur fuel oil at these facilities. EPA received no comments on its December 16, 1980 (45 FR 82675) proposal to approve individual sources of sulfur-in-fuel relaxations, and DEQE received no comments on its proposed approval of the temporary sulfur-in-fuel relaxation at the Boston Housing Authority facilities in Boston. Since the public has had these other opportunities to comment, and since the Boston Housing Authority's facilities are small sources (each piece of equipment is less than 250 million Btu per hour heat input), EPA is taking final action today to approve this SIP revision without first publishing a new proposed rulemaking. EPA believes that publishing a new NPR is unnecessary. EPA finds good cause for making this action effective immediately because the implementation plan is already in effect under State law and imposes no additional regulatory burden.

#### Final Action

EPA is approving the proposed temporary sulfur-in-fuel relaxation to burn 2.2% sulfur fuel oil for the Boston Housing Authority's Mary Ellen McCormick and Maverick Family Development facilities.

Under 5 U.S.C. section 605(b), the Administrator has certified that this action will not have significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 1986. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Note.—Incorporation by Reference for the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 1, 1986.

Lee M. Thomas,  
Administrator.

Part 52, Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

#### Subpart W—Massachusetts

2. Section 52.1120, paragraph (c)(70) is added as follows:

##### § 52.1120 Identification of plan.

(c) \*\*\*

(70) A revision submitted on February 19, 1986 allowing the burning of 2.2% sulfur content fuel oil at the Boston Housing Authority, Mary Ellen McCormick and Maverick Family Development facilities in Boston, Massachusetts for a period of up to 30 months, commencing on August 12, 1986.

(i) *Incorporation by reference.*

(A) Letters dated August 30, 1985 and July 11, 1985 for the Mary Ellen McCormick and Maverick Family Development Facilities, respectively, from Richard J. Chalpin, Acting Regional Engineer, allowing the temporary use of less expensive 2.2% sulfur fuel oil for 30 months from August 12, 1986; the savings from which will be used to implement permanent energy conservation measures to reduce the on-site consumption of the petroleum products. At the end of the temporary use period, the Boston Housing Authority, Mary Ellen McCormick and Maverick Family Development facilities will return to the use of 0.5% sulfur fuel oil. The particulate emission rate for these facilities will not exceed 0.12 lbs per million BTU.

(B) Statements of Agreement both signed October 28, 1985 by Doris Bunte, Administrator of Boston Housing Authority.

(C) Memorandum from Bruce K. Maillet to S. Russell Sylva dated January 9, 1986, subject: Decision Memo. 2. Section 52.1167, is amended by adding the following source to Table 52.1167 under the entry "310 CMR 7.19" to read as follows:

§ 52.1167 EPA-approved Massachusetts state regulations.

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved section
310 CMR 7.19	Interim sulfur-in-fuel limitations for fossil fuel utilities pending conversion to an alternative fuel or implementation of permanent energy conservation measures.	2/19/86	[Federal Register publication date].	[Federal Register No.]	70	Mary Ellen McCormick and Maverick Family Development facilities in the Boston Housing Authority, Boston to burn 2.2% until [30 months from FR citation].



\* \* \* \* \*

[FR Doc. 86-18084 Filed 8-11-86; 8:45 am]

BILLING CODE 6560-50-M

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Parts 522 and 552

[APD 2800.12 CHGE 29]

#### General Services Administration Acquisition Regulation; Price Adjustment and Allocation of Order Clauses

AGENCY: Office of Acquisition Policy,  
GSA.

ACTION: Final rule.

**SUMMARY:** The General Service Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise the contract clauses at § 552.219-71, Allocation of Orders—Partially Set-Aside Items, and § 552.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear and Option Contracts). The revision to the Allocation of Orders clause clarifies when the splitting of orders will be if the set-aside portion is awarded to a contractor other than the one receiving the award on the corresponding non-set-aside portion. The revisions to the Price Adjustment clauses clarify the applicability of the ceiling to price adjustments when no Service Contract Act wage determination is issued by the Department of Labor (DOL). In addition, revisions to § 522.1006 make the inclusion of a price adjustment clause optional in fixed price service contracts that do not exceed the small purchase limitation. Other minor editorial changes are made in Parts 552 and 552 for clarity. The intended effect is to clarify contract clauses for the benefit of contractors and GSA contracting officers.

