

[FR Doc. 94-31928 Filed 12-27-94; 8:45 am]
BILLING CODE 6560-60-F

40 CFR Part 721

[OPPTS-50584C; FRL-4738-2]

RIN 2070-AB27

Pyridines; Modification of Significant New Use Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is modifying the significant new use rules (SNURs) promulgated under section 5(a)(2) of the

Toxic Substances Control Act (TSCA) for 16 pyridine chemical substances based on a modification to the 5(e) consent order regulating those substances. The original consent order and SNURs were developed in response to premanufacture notices (PMNs) for these substances.

EFFECTIVE DATE: The effective date of this rule is January 27, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 23, 1991 (56 FR 23766), EPA issued SNURs establishing significant new uses for 16 pyridine substances. Because of the June 16, 1992, modification to the consent order for these substances, which was the basis for the original SNURs, EPA is proposing to modify those SNURs.

The CFR cites which appeared in the final rule (56 FR 23766, May 23, 1991) have been redesignated (58 FR 29946, May 24, 1993). The following table, which is provided for the convenience of the reader, lists the substances by PMN number and provides the redesignated cite as well as the cite which appeared in the final rule.

TABLE 1.—CHEMICALS SUBJECT TO THIS SIGNIFICANT NEW USE RULE
[Publication History]

Chemical	Original CFR Cite	FR ref., Pub. date	Redesignated
P-83-237	40 CFR 721.1858	56 FR 23766, 5/23/91	40 CFR 721.8700
P-83-1162	40 CFR 721.1858	56 FR 23766, 5/23/91	40 CFR 721.8700
P-83-1163	40 CFR 721.1835	56 FR 23766, 5/23/91	40 CFR 721.8675
P-84-1219	40 CFR 721.1845	56 FR 23766, 5/23/91	40 CFR 721.8775
P-85-36	40 CFR 721.1845	56 FR 23766, 5/23/91	40 CFR 721.8775
P-85-216	40 CFR 721.1835	56 FR 23766, 5/23/91	40 CFR 721.8675
P-85-236	40 CFR 721.1845	56 FR 23766, 5/23/91	40 CFR 721.8775
P-85-535	40 CFR 721.1835	56 FR 23766, 5/23/91	40 CFR 721.8675
P-85-536	40 CFR 721.1835	56 FR 23766, 5/23/91	40 CFR 721.8675
P-85-706	40 CFR 721.1845	56 FR 23766, 5/23/91	40 CFR 721.8775
P-85-1184	40 CFR 721.1845	56 FR 23766, 5/23/91	40 CFR 721.8775
P-86-838	40 CFR 721.1840	56 FR 23766, 5/23/91	40 CFR 721.8750
P-88-1271	40 CFR 721.1886	56 FR 23766, 5/23/91	40 CFR 721.8900
P-88-1272	40 CFR 721.1886	56 FR 23766, 5/23/91	40 CFR 721.8900
P-88-1273	40 CFR 721.1883	56 FR 23766, 5/23/91	40 CFR 721.8875
P-88-1274	40 CFR 721.1880	56 FR 23766, 5/23/91	40 CFR 721.8850

I. Background

The Agency proposed the modification of the SNUR for these substances in the Federal Register of June 8, 1993 (58 FR 32222). The background and reasons for the modification of the SNUR are set forth in the preamble to the proposed modification. The Agency received no public comment concerning the proposed modification. As a result EPA is modifying this SNUR.

II. Objectives and Rationale of Modifying Rule

During review of the PMNs submitted for the chemical substances that are the subjects of this modification, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health and environmental effects of the substances, and that the substances may present an unreasonable risk of injury to human health and the environment. EPA identified the tests

necessary to evaluate the risks of the substances. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and SNURs were promulgated for the substances at that time. One provision of the original section 5(e) order and SNUR required treatment of the substances only at the site of manufacture or processing.

In light of the exposure control requirements in the section 5(e) order and these SNURs, the PMN submitter petitioned and EPA determined that this restriction was not necessary to protect human health and the environment. The modified section 5(e) order no longer requires only on-site wastewater treatment. The modification of SNUR provisions for these substances designated herein is consistent with the modification of the section 5(e) order.

III. Rulemaking Record

The record for these rules which EPA is modifying was established at OPPTS-50584. This record includes information

considered by the Agency in developing these rules and includes the modification to the consent order to which the Agency has responded with this final rule.

IV. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically

significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, it has been determined that this proposed rule is not "significant" and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, 2131, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: December 1, 1994.

Joseph A. Carra,
Acting Director, Office of Pollution Prevention
and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. In § 721.8675 by revising paragraphs (a)(1)(i)(D) and (a)(2)(i)(D) to read as follows:

§ 721.8675 Halogenated pyridines.

(a) * * *

(1) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 0.2 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

(2) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 0.2 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

3. In § 721.8700 by revising paragraphs (a)(1)(i)(D) and (a)(2)(i)(D) to read as follows:

§ 721.8700 Halogenated alkyl pyridine.

(a) * * *

(1) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 10 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

(2) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and

(c)(4) (concentration set at 0.2 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

4. In § 721.8750 by revising paragraph (a)(2)(iv) to read as follows:

721.8750 Halogenated substituted pyridines.

(a) * * *

(2) * * *

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 1 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

5. In § 721.8775 by revising paragraphs (a)(1)(i)(D), (a)(2)(i)(D), (a)(3)(i)(D), and (a)(4)(i)(D) to read as follows:

§ 721.8775 Substituted pyridines.

(a) * * *

(1) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 10 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

(2) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 0.2 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

(3) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 10 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar

evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

(4) * * *

(i) * * *

(D) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 1.3 ppb). Where primary, secondary, and tertiary waste treatment will occur or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

6. In § 721.8850 by revising paragraph (a)(2)(iv) to read as follows:

§ 721.8850 Disubstituted halogenated pyridinol.

(a) * * *

(2) * * *

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 44 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

7. In § 721.8875 by revising paragraph (a)(2)(iv) to read as follows:

§ 721.8875 Substituted halogenated pyridinol.

(a) * * *

(2) * * *

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 44 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment.

* * * * *

8. In § 721.8900 by revising paragraphs (a)(2)(iv) to read as follows:

§ 721.8900 Substituted halogenated pyridinol, alkali salt.

(a) * * *

(2) * * *

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (concentration set at 44 ppb). Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where UV light will degrade the substance, the number of

kilograms per day per site is calculated after wastewater treatment.

* * * * *

[FR Doc. 94-31929 Filed 12-27-94; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94-98; RM-8433]

Radio Broadcasting Services; Addison, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 289A to Addison, Alabama, as that community's first local aural transmission service, in response to a petition for rule making filed on behalf of Dorsey Eugene Newman. See 59 FR 47111, September 14, 1994. Coordinates used for Channel 289A at Addison are 34-16-00 and 87-04-00. With this action, the proceeding is terminated.

DATES: Effective: February 6, 1995. The window period for filing applications on Channel 289A at Addison, Alabama, will open on February 6, 1995, and close on March 9, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process for Channel 289A at Addison, Alabama, should be addressed to the Audio Services Division, FM Branch, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94-98, adopted December 13, 1994, and released December 22, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW, Room 246, or 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

Section 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Addison, Channel 289A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94-31874 Filed 12-27-94; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 93-272; RM-8361]

Radio Broadcasting Services; Madrid, Iowa

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Madrid Broadcasting Company, allots Channel 241A to Madrid, Iowa. See 58 FR 58533, November 2, 1993. Channel 241A can be allotted to Madrid, Iowa, in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.5 kilometers (8.4 miles) north to avoid short-spacings to Station KCOB-FM, Channel 240A, Newton, Iowa, and Station KEFM(FM), Channel 241C, Omaha, Nebraska. The coordinates for Channel 241A at Madrid are 41-59-47 and 93-48-52. With this action, this proceeding is terminated.

DATES: Effective: February 6, 1995. The window period for filing applications will open on February 6, 1995, and close on March 9, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93-272, adopted December 14, 1994, and released December 22, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Madrid, Channel 241A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

[FR Doc. 94-31873 Filed 12-27-94; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 94-14; RM-8426; 8471]

Radio Broadcasting Services; Van Wert and Richwood, Ohio

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Van Wert Radio, allots Channel 230A to Van Wert, Ohio, as the community's second local FM broadcast service. See 59 FR 10606, March 7, 1994. At the request of Janice M. Scantland, the Commission also substitutes Channel 282B1 for Channel 282A at Richwood, Ohio, and modifies her outstanding construction permit (BPH-920113MC) to specify the higher class channel. Channel 230A can be allotted to Van Wert with a site restriction of 12.0 kilometers (7.5 miles) east, at coordinates 40-50-54; 84-26-36, to avoid a short-spacing to Station WGLF-FM, Channel 231A, Roanoke, Indiana. Channel 282B1 can be allotted to Richwood with a site restriction of 20.8 kilometers (12.9 miles) west, at coordinates 40-24-41; 83-32-41, to avoid short-spacings to vacant but applied-for Channel 280A, Westerville, Ohio, Station WPAY-FM, Channel 281C, Portsmouth, Ohio, and Station WQKT, Channel 283B, Wooster, Ohio. The Canadian Government has concurred in the allotment of both channels. With this action, this proceeding is terminated.

DATES: Effective: February 6, 1995. The window period for filing applications for Channel 230A at Van Wert, Ohio, will open on February 6, 1995, and close on March 9, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report

and Order, MM Docket No. 94-14, adopted December 13, 1994, and released December 22, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Channel 282A and adding Channel 282B1 at Richwood, and by adding Channel 230A at Van Wert.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94-31876 Filed 12-27-94; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF STATE**Office of the Procurement Executive**

48 CFR Parts 601, 602, 603, 604, 605, 606, 608, 609, 610, 613, 614, 615, 616, 617, 619, 622, 623, 625, 627, 628, 631, 632, 633, 634, 636, 637, 639, 642, 643, 647, 649, 651, 652, 653, and 670

[Public Notice 2120]

RIN 1400-AA31

Department of State Acquisition Regulation (DOSAR)

AGENCY: Office of the Procurement Executive, Department of State.

ACTION: Final rule.

SUMMARY: This rule makes final a proposed rule published for comment on September 16, 1994 (59 FR 47584) amending the Department of State Acquisition Regulation (DOSAR). The final rule also contains miscellaneous amendments and corrections not proposed on September 16, 1994, as outlined below.

EFFECTIVE DATE: December 28, 1994.

FOR FURTHER INFORMATION CONTACT: Gladys Gines, Senior Procurement Analyst, Department of State, Office of the Procurement Executive, 2201 C Street NW, Suite 603, State Annex Number 6, Washington, DC 20522-0602, telephone (703) 516-1691. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:**I. Background**

On September 16, 1994 (59 FR 47584), the Department of State (DOS) proposed amendments to the DOSAR to reflect numerous miscellaneous changes, additions, and deletions dealing with internal or administrative matters. The proposed rule also set forth policies and procedures for implementing procurement integrity requirements, the DOS standardization program, the metric system for DOS procurements, the Governmentwide commercial purchase card, an affirmative procurement program for recovered materials, Defense Base Act insurance requirements, and alternative dispute resolution. Finally, it raised the threshold for major systems acquisitions from \$10,000,000 to \$30,000,000.

Comments were received from an association during the public comment period, which ended on November 15, 1994. The comments were primarily editorial in nature, and most of the comments were incorporated. This rule makes final the amendments, as revised, proposed on September 16.

II. Disposition of Comments

Comments received which were not editorial in nature dealt with the Department's determination to establish a threshold of \$10 million for the public announcement of contract awards by the Office of Legislative Affairs and section 615.413 of the DOSAR authorizing the release of proposals outside the Government for evaluation purposes.

With respect to the first comment, FAR 5.303(a) establishes a threshold of \$3 million for public announcement unless agency regulations specify another dollar threshold. DOSAR 605.303(a) specified a threshold of \$10 million. The commenter stated that the Department's \$10 million threshold defeats a purpose of public announcement of contract awards, i.e., making information available to the taxpayer, Congress, and the companies interested in doing business with the winning contractor. However, we believe that companies interested in doing business with the winning contractor receive most of their information on contract awards through

the *Commerce Business Daily* award synopsis. Since the Department's most visible contracts exceed \$10 million, we believe that the threshold is appropriate.

The commenter questioned the inclusion of DOSAR 615.413 in light of the recently enacted Federal Acquisition Streamlining Act, section 6002, which places restrictions on the use of paying non-Government personnel to evaluate proposals. The commenter is correct; the Act states that the Government must determine that Government personnel with adequate training are not readily available. The commenter suggested that this section of the DOSAR be deferred until the proposed regulations implementing section 6002 are published. The DOSAR, as well as all other agency procurement regulations, will need to be revised when the regulations implementing the Federal Acquisition Streamlining Act are published. In light of this, we prefer to proceed with the implementation of this section, which will be revised, if necessary, along with other sections of the DOSAR to implement the requirements of the Act.

III. Amendments Not Contained in Proposed Rule

The final rule also contains amendments or corrections to the proposed rule. These amendments are a result of several internal changes which have taken place during the comment period. They are as follows: 601.602-3-70(e) (to add language distinguishing ratifications under \$1,000, which was inadvertently omitted from the proposed rule); 601.603-70(a)(1) (to add language allowing the Procurement Executive, or designee, to delegate to a contracting officer, on a case-by-case basis, the authority to award a contract which exceeds the contracting officer's warrant authority); 601.603-70(a)(8) (to add the words "as the HCA" which were inadvertently omitted from the proposed rule); 604.7002(a) (to clarify when options are to be reviewed by A/OPE); 606.101-70 (to add language clarifying that a *Commerce Business Daily* synopsis is not required for domestic leases); 606.302-1 (to delete the language in paragraph (b)(1) of the proposed rule); 606.302-4 (to add language that clarifies that when guard services can only be obtained from the host government, the exemption under FAR 6.302-4, International Agreement, applies); 606.302-6 (to change the language to reflect current clearance points); 606.304(a)(2) (to clarify that the Department Competition Advocate must approve proposed contracts over \$100,000 but not exceeding \$1,000,000 for domestic contracting activities that

do not have a competition advocate. This section also removes the requirement for approvals above the contracting officer for contracts under \$100,000); 610.002-70(c) (to re-arrange the definitions in alphabetical order); 613.505-2 (to allow the use of the OF-206 and OF-206A for overseas contracting activities); 614.201-7-70(c), 615.106-70 and 652.214-71 (to add DOSAR provision 614.214-71, Authorization to Perform. This was a previous DOSAR clause which had been deleted in the proposed rule. It has been decided to re-instate it as a solicitation provision as opposed to a contract clause); 623.302-70 (to clarify that only work which affects the safety/health of post personnel shall be required to comply with the Department's safety/health guidelines); 623.480 (b), (d), (e), (f), (g), (h), and (i) (to add the words "solicitations and" preceding the word "contract"); 628.305, 628.306, and 628.307 (to add the words "or residents" after the words "United States citizens", which was inadvertently omitted from the proposed rule. Section 628.305(d) is also revised to add language pertaining to a recent waiver received from the Department of Labor for certain contract employees); 634.001(c) (to change the \$10,000,000 amount to \$30,000,000 which was inadvertently omitted from the proposed rule); 652.228-71(c) (to clarify that the Department has obtained a waiver from the Department of Labor); 652.232-70 and 652.232-71 (to correct the introductory text as stated in the prescriptions); and, 652.237-71 (to add language as to where contractors may submit packages when overseas). These amendments and corrections do not affect the public, and therefore good cause exists to publish the amendments for effect without first soliciting public comment because prior public comment is unnecessary. The amendments are for the purpose of implementing internal changes.

IV. Impact

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

V. Paperwork Reduction Act

The information collection requirements contained in this rule were approved under the Paperwork Reduction Act of 1980 by OMB, and were assigned control number 1405-0050.

List of Subjects in 48 CFR Parts 601, 602, 603, 604, 605, 606, 608, 609, 610, 613, 614, 615, 616, 617, 619, 622, 623, 625, 627, 628, 631, 632, 633, 634, 636, 637, 639, 642, 643, 647, 649, 651, 652, 653, 670

Government procurement, Department of State Acquisition Regulation (DOSAR).

Accordingly, title 48, chapter 6 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR Parts 601, 602, 603, 604, 605, 606, 608, 609, 613, 614, 615, 616, 617, 619, 622, 623, 625, 628, 632, 633, 634, 636, 637, 642, 643, 652, and 653 is revised to read as follows:

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

SUBCHAPTER A—GENERAL

PART 601—DEPARTMENT OF STATE ACQUISITION REGULATIONS

601.000 [Amended]

2. Section 601.000 is amended by removing the last sentence.

3. A new subpart 601.1, consisting of sections 601.101 and 601.105 is added to read as follows:

Subpart 601.1—Purpose, Authority, Issuance

Sec.

601.101 Purpose.

601.105 OMB approval under the Paperwork Reduction Act.

Subpart 601.1—Purpose, Authority, Issuance

The DOSAR is issued to provide Department guidance in accordance with the policy cited in FAR 1.301(a)(2). The portions of this regulation that affects the relationship between a Department of State organization and a contractor or potential contractor are published in this Chapter 6 of title 48 of the Code of Federal Regulations, in accordance with FAR 1.301(b).

601.105 OMB Approval under the Paperwork Reduction Act.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) requires that Federal agencies obtain approval from the Office of Management and Budget (OMB) before collecting information from ten (10) or more members of the public. The information and recordkeeping requirements contained in this regulation have been approved by OMB under OMB Control Number 1405-0050.

4. Section 601.201-1 is amended by inserting the parenthetical "(A/OPE)" after the phrase "The Office of the Procurement Executive" in the first

sentence; by removing the word "said" and inserting "a" in its place in the second sentence; and by removing the words "The Office of Procurement Executive" and inserting the acronym "A/OPE" in their place in the third sentence.

5. Section 601.301 is revised to read as follows:

601.301 Policy.

(a)(1) The Assistant Secretary of State for Administration is the agency head for the purposes of FAR 1.301 (see Delegation of Authority No. 120 (34 FR 18095, October 30, 1969), as amended by Delegation of Authority No. 120-4 (59 FR 38022, July 26, 1994)). Under Delegation of Authority No. 120-5 (59 FR 62771, December 6, 1994), the Assistant Secretary of State for Administration redelegated to the Procurement Executive the authority to prescribe, promulgate, and amend DOS acquisition policies, rules, and regulations.

(2) The Department's procurement directives system consists of the following components:

(i) The DOSAR;

(ii) Procurement Policy Directives (PPDs), which provide basic policy or procedural guidance and direction. PPDs are issued on an interim basis, and are subsequently incorporated into the next revision of the DOSAR; and

(iii) Procurement Information Bulletins, which provide general information on topics of interest to contracting personnel.

(b) The Department of State Acquisition Regulation (DOSAR) is prescribed under the authority of 22 U.S.C. 2658 and 40 U.S.C. 486(c).

(c) The DOSAR implements and supplements the FAR.

6. Section 601.302 is amended in paragraph (a) by adding the phrase "and leases of real and personal property," after the words "including construction"; removing the comma after the word "construction"; and adding the following phrase to the end of the paragraph: ", or the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292 *et seq.*)".

7. Section 601.303 is amended by revising paragraph (c) to read as follows:

601.303 Publication and codification.

(c) The DOSAR shall be referenced in the same manner as described at FAR 1.104-2(c).

601.403 [Amended]

8. Section 601.403 is amended by removing the second sentence.

601.404 [Amended]

9. Section 601.404 is amended by removing the second sentence.

601.405 [Amended]

10. Section 601.405 is amended by removing the second sentence.

601.470 [Amended]

11. Section 601.470 is amended by removing the second sentence.

601.471 [Amended]

12. Section 601.471 is amended by removing the parenthetical "(see 601.603-70)" in the first sentence of paragraph (a) introductory text; and by revising paragraphs (a)(1) and (b) to read as follows:

601.471 Procedures.

(a) * * *

(1) The nature of the deviation requested, including whether it is an individual or class deviation;

* * * * *

(b) The head of the contracting activity shall also submit all pertinent documentation supporting the request.

* * * * *

13. Section 601.570 is revised to read as follows:

601.570 Rulemaking.

(a) The DOSAR is promulgated and may be revised, as necessary, in accordance with FAR part 1.

(b) The Procurement Executive shall issue all DOS acquisition regulations.

14. Section 601.602-1 is amended in paragraph (a) by removing the word "let" and inserting the word "awarded" in its place; by removing the words "including interagency agreements" and inserting in their place the words "including FAR-covered interagency acquisition agreements" in the first sentence in paragraph (b); and by adding the words "real and" preceding "personal property" in paragraph (b) in the first instance of appearance.

15. Section 601.602-3 is amended by adding at the end of paragraph (b)(1) the words ", e.g., withdrawal of a contracting officer's warrant or a Contracting Officer's Representative delegation or collection action."

16. Section 601.602-3 is further amended by revising paragraph (b)(2) to read as follows; and by adding the following sentence to the end of paragraph (c) as follows:

601.602-3 Ratification of unauthorized commitments.

* * * * *

(b) * * *

(2) The head of the contracting activity is delegated the authority to

serve as the ratifying official for unauthorized contractual commitments not exceeding \$1,000. The head of the contracting activity may refer such actions to the Procurement Executive for ratification if he/she so chooses. All unauthorized commitments in excess of \$1,000 shall be ratified by the Procurement Executive.

* * * * *

(c) * * * However, the contracting officer is encouraged to obtain legal concurrence if there is a question of proprietary or a legal issue.

17. Section 601.602-3-70 is revised to read as follows:

601.602-3-70 Procedures.

(a)(1) The person who made the unauthorized commitment shall submit all records and documents concerning the unauthorized commitment to the contracting officer assigned the ratification action. That person shall provide a complete written, signed statement of the facts, including why normal acquisition procedures were not followed, why and how the vendor was selected, a list of other sources considered, a description of work or products, a statement regarding the status of performance, an estimated or agreed price, certified funding citations, and a statement as to why he/she should not be personally liable for the cost, e.g. a public purpose was served and no personal benefit was received.

(2) When the person who made the unauthorized commitment is no longer available to attest to the circumstances of the unauthorized commitment, an officer from the responsible office shall accomplish the requirements of this paragraph; the statement shall identify the individual responsible for the unauthorized commitment.

(3) In addition, a cognizant management official from the office which employed the individual who made the unauthorized commitment at the time the unauthorized commitment was made shall provide a statement detailing actions that he/she will take to ensure that such commitments will not occur again under the same or similar circumstances.

(b) The contracting officer assigned the ratification action shall prepare and execute a recommendation to the ratifying official. The contracting officer shall either recommend that the ratifying official approve and ratify the unauthorized commitment; or, disapprove the ratification of the unauthorized commitment.

(1) The recommendation shall include the facts and circumstances of the unauthorized commitment; the information prescribed in FAR 1.602-

3(c)(1) and (c)(3) through (c)(6); and a recommendation to the ratifying official as to whether the unauthorized commitment should be ratified.

(2) Following the signature of the contracting officer, the recommendation shall include a statement that the ratifying official could have granted authority to enter into a contractual commitment at the time it was made and still has the authority to do so; that the ratifying official hereby ratifies (or disapproves) the unauthorized commitment in the amount specified; and a date and signature block for the ratifying official.

(c) The information required in paragraph (b)(1) of this section shall be supported by factual findings included or referenced in the recommendation.

(d) The contracting officer shall submit the complete file to the ratifying official. For actions exceeding \$1,000, the file shall be submitted through the head of the contracting activity to the Procurement Executive.

(e) Upon receipt and review of the complete file, if the ratifying official ratifies the unauthorized commitment, the file shall be returned, through the head of the contracting activity if the action exceeds \$1,000, to the contracting officer for issuance of the appropriate contractual document(s). If the request for ratification is not justified, the ratifying official shall return the request to the head of the contracting activity (if over \$1,000) or to the contracting officer if under \$1,000 with a written explanation for the decision and a recommendation for disposition of the action.

(f)(1) When a ratification is approved, the ratifying official shall prepare a letter to the contractor involved in the ratification. The letter shall state the reason(s) why the ratification was approved and provide cautionary language to the contractor regarding future instances of ratification actions.