**EFFECTIVE DATE:** July 10, 1986.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations, (202) 523-4765.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 19, 1986, the General Services Administration (GSA) published in the Federal Register (51 FR 6012) GSAR Notice 5-98 inviting comments from interested parties on these proposed changes to the regulation and provided a 30-day comment period. No comments were received from the public. Comments from various GSA offices have been reviewed, reconciled,

and incorporated, when appropriate, in this final rule.

##### Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The revisions clarify contract clauses which are already in use throughout the agency. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

##### List of Subjects in 48 CFR Parts 522 and 552.

##### Government procurement.

1. The authority citation for 48 CFR Parts, 522 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

#### PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Section 522.1005 is revised to read as follows:

##### § 522.1005 Clause for contracts of \$2,500 or less.

The contracting officer shall insert the clause at GSAR 552.222-83, Service Contract Act of 1965—Contracts of \$2,500 or less, in solicitations and contracts if the contract amount is expected to be \$2,500 or less and the Service Contract Act of 1965 applies. With respect to blanket purchase agreements and basic ordering agreements, the amount to be compared to the dollar threshold is the total dollar amount of orders reasonably expected to be placed in a 1-year period.

3. Section 522.1006 is revised to read as follows:

##### § 522.1006 Clauses for contracts over \$2,500.

(a) The contracting officer shall insert the clause at GSAR 552.222-84, Service Contract Act of 1965 (as amended), in solicitations and contracts if the contract is subject to the Service Contract Act of 1965 and is (1) expected to exceed \$2,500 or (2) for an indefinite dollar amount and the contracting officer expects the contract amount to exceed \$2,500 during any 12-month period. For blanket purchase agreements and basic ordering agreements, the

amount to be compared to the dollar threshold is the total dollar amount of orders reasonably expected to be placed in a 1-year period.

##### (b) Price-adjustment clauses.

(1) Except as required by paragraph (b)(2) of this section, the contracting officer shall insert the clause at GSAR 552.222-86, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear and Option Contracts) or another clause authorized by FAR 16.203-4 (d) which accomplishes the same purpose, in solicitations and contracts if the contract is expected to be a fixed-price service contract containing the clause at GSAR 552.222-84, Service Contract Act of 1965 (as amended), and is a multiyear contract, or a contract with options to renew that is expected to exceed the small purchase limitation. The clause is optional for small purchases.

(2) The contracting officer shall insert a clause substantially the same as one of the clauses at GSAR 552.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear and Option Contracts) or another clause authorized by FAR 16.203-4 (d) which accomplishes the same purpose, in solicitations and fixed price contracts for building services when the contracts contains the clause at GSAR 552.222-84, Service Contract Act of 1965, and is a multiyear contract or a contract with options to renew that is expected to exceed the small purchase limitation. When it is expected that the contract will be negotiated based on certified cost and pricing data, the clause at GSAR 552.222-86 should be used. The clause is optional for small purchases.

(3) The contracting officer shall insert the clause at GSAR 552.222-85, Fair Labor Standards Act and Service Contract Act—Price Adjustment, in solicitations and contracts if the contract is expected to be a fixed price service contract containing the clause at GSAR 552.222-84, Service Contract Act of 1965 (as amended), that exceeds the small purchase limitation and is not a multiyear contract, or is not a contract with options to renew. The clause is optional for small purchases.

(4) The clauses prescribed in this paragraph GSAR 522.1006(b) cover situations in which revised minimum wage rates are applied to contracts by operation of law, or by revision of a wage determination before: (i) Exercise of a contract option or (ii) extension of a multiyear contract into a new program year. If an economic price adjustment clause is developed under FAR 16.203-4 and included in a solicitation contract,