(2) When a ratification is not approved, the head of the contracting activity shall prepare a letter to the contractor advising that the ratification was not approved. The letter shall cite the reasons for the disapproval.

18. Section 601.603-3 is revised to read as follows:

601.603-3 Appointment.

(a) There is no contracting officer authority conferred upon any DOS employee by virtue of position. The Procurement Executive appoints all DOS contracting officers, in conformance with FAR 1.603-3. The contracting officer shall retain the original copy of the Standard Form 1402, Certificate of Appointment, signed

by the Procurement Executive. Only qualified employees shall be appointed as contracting officers. A/OPE is responsible for providing guidance and oversight in managing such appointments.

(b) Contracting officers shall be appointed in accordance with the Procurement Career Management Guidebook, available from A/OPE.

(c) *Non-Federal employees.* Only United States Government direct-hire employees who are U.S. citizens shall be appointed as contracting officers. Personal services contractors, Foreign Service Nationals, and Third Country Nationals are not eligible for appointment as DOS contracting officers.

19. Section 601.603-70 is revised to read as follows:

601.603-70 Delegations of authority.

(a) *Delegations.* As stated in 601.603-3(a), there is no contracting officer authority conferred by virtue of position. Pursuant to 601.602-1(b), the Procurement Executive has designated the following as contracting activities as defined in FAR 2.101. These authorities are not redelegable. In addition, specific individuals are designated as heads of contracting activities (HCAs) (see FAR 2.101):

(1) *Overseas posts.* Each overseas post shall be regarded as a contracting activity to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies, equipment, publications, and services; to sell personal property; and to lease real property. The Principal Officer, the Administrative Officer, or the Supervisory General Services Officer are designated as HCAs; provided, that he/she has a contracting officer's warrant issued by the Procurement Executive.

The Procurement Executive (or authorized A/OPE staff) may delegate to a contracting officer, on a case-by-case basis, the authority to award a contract or modification which exceeds the contracting officer's warrant level.

(i) No authority is delegated to enter into cost-reimbursement, fixed-price incentive, or fixed-price redeterminable contracts.

(ii) When expressly authorized by a U.S. Government agency which does not have a contracting officer at the post, the officers named in paragraph (a)(1) introductory text of this section may enter into contracts for that agency. Use of this authority is subject to the statutory authority of that agency and any special contract terms or other requirements necessary for compliance with any conditions or limitations applicable to the funds of that agency.

The agency's authorization shall cite the statute(s) and state any special contract terms or other requirements with which the acquisition so authorized must comply. In view of the contracting officer's responsibility for the legal, technical, and administrative sufficiency of contracts, questions regarding the propriety of contracting actions that the post is required to take pursuant to this authority may be referred to the Department for resolution with the headquarters of the agency concerned.

(2) *Office of Foreign Buildings.* The authority to enter into and administer contracts pursuant to the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292 *et seq.*), is delegated to the Deputy Assistant Secretary of State for Foreign Buildings and to the Director for Acquisitions as the HCA.

(3) *Office of Acquisition.* The authority to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies and nonpersonal services is delegated to the Director and Deputy Director as the HCA.

(4) *Foreign Service Institute.* The authority to enter into and administer contracts pursuant to Chapter 7, Title I, of the Foreign Service Act of 1980, as amended (22 U.S.C. 4021 *et seq.*), is delegated to the Director of the Foreign Service Institute, the Executive Director, the Deputy Executive Director, and the Supervisory Contracting Officer as the HCA.

(5) *Office of Foreign Missions.* The authority to enter into and administer contracts pursuant to Title II of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 4301 *et seq.*), is delegated to the Director, Office of Foreign Missions, and the Administrative Officer as the HCA.

(6) *U.S. Mission to the United Nations.* The authority to enter into and administer contracts pursuant to the United Nations Participation Act of 1945, as amended (22 U.S.C. 287), is delegated to the Counselor for Administration as the HCA.

(7) *Moscow Embassy Building Control Office.* The authority to enter into and administer contracts for the planning, design, and construction of the embassy office building in Moscow is delegated to the Director, Moscow Embassy Building Control Office as the HCA.

(8) *Diplomatic Telecommunication Service—Program Office.* The authority to enter into and administer contracts for the leasing or purchase of telecommunications services, circuits, subsystems, and associated professional

services is delegated to the Chief, Acquisition Branch as the HCA.

(9) *Regional Procurement Support Offices.* (i) The authority to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies, equipment, publications, services, execute leases for real property, and to sell personal property on behalf of overseas posts is delegated to each Director, Regional Procurement Support Office (RPSO) as the HCA at the following locations:

(A) RPSO Bonn in conjunction with Embassy Bonn;

(B) RPSO Tokyo in conjunction with Embassy Tokyo;

(C) RPSO Singapore in conjunction with Embassy Singapore; and,

(D) RPSO Miami in conjunction with the Miami Regional Center.

(ii) The RPSOs are under the purview and guidance of A/OPE.

(b) *Other delegations.* Several DOS offices have been delegated limited procurement authority, although they have not been designated as HCAs. Matters requiring HCA resolution are referred to the Office of Acquisition. These delegations are provided only to warranted contracting officers in the respective offices. They are as follows:

(1) *Office of Language Services.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts for interpreting, translating, conference reporting, and related language support and escort services.

(2) *Office of Overseas Schools.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts pursuant to section 29 of the State Department Basic Authorities Act of 1956, as amended.

(3) *Library.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts pursuant to the provisions of the Public Printing and Documents Act of 1968, as amended, and for the acquisition of newspapers, books, maps, and periodicals.

(4) *Office of International Conferences.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts pursuant to section 5, Title I, of the Department of State Basic Authorities Act of 1956, as amended.

(5) *Bureau for Refugee Programs.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts pursuant to the

Migration and Refugee Assistance Act of 1962, as amended, and Executive Order 11077, dated January 22, 1963.

(6) *Bureau of International Narcotics Matters.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13, orders against schedule contracts and personal services contracts pursuant to the Foreign Assistance Act of 1961, as amended; and, 48 CFR Chapter 7, Agency for International Development Acquisition Regulation, including any amendments thereto.

20. Section 601.670 is added to read as follows:

601.670 Procurement Career Management Program.

(a) *Policy.* The Department's Procurement Career Management Program is designed to improve the quality of contracting in the Department through the development and maintenance of professional contracting skills in accordance with the Federal Acquisition Institute's Contract Specialist Workbook and related guidance.

(b) *Procedures.* Details of the Department's Procurement Career Management Program are described in the Department of State Procurement Career Management Guidebook. A/OPE shall provide guidance and oversight.

PART 602—DEFINITIONS OF WORDS AND TERMS

602.101-70 [Amended]

21. In section 602.101-70, the definition of "Consolidated Receiving Point" is amended in the first sentence by removing the words "packing firm employed by" and inserting the words "contractor under contract to" in their place, and by removing the second sentence; the definition of "Despatch Agency" is amended by removing the words "Office of Supply, Transportation and Procurement" and inserting the words "Office of Supply and Transportation" in their place, by removing the word "and" preceding "San Francisco, California", and by adding the words "; and, Seattle, Washington." to the end of the second sentence; and, the definition of "Third Country Procurement" is removed.

Subpart 602.2 (602.201 and 602.201-70) [Removed]

22. Subpart 602.2, consisting of sections 602.201 and 602.201-70, is removed.

PART 603—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

23. Subpart 603.1 is added to read as follows:

Subpart 603.1—Safeguards

Sec.

603.104 Procurement integrity.

603.104-5 Disclosure, protection, and marking of proprietary and source selection information.

603.104-9-70 Certification requirements.

603.104-11 Processing violations or possible violations.

Subpart 603.1—Safeguards

603.104 Procurement integrity.

603.104-5 Disclosure, protection, and marking of proprietary and source selection information

(d)(1) The head of the contracting activity is the agency head's designee for the purposes of FAR 3.104-5(d)(1).

(2) The following classes of persons may be authorized access to proprietary or source selection information by the contracting officer or head of the contracting activity when such access is necessary to the conduct of a procurement:

(i) Clerical personnel directly involved in the procurement;

(ii) Supervisors in the contracting officer's chain of command;

(iii) Contracting personnel involved in reviewing or approving the solicitation, contract, or contract modification; and

(iv) Personnel in the following offices: Office of Small and Disadvantaged Business Utilization (A/SDBU), Office of the Legal Adviser (L/BA), Office of Legislative Affairs, Office of the Inspector General, the Small Business Administration, and the Office of Federal Contract Compliance Programs (Department of Labor).

603.104-9-70 Certification requirements.

(b) Competing contractors are required to complete the "Certificate of Procurement Integrity" and submit it with their bids under IFBs. For RFPs, the apparent successful offeror only need submit the certification. For RFPs, the contracting officer shall contact the apparent successful offeror before award and request that the certificate be submitted within five (5) working days if the certificate was not submitted with the initial proposal. A bid submitted under an IFB that lacks a signed certificate is nonresponsive, and an apparent successful offeror under an RFP who does not submit the required certificate is ineligible for award.

603.104-11 Processing violations or possible violations.

(a) The contract specialist shall report any violation or possible violation of the procurement integrity requirements immediately to the contracting officer and the Office of the Inspector General. The contracting officer shall follow the procedures in FAR 3.104-11 regarding such violations.

603.203 [Amended]

24. Section 603.203 is amended by removing the parenthetical "(see 601.603-70)" in the last sentence.

603.303 [Amended]

25. Section 603.303 is amended by removing the parenthetical "(see 601.603-70)" from the first sentence of paragraph (c).

26. Section 603.601 is added to read as follows:

603.601 Policy.

(a) It is Department policy not to award contracts to Federal employees, or businesses substantially owned or controlled by Federal employees.

27. Section 603.670 is added to read as follows:

603.670 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 652.203-70, Prohibition Against the Use of Federal Employees, in all solicitations and contracts, and the provision at 652.203-71, Certification Regarding Federal Employment, in all solicitations.

28. Subpart 603.7 is added to read as follows:

Subpart 603.7—Voiding and Rescinding Contracts

Sec.

603.704 Policy.**603.705 Procedures.****Subpart 603.7—Voiding and Rescinding Contracts****603.704 Policy.**

The Procurement Executive is the agency head's designee for the purposes of FAR 3.704.

603.705 Procedures.

The Procurement Executive is the agency head's designee for the purposes of FAR 3.705.

PART 604—ADMINISTRATIVE MATTERS

29. Section 603.202 is amended in the first sentence by revising the words "Despatch Office" to read "Despatch Agent"; and, by adding the following sentence to the end of the section:

604.202 Agency distribution requirements.

* * * Copies of contracts and modifications awarded as small business or 8(a) set-asides shall be sent to A/SDBU.

30. Section 604.7002 is amended by revising paragraphs (a) and (b) to read as follows; and, by removing the words "the Office of the Procurement Executive" in paragraph (c) and substituting "A/OPE" in their place:

604.7002 Procedures.

(a) Prior to issuance of a solicitation or a solicitation amendment which constitutes a substantive change, award of a contract, or execution of a contract modification, any of which is estimated to exceed the thresholds indicated below, the contracting officer shall forward the proposed contractual action to A/OPE for review. For contract modifications, the contracting officer shall submit such actions in accordance with 643.102-70(b). Modifications exercising contract options, where the options were part of the original solicitation/contract which was reviewed and approved by A/OPE, are exempt from this review requirement:

(1) For domestic contracting activities, all actions over \$5,000,000. There is no review threshold when the contracting activity's quality assurance plan has been approved by A/OPE;

(2) For overseas posts with contracting officers who have been issued standard name warrants, all actions over \$250,000, with the exception of those actions for local guard services, which require review at \$100,000 and above; and

(3) For overseas posts with contracting officers who have been issued provisional name warrants, all actions over \$100,000.

(4) When calculating the threshold for application of paragraphs (a)(1) through (3) of this section, include the value of the base year plus all option years.

(b) A/OPE shall document the scope and extent of the review and shall submit written recommendations to the contracting officer on each proposed contract action reviewed. In the event the contracting officer and the reviewer cannot reach agreement on the recommendation(s), the contracting officer shall prepare an appeal file to be transmitted to the Procurement Executive. The appeal shall be approved by an individual one management level above the contracting officer prior to its transmission to the Procurement Executive. A resolution shall be worked out between the contracting activity and the Procurement Executive. For purposes of this section, the officer who may transmit the appeal file to the

Procurement Executive shall not be the same individual who will sign the contractual document. For overseas posts, where the contracting officer is the head of the contracting activity, the approval authority shall be the Principal Officer.

* * * * *

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING**PART 605—PUBLICIZING CONTRACT ACTIONS**

31. Section 605.202-70 is amended to add the phrase "and work is performed outside" preceding the words "the United States" in the second sentence of paragraph (a); by revising paragraph (b); by amending paragraph (c)(1) to add the phrase "or other agency" after the words "the requirements office" in the first sentence; by amending paragraph (c)(2) introductory text to remove the parenthetical "(see 601.603-70)"; revising paragraphs (c)(2) (i) and (ii); by revising paragraph (d); and by adding new paragraph (e) to read as follows:

605.202-70 Foreign acquisitions.

* * * * *

(b) *Policy.* Under certain conditions, waiver of the requirement to publish in the CBD notices of proposed procurement actions is necessary for acquisitions by overseas posts when these acquisitions are made from sources outside, and work is performed outside the United States, its possessions and Puerto Rico. This policy is pursuant to 41 U.S.C. 416 *et seq.* and 15 U.S.C. 637 *et seq.* This policy applies only to DOS contracts and any contracts awarded in behalf of other Federal agencies using appropriated funds.

(c) * * *

(2) * * * (i) If the head of the contracting activity determines that publication of a CBD notice is appropriate and reasonable, the notice shall be published in accordance with FAR 5.2.

(ii) If the head of the contracting activity determines that publication of a CBD notice is inappropriate or unreasonable, that official may waive the CBD notice requirements of FAR Subpart 5.1. Delay, due to poor acquisition planning, is not a sufficient reason to waive the CBD notice. This determination shall be in writing and made in consideration of such factors as overseas delivery, installation, maintenance or replacement requirements, special product of performance specifications, and security clearance requirements. The determination and findings shall be

included in the contract file. Competition in such acquisitions, including the use of written solicitations, shall be obtained in all cases to the extent feasible and consistent with FAR Part 6 and DOSAR Part 606. If there are known U.S. firms or firms with U.S. affiliations in local residence capable of supplying the required supplies or services, the contracting activity shall ensure that those firms are included in the source list for the acquisition.

(d) *Policy exclusions.* CBD waiver authority does not apply to guard service contracts that exceed \$250,000. Guard service contracts that exceed \$250,000 shall be synopsisized in the CBD. Option year prices shall be included when computing the applicability of this threshold.

(e) *Limitations.* If the head of the contracting activity waives the CBD synopsis on the basis of urgent or compelling reasons, the acquisition may only fulfill the immediate requirements. Therefore, option periods of performance, or quantities which exceed immediate needs, are not allowable.

32. Section 605.207 is amended by adding a new paragraph (a)(1) to read as follows:

605.207 Preparation and transmittal of synopsis.

(a)(1) Contracting officers at overseas posts shall submit synopses of proposed contract actions to A/OPE for electronic transmittal to the CBD.

33. Subpart 605.3 is added to read as follows:

Subpart 605.3—Synopsis of Contract Awards

605.303 Announcement of contract awards.

(a) Contracting officers shall make information available on awards over \$10 million to the Office of Legislative Affairs in sufficient time for an announcement by 5:00 p.m. Washington, DC time on the day of the award. This requirement applies only to awards made by domestic contracting activities where performance will take place within the United States or its possessions.

34. Section 605.403 is added to read as follows:

605.403 Requests from members of Congress.

(a) The Procurement Executive is the agency head for the purposes of FAR 5.403(a).

35. Section 605.502 is revised to read as follows:

605.502 Authority.

(a) For paid advertisements in newspapers within the United States, the head of the contracting activity is the agency head's designee for the purposes of FAR 5.502(a). For acquisitions by overseas posts necessitating paid advertisements in newspapers outside the United States, the head of the contracting activity is the agency's head's designee for the purposes of FAR 5.502(a). When the head of the contracting activity is the contracting officer for the acquisition, no further approvals are necessary.

PART 606—COMPETITION REQUIREMENTS

36. Section 606.101-70 is amended by revising the second sentence to read as follows:

606.101-70 Foreign acquisitions not synopsisized.

* * * A Commerce Business Daily synopsis is not required for domestic leases, pursuant to 48 CFR 505.202 and 570.202(a).

37. Section 606.302-1 is added to read as follows:

606.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(b)(4) The Procurement Executive is the agency head for the purposes of FAR 6.302-1(b)(4).

38. Section 606.302-4 is added to read as follows:

606.302-4 International agreement.

(b)(2) In accordance with FAR 6.302-4, guard services shall be acquired from the host government only when it is the sole available source.

39. Section 606.302-6 is added to read as follows:

606.302-6 National security.

(b) This subsection applies to all acquisitions involving national security information, regardless of dollar amount. In no case shall information be classified in order to restrict competition. Information may be classified only when its authorized disclosure could be expected to cause damage to national security.

(c) (1) The Chief, Controls Division, Office of Intelligence Liaison, Directorate for Coordination, Bureau of Intelligence and Research, is responsible for reviewing and certifying on any proposed acquisitions derived from or funded or administered by intelligence community agencies that involve sensitive compartmented information and ensuring that the provisions of E.O. 12356 and FAR 6.302-6 have been met.

The Chief, Information Security Programs Division, Office of Information Security Technology, Bureau of Diplomatic Security, is responsible for reviewing and certifying on all other proposed acquisitions funded by the Department of State that involve national security information and ensuring that the provisions of E.O. 12356 and FAR 6.302-6 have been met. When disclosure of the Department's needs through full and open competition would compromise national security, the justification for Other than Full and Open Competition shall include the following specific information:

(i) How national security would be compromised if the Department of State's (or other agencies') needs were disclosed in the Commerce Business Daily;

(ii) Why the CBD synopsis cannot be worded in such a manner that national security would not be compromised;

(iii) Necessity for access to classified information to prepare technical and/or cost proposal and level of security clearance required;

(iv) Necessity for access to classified information to perform the proposed contract and level of security clearance required;

(v) Number and value of contracts that the justification covers; and

(vi) A statement as follows: "I hereby certify that the national security concerns of the referenced acquisition(s) meet the criteria set forth in Executive Order 12356 and FAR 6.302-6".

(2) Any acquisition involving national security information shall be publicized in the Commerce Business Daily unless disclosure of the agency's needs would compromise national security.

(3) The contracting officer is responsible for soliciting offers from as many potential sources as is practicable under the circumstances. However, given the sensitivity required for acquisitions involving national security information, it is expected that requirements offices will work closely with the contracting officer in maximizing competition.

606.303-1 [Amended]

40. Section 606.303-1 is amended by removing the words "the Office of the Procurement Executive" and inserting the acronym "A/OPE" in their place.

41. Section 606.304 is amended by adding new paragraphs (a)(2) and (d) to read as follows:

606.304 Approval of the justification.

(a) (2) The approval authority for a proposed contract over \$100,000 but not exceeding \$1,000,000 for domestic

contracting activities that do not have a competition advocate is the Department Competition Advocate.

(d) The estimated dollar value of all options shall be included in determining the approval level of a justification.

42. Section 606.304-70 is revised to read as follows:

606.304-70 Acquisitions by overseas posts.

The Departmental Competition Advocate is the approval authority for the purposes of FAR 6.304(a)(3). This authority is not redelegable. Any such justification must be transmitted through the Principal Officer at the overseas post.

43. Section 606.370 is added to read as follows:

606.370 Department of State standardization program.

(a) It is the Department's policy to promote full and open competition in all procurement actions. The authority at 41 U.S.C. 253(c)(1) shall be used with respect to standardization when only specified makes and models of equipment will satisfy the Department's needs and only one source is available. This policy applies to all acquisitions involving standardization, regardless of dollar amount.

(b) Contracts awarded under the authority at 41 U.S.C. 253(c)(1) shall be supported by the written justification described in FAR 6.303. The contracting officer, requirements office, procuring activity competition advocate, and the Procurement Executive shall approve all Justifications for Other than Full and Open Competition that cite standardization of technical equipment as justification to restrict competition. The Administrative Officer at each post is the procuring activity competition advocate for that post and the requirements office at post is the embassy functional office responsible for identifying the need to contract.

(c) Procurement of specified makes and models of technical equipment and systems, for which there is only one source of supply, is considered other than full and open competition. Such procurements shall be supported by an approved Justification for Other than Full and Open Competition. The justification shall include the content requirements of FAR 6.303-2. The justification shall also address potential cost savings in areas such as inventory, operations, training, maintenance, repairs, and administrative and management support. Areas of consideration for potential cost savings shall be supported by detailed estimates

as attachments to the justification. Justifications shall specify an effective period, which shall bear a reasonable relationship to the life of the technical equipment. The effective period shall not exceed six years with a review at the end of the first three years. Periodic reviews shall be made during the standardization period to determine whether the standardization should be continued, revised or canceled.

44. Section 606.501 is revised to read as follows:

606.501 Requirement.

(a) The Procurement Executive is the head of the agency for the purposes of FAR 6.501 and designates the Department Competition Advocate.

(b) Contracting activity competition advocates have been designated for A/FBO and A/OPR/ACQ. The Department Competition Advocate is the activity competition advocate for all other domestic contracting activities.

45. Section 606.570 is added to read as follows:

606.570 Solicitation provision.

The contracting officer shall insert the provision at 652.206-70, Competition Advocacy/Ombudsman, in all solicitations over the simplified acquisition limitation.

PART 608—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 608.4 (608.402, 608.402-70)—[Removed]

46. Subpart 608.4, consisting of sections 608.402 and 608.402-70, is removed.

PART 609—CONTRACTOR QUALIFICATIONS

609.202 [Amended]

47. Section 609.202 is amended by removing the parenthetical "(see 601.603-70)".

609.404 [Amended]

48. Section 609.404 is amended by removing the words "The Office of the Procurement Executive" and inserting the acronym "A/OPE" in their place in the first sentence.

49. Section 609.405 is revised to read as follows:

609.405 Effect of listing.

(a) The Procurement Executive is the agency head's designee for the purposes of FAR 9.405(a).

(d) In accordance with a FAR class deviation granted by the Procurement Executive, the following actions apply to actions awarded by DOS contracting activities:

(1) (i) Contracting officers at overseas contracting activities may rely on the debarment certification submitted by bidders/offerors (FAR 52.209-5) as proof of eligibility for award when access to the current "Lists of Parties Excluded from Procurement Programs" is not reasonably available. For contracts which require A/OPE review and approval, the contracting officer should request that A/OPE perform the required review if the list is not available.

(4) (i) For procurement actions (both domestic and overseas) that do not exceed the simplified acquisition limitation, contracting officers need not consult the "List of Parties Excluded from Procurement Programs" prior to award. The list should be consulted whenever the contracting officer has reason to believe that a proposed contractor may appear on the list.

(ii) Contracting officers at domestic contracting activities shall review the "List of Parties Excluded from Procurement Programs", either in hard copy or electronic form, prior to award.

50. Section 609.405-70 is amended by removing paragraph (c); by designating paragraphs (a) and (b) as (b) and (c), respectively; and by designating the introductory paragraph as paragraph (a) and revising it to read as follows:

609.405-70 Termination action decision.

(a) Prior to making a decision to terminate, based on the consideration listed below, the contracting officer shall have the proposed action reviewed and approved by:

- (1) The Office of the Legal Adviser;
- (2) An individual one level above the contracting officer; and
- (3) For overseas posts, A/OPE.

* * * * *

51. Part 610 is added to subchapter B to read as follows:

PART 610—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

Sec.

610.002 Policy

610.002-70 Metric system implementation.

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

610.002 Policy.

610.002-70 Metric system implementation.

(a) *Policy.* The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418) requires Federal agencies to establish implementing guidelines pursuant to metric policy established under Sec. 5164 of the Act to adopt the metric system as the preferred system of weights and measurements for United

States trade and commerce. This subsection establishes the Department of State metric conversion guidelines for transition from the traditional system to the metric system of weights and measurements.

(b) *Applicability.* This subsection applies to all DOS procurements, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

(c) *Definitions.*

Dual systems means the use of both traditional and metric systems. For example, an item is designated, produced and described in inch-pound values with soft metric values also shown for information or comparison.

Hard metric means the use of only standard metric (SI) measurements in specifications, standards, supplies and services.

Hybrid systems means the use of both traditional and hard metric values in specifications, standards, supplies and services. For example, an engine with internal parts in metric dimensions and external fittings or attachments in inch-pound dimensions.

Measurement sensitive means any item whose application or meaning depends substantially on some measured quantity. For example, measurement sensitive items include product or performance criteria and standards binding on others, such as emission levels, size and weight limitations on items in commerce.

Metritication means any act that increases metric system use, including metric training and initiation or conversion of measurement-sensitive processes and systems to the metric system.

Metric system means the International System of Units (Le System International d'Unites (SI)) of the International Bureau of Weights and Measures. The units are listed in Federal Standard 376A, Preferred Metric Units for General Use by the Federal Government.

Soft metric means the result of mathematical conversion of inch-pound measurements to metric equivalents in specifications, standards, supplies and services. The physical dimensions, however, are not changed.

Traditional system of weights and measurements means the predominant weight and measurement system currently used in the United States, also referred to as the "inch-pound system". The traditional system includes such commonly used units as inch, foot, yard, mile, pint, quart, gallon, bushel, ounce (fluid and avoirdupois), pound,

degree Fahrenheit, ampere, candela, and second.

(d) *Procedures.* (1) DOS contracting activities shall implement the metric system in a manner consistent with Pub. L. 100-418.

(2) All DOS contracting activities shall use the metric system in procurement consistent with security, operations, economic, technical, logistical, training and safety requirements.

(3) The Department shall encourage industry to adopt the metric system, by acquiring commercially available metric products and services that meet the Department's needs whenever practical. Toward this end, solicitations for DOS acquisitions shall:

(i) State all measurement sensitive requirements in metric terms whenever possible. Alternatives to hard metric are soft, dual and hybrid metric terms. The Metric Handbook for Federal Officials regarding the selection of proper metric units and symbols is available for the National Technical Information Service (#PB89-226922); and

(ii) Contracting officers shall return all statements of work/specifications that are not expressed in some form of metric terms to the requirements office that prepared the documents, if the contract is expected to exceed \$500,000, unless the requirements office has forwarded to the contracting activity for approval, in a waiver format prescribed by the head of the contracting activity, a justification for the use of non-metric specifications/statements of work. Option year prices shall be considered when computing the \$500,000 threshold.

(4) Waivers are not required when ordering from Federal Supply Schedules, or if the contract is not expected to exceed \$500,000.

(5) Valid justifications for non-metric specifications/word statements include, but are not limited to:

(i) Existing specifications and standards in inch-pound units, unless conversions is necessary or advantageous to the Government. Unnecessary retrofit of existing systems with new metric components shall be avoided if the total cost of the retrofit, including redesign costs, exceeds \$25,000;

(ii) When metric is not the accepted industry system with respect to a business-related activity, soft metric, hybrid or dual system may be used during transition to hard metric; and

(iii) When the use of metric is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

(6) The contracting officer shall review and, if acceptable, approve the waiver prepared by the requirements office prior to the release of a solicitation that incorporates a specification that is not written in some form of metric, if the resultant contract is expected to exceed \$500,000. The waiver shall be placed in the contract file. If the waiver is not approved, the contracting officer shall return it to the requirements office with an explanation.

(7) The Department's direct in-house operating metric conversion costs shall be handled as normal operating expenses rather than as special one time costs or included as a budget line item. However, these costs are to be identified. Identification includes, but is not limited to, the cost of metric aids, tools, equipment, training and increased cost to develop metric specifications. All contracting activities and requirements offices shall maintain a record of any costs and/or savings brought about by metric conversion.

(8) Bulk (loose, unpacked) materials shall be specified and purchased in metric or dual units.

(9) Measuring devices, shop and laboratory equipment shall be purchased in metric or dual units.

(10) Shipping allowances, bills of lading and other shipping documents shall be expressed in metric or dual units.

SUBCHAPTER C—SUBCONTRACTING METHODS AND CONTRACT TYPES

PART 613—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

613.103-70 [Amended]

52. Section 613.103-70 is amended by removing paragraph (a) and removing the paragraph "(b)" designation from paragraph (b).

53. Section 613.505-1 is added to read as follows:

613.505-1 Optional Form (OF) 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services—Continuation.

The OF-347 and OF-348 shall be mandatory for use by domestic contracting activities for issuing simplified acquisitions and delivery orders, unless ordering against another Federal agency contract which stipulates a different form (e.g., DD-1155, Order for Supplies or Services). The OF-347 and OF-348 are the preferred forms for issuing simplified acquisitions and delivery orders by overseas contracting activities; however, use of the OF-206 is authorized until such time that electronic commerce

requires use of the OF-347 or related form. The OF-347 may also be used as a voucher.

54. Section 613.502-2 is revised to read as follows:

613.505-2 Agency order forms in lieu of Optional Forms 347 and 348.

(a) In lieu of the OF-347 and OF-348, DOS overseas contracting activities may use the Optional Form 206, Purchase Order, Receiving Report and Voucher, and Optional Form 206A, Continuation Sheet (illustrated at 653.303-206 and 653.303-206A, respectively).

(b) When using the OF-206, contracting activities may use Optional Form 127, Receiving and Inspection Report (illustrated at 653.303-127), for that purpose.

55. Section 613.505-70 is added to read as follows:

613.505-70 File folders for simplified acquisitions, delivery orders, and blanket purchase agreements.

Contracting officers shall use Forms DST-1918, Purchase Order File; DST-1919, Delivery Order File; and, DST-1920, Blanket Purchase Agreement (BPA) File, to record relevant data and document those purchases, respectively.

56. Section 613.507-70 is amended by adding the following sentence at the end to read as follows:

613.507-70 DOSAR clauses.

* * * The DOSAR clauses may be incorporated without setting out full text.

57. Subpart 613.6-70 is added to read as follows:

Subpart 613.6-70—Governmentwide Commercial Purchase Card Program

613.601-70 Policy.

(a) *Scope.* This subsection sets forth policy for use of the Government purchase card when making small purchases.

(b) *Policy.* It is the Department's policy that:

(1) The purchase card shall be used in preference to other methods of procurement (particularly BPAs) for purchases up to \$2,500;

(2) The purchase card shall be issued primarily to personnel outside of procurement offices to purchase products and services up to ten percent of the small purchase threshold quickly with a minimum of paperwork and without having to send an individual requisition to a procurement office;

(3) The purchase card may be used in procurement offices for purchases up to the small purchase limitation; and,

(4) Open market purchases made with the purchase card shall be from small

business, unless otherwise exempted by the FAR.

(c) *Procedures.* Specific procedures for implementation shall be developed by each contracting activity that wishes to participate in the program. These procedures shall be approved by A/OPE prior to implementation.

Subpart 614—Sealed Bidding

614.201-7-70 [Amended]

58. Section 614.201-7-70 is amended by removing paragraph (a)(1); by redesignating paragraph (a)(2) as paragraph (a); by deleting the clause number "652.214-71" and inserting "652.214-70" in its place paragraph (b); by revising paragraph (c) to read as follows; and by removing paragraph (d):

614.201-7-70 DOSAR contract clauses.

(a) * * *

(b) * * *

(c) When contracting by sealed bidding, the contracting officer shall insert the provision at 652.214-71, Authorization to Perform, in all solicitations for contracts to be awarded or performed overseas.

614.404-1 [Amended]

59. Section 614.404-1 is amended by removing the parenthetical "(see 601.603-70)".

PART 615—CONTRACTING BY NEGOTIATION

615.106-70 [Amended]

60. Section 615.106-70 is amended by removing the phrase "652.214-70, Language Version,"; and by redesignating clause numbers "652.214.71" and "652.214-72" to read "652.214-70" and "652.214-71", respectively.

61. Subparts 615.4 and 615.5 are added to read as follows:

Subpart 615.4—Solicitation and Receipt of Proposals and Quotations

Sec.

615.403 Solicitation mailing lists.

615.404 Presolicitation notices and conferences.

615.406 Preparing requests for proposals (RFP's) and requests for quotations (RFQ's).

615.406-1 Uniform contract format.

615.413 Disclosure and use of information before award.

615.413-2 Alternate II.

Subpart 615.5—Solicitation and Receipt of Proposals and Quotations

615.403 Solicitation mailing lists.

Contracting officers shall release copies of solicitation mailing lists in accordance with FAR 14.205-5(a). However, the list of those firms which

actually submitted proposals is not releasable. Requests for information other than solicitation mailing lists shall be handled by the Department's Office of Freedom of Information.

615.404 Presolicitation notices and conferences.

(c)(1) The Procurement Executive has approved a class deviation from the requirements of FAR 15.404(c)(1). Approval for presolicitation conferences at one level above the contracting officer is not required.

615.406 Preparing requests for proposals (RFP's) and requests for quotations (RFQ's).

615.406-1 Uniform contract format.

(a) The uniform contract format shall be mandatory for all acquisitions outside the United States, its possessions, its territories, and Puerto Rico, with the exception of those contracts listed in FAR 15.406-1(a) (1) through (8), unless a waiver is granted by the Procurement Executive. The Procurement Executive is the agency head's designee for the purposes of FAR 15.406-1(a)(7).

615.413 Disclosure and use of information before award.

615.413-2 Alternate II.

Contracting officers may determine to use the alternate procedures listed in FAR 15.413-2 in cases deemed appropriate. These procedures must be used when releasing proposals outside the Government for evaluation purposes.

(e) Contracting officers shall place the notice specified in FAR 15.413-2(e) on all proposals when using these alternate procedures.

(f) Release of proposals outside the Government is authorized.

(1) The Procurement Executive is the agency head's designee for the purposes of FAR 15.413-2(f)(1).

Subpart 615.5—Unsolicited Proposals

Sec.

615.504 Advance guidance.

615.506 Agency procedures.

Subpart 615.5—Unsolicited Proposals

615.504 Advance guidance.

(a) The contact points for unsolicited proposals are the heads of the contracting activities.

615.506 Agency procedures.

(a) The contact points shall ensure that unsolicited proposals are controlled, evaluated, safeguarded, and disposed of in accordance with FAR Subpart 15.5.

62. Section 615.604 is added to read as follows:

615.604 Responsibilities.

(a) The head of the contracting activity is the agency head's designee for the purposes of FAR 15.604(a).

615.607 [Amended]

63. Section 615.607 is amended by removing the parenthetical "(see 601.603-70)" in the first sentence, and by removing the words "a legal review from" and inserting "the concurrence of" in their place in the second sentence.

615.608 [Amended]

64. Section 615.608 is amended by removing the parenthetical "(see 601.603-70)" in the first sentence.

PART 616—TYPES OF CONTRACTS

65. Section 616.102-70 is revised to read as follows:

616.102-70 Overseas posts.

Pursuant to 601.603-70(a)(1)(i), no authority is delegated to overseas posts to enter into cost-reimbursement, fixed-price incentive, or fixed-price redeterminable contracts, unless the Procurement Executive's approval is obtained. Such requests shall be submitted by the head of the contracting activity on a case-by-case basis.

66. Section 616.203-4 is amended by removing the words "The contracting officer" and inserting "Contracting officers at domestic contracting activities" in their place in the first sentence; and by adding the following sentences:

616.203-4 Contract clauses.

* * * Overseas posts may use the clause at 652.216-71, Price Adjustment, when procuring continuing services (e.g., guard, janitorial, building maintenance, and gardening). Posts shall obtain A/OPE approval for any price adjustment clause that differs from the clause at 652.216-71.

616.301-3 [Amended]

67. Section 616.301-3 is amended by removing the words "and approved at a level above the contracting officer"

68. Section 616.306 is amended by removing the words "without power of redelegation," and by adding the following sentence:

616.306 Cost-plus-fixed-fee contracts.

* * * This authority may be redelegated.

69. Section 616.603-2 is amended by adding the following sentence:

616.603-2 Application.

* * * For cases where the contracting officer is also the head of the contracting activity, the Procurement Executive shall approve the determination and findings.

PART 617—SPECIAL CONTRACTING METHODS

617.102-2 [Amended]

70. Section 617.102-2 is amended by adding the words "unless approved by the Procurement Executive in accordance with DOSAR 617.204(e)." to paragraph (d).

71. Section 617.102-3 is added to read as follows:

617.102-3 Objectives.

(d)(3) The head of the contracting activity is the agency head's designee for the purposes of FAR 17.102-3(d)(3). For those cases where the contracting officer is also the head of the contracting activity, the Procurement Executive shall be the agency head's designee.

72. Section 617.201-70 is amended by revising the definition of "Priced option" to read as follows:

617.201-70 DOSAR definitions.

* * * * *

Price option means an option where the amount for the option is specified in or is reasonably determinable from the terms of the basic contract, as described in FAR 17.207(f) (1) through (5).

* * * * *

73. Section 617.204 is added to read as follows:

617.204 Contracts.

(e) The Procurement Executive shall approve any solicitations or contracts which exceed the five (5) year maximum length for supplies or services.

617.207, 617.207-70 [Removed]

74. Sections 617.207 and 617.207-70 are removed.

617.502 [Amended]

75. Section 617.502 is amended by removing the parenthetical "(see 601.603-70)".

76. Section 617.504-70 is added to read as follows:

617.504-70 Ordering procedures.

(a) Department deputy assistant secretaries are authorized to execute Economy Act IAAs. Department contracting officers also are authorized to execute Economy Act IAAs, as prescribed in FAR 17.504(a).

(b) Department of State form DS-1921, Award/Modification of Interagency Acquisition Agreement

(illustrated in part 653), shall be used for all Economy Act IAAs where the Department is the requesting agency. It shall also be used for Economy Act IAAs where the Department is the servicing agency if the requesting agency does not have a similar form that provides the same information.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 619—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

77. Part 619 is amended by revising the word "Director" to read "Operations Director" wherever it appears in the text; and revising the acronym "OSDBU" to read "A/SDBU" wherever it appears in the text.

619.201 [Amended]

78. Section 619.201 is amended by removing "The Under Secretary for Management" and inserting "The Assistant Secretary of State for Administration" in its place in paragraph (c); by removing "\$25,000" and inserting "the simplified acquisition limitation" in its place in paragraph (d)(5); by removing the semicolon at the end of paragraph (d)(5) after the word "set-asides" and inserting a period in its place; and by adding the following sentences to paragraph (d)(5):

619.201 General policy.

* * * * *

(d) * * * (5) * * * This includes proposed contract modifications for new or additional requirements which do not fall within the original scope of the contract and which exceed the simplified acquisition limitation. This does not include the exercising of contract options;

79. Section 619.501 is added to read as follows:

619.501 General.

(c) Contracting officers shall use Department of State Form DS-1910, Small Business/Labor Surplus Area Review—Actions Above the Small Purchase Limitation, to document set-aside decisions.

80. Section 619.506 is added to read as follows:

619.506 Withdrawing or modifying set asides.

(b) The Procurement Executive shall resolve disagreements between the A/SDBU Operations Director and the contracting officer.

81. Section 619.705-1 is added to read as follows:

619.705-1 General support of the program.

It is the Department's policy to incorporate its current fiscal year goals as negotiated with the SBA into all pertinent Department solicitations, in addition to the standard subcontract clauses. Incorporation of the goals does not require that large business prime contractors must subcontract, but does require that to the extent they plan to subcontract, specific goals be established for doing business with small, small disadvantaged, and women-owned firms. Where funds are available, an incentive clause such as that found in FAR 52.219-10, Incentive Subcontracting Program for Small and Small Disadvantaged Business Concerns, is encouraged.

82. Section 619.705-3 is amended by adding the following sentence:

619.705-3 Preparing the solicitation.

* * * To further promote the use of small, disadvantaged, and women-owned firms by large prime contractors, contracting officers are encouraged to consider the adequacy of the subcontracting plans, and/or past performance in achieving negotiated subcontract goals, as part of the overall evaluation of the technical proposals.

619.705-6-70 [Amended]

83. Section 619.705-6-70 is amended by removing the word "quarterly" wherever it appears in paragraph (b) and inserting the words "annually" and "annual" in its place, respectively.

84. Section 619.708-70 is added to read as follows:

619.708-70 Solicitation provisions and contract clauses.

The contracting officer shall insert a provision substantially the same as the provision at 652.219-70, Department of State Subcontracting Goals, in solicitations whenever the clause at FAR 52.219-9, Small Business and Small Disadvantaged Business Subcontracting Plan, is used.

85. Section 619.801 is revised to read as follows:

619.801 Definitions.

National buy requirements includes all 8(a) contracts performed outside the United States and processed by the Small Business Administration.

86. Sections 619.810 and 619.812 are added to read as follows:

619.810 SBA appeals.

The Procurement Executive is the agency head for the purposes of FAR 19.810.

619.812 Contract administration.

(d) The Procurement Executive is the agency head for the purposes of FAR 19.812(d).

87. Section 619.870 is amended in paragraph (b) by revising the first sentence and by adding a new second sentence to read as follows:

619.870 Acquisition of technical requirements.

(a) * * *

(b) The contracting officer has greater latitude in holding discussions with the concerns solicited under an 8(a) program acquisition if under the \$3 million competitive threshold for 8(a) competition than under a non-8(a) program acquisition. Informal assessments of 8(a) concerns shall be within the parameters of 13 CFR 124.308(g). * * *

PART 622—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

88. Section 622.401 is added to read as follows:

622.401 Definitions.

(b) Apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen and guards. The terms "apprentice" and "trainee" are defined as follows:

(1) *Apprentice* has the same definition as in FAR 22.401(b)(1).

(2) *Trainee* has the same definition as in FAR 22.401(b)(2).

(3) The definition for *helper* as described in FAR 22.401 paragraph (b)(3) of the definition of *Laborers or mechanics* is reserved.

89. Section 622.404-6 is amended by adding a new paragraph (b)(6) to read as follows:

622.404-6 Modifications of wage determinations.

* * * * *

(b)(6) The head of the contracting activity is the agency head's designee for the purposes of FAR 22.404-6(b)(6).

90. Section 622.406-3 is added to read as follows:

622.406-3 Additional Classifications.

(b)(4) FAR 22.406-3 paragraph (b)(4) is reserved.

PART 623—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

91. Subparts 623.3 and 623.4 are added to read as follows:

Subpart 623.3—Hazardous Material Identification and Material Safety Data**623.302-70 Policy.**

Any work which affects the safety and/or health of post personnel, including the handling of hazardous materials, shall comply with the applicable requirements of the Department of State Safety/Health and Environmental Management Resource Guide (6 FAM 606.7). Requirements offices shall ensure that any contractor operations and activities, whether sponsored by the post or other Department organization, are closely coordinated with the Post Occupational Safety and Health Officer during both planning and implementation phases.

Subpart 623.4—Use of Recovered Materials

Sec.

623.470 Affirmative procurement program for recovered materials.

623.471 Purpose.

623.472 Applicability.

623.473 Definitions.

623.474 EPA guidelines.

623.475 Responsibilities.

623.476 Preference programs for guideline items.

623.476-1 Preference program for the purchase of cement and concrete containing fly ash.

623.476-2 Preference program for building insulation products containing recovered materials.

623.476-3 Preference program for lubricating oils containing recovered materials.

623.476-4 Preference program for retread tires.

623.476-5 Preference program for paper and paper products containing recovered materials.

623.477 Promotion program.

623.478 Evaluation and certification.

623.479 Annual review and monitoring.

623.480 Solicitation provisions and contract clauses.

Subpart 623.4—Use of Recovered Materials

623.470* Affirmative procurement program for recovered materials.

623.471 Purpose.

This section establishes the Department of State's Affirmative Procurement Program for Recovered Materials in accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962, Pub. L. 94-580). Section 6002 requires that each agency develop an affirmative procurement plan to assure that items composed of recovered materials will be purchased to the maximum extent practical and which is consistent with Federal procurement law. It requires that preference be given in procurement programs to the purchase of items

containing recycled materials identified in guidelines promulgated by the Environmental Protection Agency (EPA). Executive Order 12780, Federal Agency Recycling and the Council on Federal Recycling and Procurement Policy, directed implementation of cost effective affirmative procurement programs for recycled items.

623.472 Applicability.

The affirmative procurement program is applicable to all domestic acquisition of items currently designated by an EPA guideline or by future guidelines promulgated by EPA. The requirements of this section are not applicable to acquisitions made and/or performed outside the United States or its possessions.

623.473 Definitions.

Affirmative procurement program is a program which ensures that items composed of recovered materials will be purchased to the maximum extent practicable, consistent with Federal procurement law. There are four components to an affirmative procurement program: (1) A preference program; (2) a promotion program; (3) procedures for requiring, obtaining and verifying estimates and certifications of recovered materials content; and, (4) an annual review and monitoring.

Designated item is an item that has been designated in an EPA procurement guideline as an item that is or can be produced using recovered materials whose procurement will advance the purpose of RCRA.

Minimum-content standard is the minimum content of recovered materials that a designated item must contain pursuant to specifications implementing the Department's preference program.

Postconsumer recovered materials are waste materials recovered from retail stores, office buildings, homes, and so forth after they have passed through their end usage as a consumer item. Waste paper includes all items from the first two categories above in addition to forest residues, and manufacturing and other wastes.

Procurement guidelines are guidelines issued by the EPA pursuant to Section 6002 of RCRA: (1) Identifying items that are or can be produced with recovered materials and where procurement will advance the objectives of the Act; and, (2) providing recommended practices for the procurement of such items.

Recovered materials are waste materials and by-products that have been recovered or diverted from solid waste, not including those materials and by-products generated from, and

commonly reused within, an original manufacturing process.

Unreasonable price is the price for products containing recovered materials which exceeds alternatives made with virgin materials by 10 percent or more, and which the requirements office initiating the acquisition substantiates as exorbitant.

623.474 EPA guidelines.

(a) The EPA has published five guidelines that designate the following items that are or can be produced using recovered materials. Accordingly, contracting activities shall procure items produced using recovered materials to the maximum extent possible when procuring these designated items:

- (1) Cement and concrete containing fly ash, 40 CFR part 249;
- (2) Paper and paper products, 40 CFR part 250;
- (3) Lubricating oils, 40 CFR part 252;
- (4) Retread tires, 40 CFR part 253; and,
- (5) Building insulation products, 40 CFR part 248.

(b) Copies of these guidelines, as well as future guidelines promulgated by EPA, may be obtained by calling EPA's Recycled Products Information Clearinghouse at (703) 941-4452.

(c) These guidelines are applicable when the Department purchases more than \$10,000 worth of a designated item, or if the cost of all such items purchased by the Department during the preceding Fiscal Year was \$10,000 or more.

§ 623.475 Responsibilities.

(a) The requirements office initiating an acquisition is responsible for determining whether recovered materials should be included in the specifications. Requirements offices may purchase items subject to the guidelines containing other than recovered materials only if:

- (1) The price of items with recovered materials is unreasonable;
- (2) The requirement for items produced with recovered materials results in inadequate competition or adversely affects small business or the Department's metrication program;
- (3) Obtaining items with recovered materials results in unusual and unreasonable delays; or
- (4) Items produced with recovered materials do not meet all reasonable performance specifications.

(b) If the requirements office chooses to procure designated items that do not contain recovered materials, a written justification must be submitted to the contracting officer.

623.476 Preference programs for guideline items.

623.476-1 Preference program for the purchase of cement and concrete containing fly ash.

Domestic contracts requiring the purchase of cement and concrete shall specify the performance requirements of the products required under the contract using appropriate standards/specifications when available. Consistent with such performance specifications, such contracts shall allow the contractor to deliver cement and concrete products that contain fly ash, a component of coal resulting from its combustion in electrical generating plants. Architects/Engineers shall specify performance requirements for the concrete to be supplied.

623.476-2 Preference program for building insulation products containing recovered materials.

Minimum content standards for building insulation products have been established by EPA guidelines. Domestic contracts for the design of structures that will utilize building insulation products shall require that the Architect/Engineer include, as a design consideration, the Department preference for the use of building insulation produced with recovered materials. Such contracts shall require that the Architect/Engineer specify the type of building insulation products to be supplied and shall require the Architect/Engineer to justify, in writing, the basis of the selected product type if it is not in accordance with the EPA guideline.

623.476-3 Preference program for lubricating oils containing recovered materials.

Contracts requiring the supply of lubricating oils, hydraulic fluids and gear oils shall require that products conform to the EPA guideline.

623.476-4 Preference program for retread tires.

Contracts requiring replacement tires for automobiles, light and heavy trucks and trailers, and off-road tires shall specify that retreading services shall be obtained if the carcass is retreadable. If such retreading services are not practicable, replacement tires shall be procured in accordance with the EPA guideline.

623.476-5 Preference program for paper and paper products containing recovered materials.

(a) All contracts requiring the purchase of paper and paper products shall require that paper and paper products delivered to the Department

meet the EPA guideline for recycled paper.

(b) Contracting officers shall require contractors to use recycled paper when submitting reports and other deliverables to the Department, when feasible.

(c) Contracting officers shall require offerors/bidders to submit proposals/bids on recycled paper, double-sided copying to the maximum extent possible.

623.477 Promotion program.

Items composed of recovered materials shall be purchased under all new domestic contracts to the maximum extent practicable. Contracting officers shall promote the fact that the Department is seeking to buy items containing recovered materials at pre-proposal and pre-bid conferences when appropriate.

623.478 Evaluation and certification.

(a) Contracting officers shall ensure that vendors estimate in their offers/bids the percentage of recovered material of the total content of designated items to be used under the contract.

(b) Contracting officers shall ensure that contractors certify the percentage of recovered materials contained in designated items actually supplied under the contract.

623.479 Annual review and monitoring.

The effectiveness of the preference program shall be reviewed annually by A/OPE. An assessment will be made to determine if greater use of recovered material is possible for the existing requirements or if recovered materials are causing undue delay, lack of competition, unreasonable prices or an unacceptable level of performance.

623.480 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 652.223-70, Estimates of the Total Percentage of Recovered Materials to be Utilized in the Performance of the Contract, in all domestic contracting activity solicitations using recovered materials in the performance of the work.

(b) The contracting officer shall insert the clause at 652.223-71, Certification of Minimum Content Actually Utilized in the Performance of the Contract, in all domestic solicitations and contracts requiring the use of recovered materials.

(c) The contracting officer shall insert the provision at 652.223-72, Use of Double-Sided Copying in the Submission of Bids or Proposals, in all domestic solicitations for supplies or services.

(d) The contracting officer shall insert the clause at 652.223-73, Use of Double-Sided Copying in the Submission of Reports, in all domestic solicitations and contracts for supplies or services.

(e) The contracting officer shall insert the clause at 652.233-74, Use of Fly Ash as a Partial Replacement for Cement and Concrete, in all domestic solicitations and contracts for Architect/Engineer services for the design of structures or works that will use cement and concrete products, unless the requirements office provides a written justification for using virgin materials.

(f) The contracting officer shall insert the clause at 652.223-75, Use of Recovered Materials in Building Insulation Products, in all domestic solicitations and contracts for Architect/Engineer services for the design of structures or works that will utilize or incorporate building insulation products containing recovered materials, unless the program office provides a written justification for using virgin materials.

(g) The contracting officer shall insert the clause at 652.223-76, Use of Lubricating Oils Containing Re-Refined Oils, in all domestic solicitations and contracts that require the delivery of lubricating oils, unless the program office provides a written justification for using virgin materials.

(h) The contracting officer shall insert the clause at 652.223-77, Use of Retread Tires, in all domestic solicitations and contracts that require the replacement of tires for automobiles, light and heavy trucks and trailers, and off-road vehicles, unless the program office provides a written justification for not using retread tires. This clause does not apply to the purchase of original equipment tires.

(i) The contracting officer shall insert the clause at 652.233-78, Use of Recovered Materials in Paper and Paper Products, in all domestic solicitations and contracts that require the delivery of reports or other paper products, unless the program office provides a written justification for the use of virgin materials.

PART 625—FOREIGN ACQUISITION

92. Section 625.102 is revised to read as follows:

625.102 Policy.

(a)(3) The authority to make the determination prescribed in FAR 25.102(a)(3) is delegated, without power of redelegation, to the head of the contracting activity.

(b)(2) The authority to make the determination prescribed in FAR

25.102(b)(2) is delegated, without power of redelegation, to the head of the contracting activity.

625.108 [Amended]

93. Section 625.108 is amended by removing the words "The Office of the Procurement Executive" and inserting the acronym "A/OPE" in their place.

94. Section 625.202 is revised to read as follows:

625.202 Policy.

(a)(2) The authority to make the determination prescribed in FAR 25.202(a)(2) is delegated, without power of redelegation, to the head of the contracting activity.

(b) The authority to make the determination prescribed in FAR 25.202(b) is delegated, without power of redelegation, to the head of the contracting activity.

95. Section 625.203 is added to read as follows:

625.203 Evaluating offers.

The head of the contracting activity is the agency head for the purposes of FAR 25.203 (a) and (b).

625.304 [Amended]

96. Section 625.304 is amended by adding after "activity" the words "without power of redelegation."

97. Section 625.901 is revised to read as follows:

625.901 Omission of examination of records clause.

(a) The Procurement Executive is the agency head for the purposes of FAR 25.901.

(b) Each determination and findings to omit FAR clause 52.215-1, Examination of Records by Comptroller General, shall be prepared in writing by the contracting officer and submitted to the Procurement Executive for approval.

(c) The Procurement Executive shall forward the approved determination and findings to the requesting contracting activity for inclusion in the contract file, or inform the contracting activity in writing if the determination and findings is not approved, as appropriate.

(1)(ii) The report required by FAR 25.901(c)(1)(ii) shall be prepared and forwarded to the Assistant Secretary of State for Administration by the Procurement Executive.

Subpart 625.10 (625.1003)—[Removed]

98. Subpart 625.10, consisting of section 625.1003, is removed.

PART 627—PATENTS, DATA, AND COPYRIGHTS

99. Part 627 is added, to read as follows:

PART 627—PATENTS, DATA, AND COPYRIGHTS**Subpart 627.2—Patents**

Sec.

627.203 Patent indemnification of Government by contractor

627.203-6 Clause for Government waiver of indemnity

Subpart 627.3—Patent Rights Under Government Contracts

627.303 Contract clauses.

627.304 Procedures.

627.304-1 General.

627.304-5 Appeals.

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subpart 627.2—Patents

627.203 Patent indemnification of Government by contractor.

627.203-6 Clause for Government waiver of indemnity.

The Procurement Executive is the agency head's designee for the purposes of FAR 27.203-6.

Subpart 627.3—Patent Rights Under Government Contracts

627.303 Contract clauses.

The Procurement Executive is the agency head's designee for the purposes of FAR 27.303. Determinations issued by the Procurement Executive shall be reviewed by the Office of the Legal Adviser.

627.304 Procedures.

627.304-1 General.

The Procurement Executive is the agency head's designee for the purposes of FAR 27.304-1. Questions regarding fact-finding procedures as specified in FAR 27.304-1(a)(4) shall be referred to A/OPE. Determinations issued by the Procurement Executive shall be reviewed by the Office of the Legal Adviser.

627.304-5 Appeals.

The Procurement Executive is the agency head's designee for the purposes of FAR 27.304-5. Questions regarding the appeals procedure as specified in FAR 27.304-5(b) shall be referred to A/OPE.

PART 628—BONDS AND INSURANCE

100. Part 628 is amended by adding Subparts 628.1, 628.2, and 628.3 to read as follows:

Subpart 628.1—Bonds

628.101 Bid guarantees.

628.101-1 Policy on use.

628.106-6 Furnishing information.

Subpart 628.2—Sureties

628.203 Acceptability of individual surety

628.203-7 Exclusion of individual sureties.

Subpart 628.3—Insurance

628.305 Overseas workers' compensation and war-hazard insurance.

628.306 Insurance under fixed-price contracts.

628.307 Insurance under cost-reimbursement contracts.

628.307-70 Insurance under labor-hour and time-and-materials contracts.

Subpart 628.1—Bonds

628.101 Bid guarantees.

628.101-1 Policy on use.

(c) The Procurement Executive is the agency head's designee for the purposes of FAR 28.101-1(c).

628.106-6 Furnishing information.

(c) The head of the contracting activity is the agency head's designee for the purposes of FAR 28.106-6(c).

Subpart 628.2—Sureties

628.203 Acceptability of individual surety.

(g) Evidence of possible criminal or fraudulent activities by an individual surety shall be referred to the Office of the Inspector General.

628.203-7 Exclusion of individual sureties.

The Procurement Executive is the agency head's designee for the purposes of FAR 28.203-7.

Subpart 628.3—Insurance

628.305 Overseas workers' compensation and war-hazard insurance.

(a) It is the Department's policy that acquisitions for services, including construction but excluding personal services contracts, which require contractor personnel to perform work outside of the United States, shall include the contractual obligation for coverage under the Defense Base Act (42 U.S.C. Sections 1651-1654, as amended). For the purpose of this section only, "contractor personnel" includes individuals who are either:

(1) United States citizens or residents, or

(2) Hired in the United States or its possessions.

(b) The Department of State has entered into a contract with an

insurance broker and carrier to provide Defense Base Act insurance, at a fixed rate for services and construction, to cover DOS contracts which will require performance overseas by United States citizens, residents, or those employed in the United States. In countries where local nationals and/or third country nationals will be employed to perform the contract, such countries may be waived by the Secretary of Labor. Whenever such insurance is required under the contract, the contracting officer shall insert:

(1) The clause at 652.228-71, Worker's Compensation Insurance (Defense Base Act)—Services;

(2) The clause at 652.228-72, Worker's Compensation Insurance (Defense Base Act)—Construction; and,

(3) The clause at 652.228-73, Waiver of Defense Base Act.

(c) Upon award of a contract which requires Defense Base Act insurance, the contracting officer shall notify the successful offeror of the name of the insurance broker from which the contractor should acquire insurance.

(d) The authority to request a waiver from the Secretary of Labor of a particular country, as set forth in FAR 28.305(d), is reserved to the Secretary of State. The Department has obtained blanket waivers from the Secretary of Labor for all contracts for services, including construction, awarded and/or performed overseas. The waivers apply to all individuals who are not employees hired in the United States, or who are not United States citizens or residents.

628.306 Insurance under fixed-price contracts.

(a) The contracting officer shall insert the provision at:

(1) 652.228-74, Defense Base Act Insurance Rates—Limitation—Services, in solicitations for fixed-price service contracts to be performed outside the United States by United States citizens or residents and/or those hired in the United States; or

(2) 652.228-75, Defense Base Act Insurance Rates—Limitation—Construction, in solicitations for fixed-price construction contracts to be performed outside the United States by United States citizens or residents and/or those hired in the United States.

628.307 Insurance under cost-reimbursement contracts.

The contracting officer shall insert the provision at 652.228-76, Defense Base Act Insurance Rates—Limitation—Cost-Reimbursement, in solicitations for cost-reimbursement type contracts to be performed outside the United States by

United States citizens or residents and/or those hired in the United States.

628.307-70 Insurance under labor-hour and time-and-materials contracts.

The contracting officer shall insert the provision at 652.228-77, Defense Base Act Insurance Rates—Limitation—Labor-Hour and Time-and-Material, in solicitations for labor-hour or time-and-material type contracts to be performed outside the United States by United States citizens or residents and/or those hired in the United States.

PART 631—CONTRACT COST PRINCIPLES AND PROCEDURES

101. Part 631 is added to read as follows:

PART 631—CONTRACT COST PRINCIPLES AND PROCEDURES

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subpart 631.1—Applicability

631.101 Objectives.

The Procurement Executive is the agency head's designee for the purposes of FAR 31.101.

PART 632—CONTRACT FINANCING

Subpart 632.1 (632.111, 632.111-70)—[Removed]

102. Subpart 632.1, consisting of sections 632.111 and 632.111-70, is removed.

103. Section 632.402 is amended by designating the existing text as paragraph (c)(1)(iii), and by adding a new paragraph (b) to read as follows:

632.402 General.

(b) Advance payments shall be authorized sparingly. Contracting officers should consider the use of partial payments, fast payments, or more frequent payments as alternatives to advance payments.

* * *

104. Section 632.407 is added to read as follows:

632.407 Interest.

(d) The Procurement Executive is the agency head's designee for the purposes of FAR 32.407(d).

105. Subparts 632.7 and 632.8 are added to read as follows:

Subpart 632.7—Contract Funding

632.703 Contract funding requirements.

632.703-3 Contracts crossing fiscal years.

(a) The State Department Basic Authorities Act of 1956, as amended (22

U.S.C. 2696(e)), allows funds from annual appropriations to extend beyond the fiscal year in which the acquisition was funded. This authority may be used for acquisitions of supplies or services, regardless of dollar amount or contract type. Use of this authority requires that:

(1) The acquisition normally would be considered severable (i.e., the services are repetitive and can be started or stopped any time; would normally be funded and performed within a fiscal year; and are not services integral to the creation of an end product. An example is janitorial services);

(2) The base performance period is twelve months, begins in the current fiscal year, and crosses into the next fiscal year; and,

(3) Full funding for twelve months is available in the current year.

(b) If the acquisition involves more than one source of funds, the contract shall be priced to identify the source of funds (by allotment) with the relevant portion of the total supplies or services. For current Department contracts, bilateral modifications are authorized where necessary to convert to a performance period that crosses fiscal years, as long as the requisite funding is available as described in paragraph (a), and provided that the total contract length does not increase.

(c) Use of this authority shall be documented in the contract file and be included as part of the Advance Acquisition Plan and Price Negotiation Memorandum. If neither document is relevant to the acquisition, the contracting officer shall prepare a written document to the file indicating compliance with this subsection.

(d) For acquisitions conducted by overseas posts that are funded by another agency, the contracting officer shall ensure that funding for the full twelve-month period is available at time of award if the authority in 22 U.S.C. 2696(e) will be used.

Subpart 632.8—Assignment of Claims

632.803 Policies.

(b) The assignment of claims shall be prohibited for all personal services contracts. The assignment of claims shall also be prohibited for all contracts awarded and performed overseas, unless approval is received from the Procurement Executive.

Subpart 632.9—Prompt Payment

106. Section 632.908 is added to read as follows:

632.908 Contract clauses.

(a) The contracting officer may insert a clause substantially the same as the

clause at 652.232-70, Payment Schedule and Invoice Submission (Fixed-Price), in fixed-price type solicitations and contracts.

(b) The contracting officer may insert a clause substantially the same as the clause at 652.232-71, Voucher Submission (cost-Reimbursement), in cost-reimbursement type solicitations and contracts.

PART 633—PROTESTS, DISPUTES AND APPEALS

633.104 [Amended]

107. Section 633.104 is amended by removing the introductory text and the parenthetical "(see 601.603-70)" in the first sentence of paragraph (a)(1); and by revising the phrase "Deputy Assistant Secretary for Information Systems" to read "Deputy Assistant Secretary for Information Management" in the second sentence of paragraph (a)(1).

633.105 [Amended]

108. Section 633.105 is amended by removing the introductory text and by revising the phrase "Deputy Assistant Secretary for Information Systems" to read "Deputy Assistant Secretary for Information Management" in the first sentence of paragraph (a) and the second sentence of paragraph (c).

109. Section 633.214-70 is added to read as follows:

633.214-70 Alternative dispute resolution.

(a) *Policy.* The Department's goal is to resolve contract disputes before the issuance of a contracting officer's final decision under the Contract Disputes Act. Contracting officers shall consider all possible means of reaching a negotiated settlement, consistent with the Government's best interests, before issuing a final decision on a contractor claim under the process outlined in FAR 33.206 through 33.211.

(b) *When to use ADR.* (1) *Factors favoring ADR.* Contracting officers should consider using ADR in those cases where:

- (i) Only facts are in dispute;
- (ii) The facts are clearly not favorable to the Government;
- (iii) The anticipated costs (in time and money) are less than the anticipated costs of litigation;
- (iv) Settlement attempts have reached an impasse;
- (v) ADR techniques have been used successfully in similar situations;
- (vi) There is a need for independent expert analysis; or,
- (vii) The claim has merit but its value is overstated.

(2) *Factors disfavoring ADR.* The following circumstances do not favor use of ADR:

(i) Cases involving disputes controlled by clear legal precedent, making compromise difficult;

(ii) The resolution will have a significant impact on other pending cases or on the future conduct of Department business;

(iii) The dispute is primarily over issues of law;

(iv) A decision of precedential value is needed;

(v) A significant policy question is involved;

(vi) A full public record of the proceeding is important;

(vii) The outcome could significantly involve persons who are not parties to the contract;

(viii) The costs of pursuing an ADR procedure (in time and money) exceed the cost of litigation;

(ix) The nature of the case may cause ADR to be used merely for delay or discovery; or,

(x) The case involves criminal violations.

(3) *Initial action.* Immediately upon receipt of a claim, the contracting officer shall send a letter acknowledging receipt of the claim and soliciting the contractor's views on submitting this claim for ADR. In every dispute, the first step toward resolution shall be unassisted negotiations, in which the parties try to work out the disagreement among themselves. If this fails, before issuing a final decision, the contracting officer shall consult first with the head of the contracting activity, and contact the Office of the Legal Adviser and A/OPE to determine whether the disagreement appears susceptible to resolution by ADR. Consideration shall be given to pursuing additional fact-finding or designating a neutral expert in the disputed issue to provide an advisory opinion.

(c) *Methods of ADR.* If the initial action to resolve the dispute fails, and the contracting officer issues a final decision which is appealed, ADR may still be feasible. The ASBCA issues a notice regarding ADR to all contractors who file appeals under the Contract Disputes Act. This notice describes the following ADR techniques, which contracting officers are urged to discuss with contractors at any time:

(1) *Settlement judge.* A settlement judge is either an administrative judge or hearing examiner who is appointed by the parties in dispute for the purpose of facilitating settlement. The agenda is flexible and based on the specifics of the individual dispute. By holding a frank, in-depth discussion of the strengths and weaknesses of each party's position, the settlement judge may be able to foster a settlement of the dispute. The

settlement judge may meet with the parties jointly or individually, and the settlement judge's recommendations are not binding. Typically, the settlement judge's opinions, based on his or her experience in handling prior disputes, will help the parties realize whether their arguments have merit or not.

(2) *Minitrial.* A minitrial is not an actual trial but rather a flexible, expedited, but structured procedure in which each party presents an abbreviated version of its position both to a neutral advisor (who may be appointed by the ASBCA) and to principals of the parties who have full contractual authority to conclude a settlement. The parties mutually decide on the form of presentation without regard to traditional judicial proceedings or rules of evidence. An advance agreement by the parties specifies the procedure to be followed in making presentations, as well as the role of the neutral advisor. Upon conclusion of the presentations, settlement negotiations are conducted. The neutral advisor may assist the parties in negotiating settlement, including making non-binding recommendations.

(3) *Summary trial with binding decision.* A summary trial with binding decision is a procedure in which the scheduling of an appeal is expedited and the parties try their appeal informally before an administrative judge or panel of judges. The length of the trial and the time for presentation and decision are tailored to the needs of the particular case. Trial procedures and rules applicable to appeals are modified or eliminated to expedite resolution of the appeal. The parties must agree, however, that all decisions, rulings, and orders by the judge(s) are final, conclusive, and not appealable, and may not be set aside, except for fraud. A summary "bench" decision is issued at the conclusion of the trial or a summary written decision will be issued within ten (10) days of either the trial's conclusion or receipt of a trial transcript.

(4) *Mediation.* Mediation is a process in which a neutral and impartial third party assists the Government and the contractor in conflict to negotiate an acceptable settlement of contested issues. The mediator is jointly selected and is asked by the disputing parties to assist them to reach a voluntary agreement. The mediator has no decisionmaking authority and cannot impose a decision. Mediation assistance involves working with the parties to improve their communications, clarify or interpret data, identify key issues to be discussed, design an effective

negotiation process, generate settlement options, or help to identify or formulate areas of agreement. Additional information is available in Army Corps of Engineers IWR Pamphlet 91-ADR-P-3, Mediation, September 1991; and Administrative Conference of the U.S., Mediation: A Primer for Federal Agencies, available from A/OPE.

(5) *Arbitration.* Non-binding arbitration is a process in which a dispute is jointly submitted by the Government and a contractor to an impartial and neutral person or panel who provides a written, non-binding opinion used as a guide for negotiations toward a settlement. Although the Administrative Dispute Resolution Act of 1990 (Pub. L. 101-552) allows agencies to use binding arbitration, the law provides that the agency head may vacate any arbitration award within 30 days after it is served on all parties. For this reason, non-binding arbitration is preferable. Additional information is available in Army Corps of Engineers IWR Pamphlet 91-ADR-P-2, Non-Binding Arbitration, September 1990, available from A/OPE.

(6) *Partnering.* Partnering involves an agreement in principle to share the risks involved in completing a project, and to establish and promote a partnership environment. Partnering itself is not a contractual agreement and it does not create any legally enforceable rights, but instead partnering seeks to create a new cooperative attitude in completing Government contracts. The three basic steps in partnering are:

(i) Establish the new relationship through personal contact among the principals for the Government and the contractor before the work begins;

(ii) Prepare a joint statement of goals establishing common objectives in specific detail for reaching the goals; and,

(iii) Identify specific dispute prevention processes designed to head off problems, evaluate performance, and promote cooperation. Additional information is available in Army Corps of Engineers IWR Pamphlet 91-ADR-P-4, Partnering, December 1991, available from A/OPE.

(d) *ADR procedures.* The ADR method shall be selected voluntarily by both the Government and the contractor. Both parties shall agree on the procedures to be followed, including the agenda and amount of time allowed for each party to present its case. The parties may choose not to have a written transcript or hearing on the record, as this might inhibit settlement. Also, the decision rendered, if any, should not be considered to establish any precedent for future litigation unless the parties

agree otherwise. In cases where the parties agree to pay jointly for a third-party neutral advisor, it is recommended that the parties and the advisor agree on a fair and reasonable price. The Government would then issue a simplified acquisition (if the dollar amount does not exceed the simplified acquisition limitation) for 50% of the agreed price, and the advisor would submit separate invoices (each for 50% of the price) to the Government and the contractor.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 634—MAJOR SYSTEMS ACQUISITION

634.001 [Amended]

110. Section 634.001 is amended by removing "\$10,000,000" and inserting "\$30,000,000" in its place in paragraphs (b) and (c); and by removing the words "agency head" and inserting "Under Secretary for Management" in their place in the first sentence of paragraph (c).

111. Section 634.001-70 is amended by adding the following definition:

634.001-70 Supplemental definitions.

Major Acquisition Program Office (A/IM/MAPO) is located within the Office of Information Management. It has managerial and operational responsibilities relative to all major information resource acquisitions.

112. Section 634.003 is amended by revising paragraph (a) to read as follows; and, by removing the words "The Deputy Assistant Secretary for Operations" and inserting "The Under Secretary for Management" in their place in paragraph (b):

634.003 Responsibilities.

(a) The Procurement Executive is the agency head's designee for the purposes of FAR 34.003(a). Written procedures for acquiring Federal Information Processing (FIP) resources by A/IM/MAPO are contained in the "Source Selection Procedures Guide", issued by that Office.

113. Sections 634.005 and 634.005-6 are added to read as follows:

634.005 General requirements.

634.005-6 Full production.

The Deputy Secretary is the agency head for the purposes of FAR 34.005-6.

PART 636—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

636.101-70 [Amended]

114. Section 636.101-70 is amended by removing the words "are excepted" and inserting the words "may be excepted" in their place.

115. Section 636.602 is revised to read as follows:

636.602 Selection of firms for architect-engineer contracts.

636.602-4 Selection authority.

(a) The final selection decision shall be made as designated by the Deputy Assistant Secretary for Foreign Buildings Operations for acquisitions issued by that office; the Director, Moscow Embassy Buildings Control Office, for Moscow chancery building(s) only; and, the appropriate head of the contracting activity for all other actions.

636.602-5 Short selection processes for contracts not to exceed the simplified acquisition limitation.

The short selection process described in FAR 36.602-5 is authorized for use for contracts not expected to exceed the simplified acquisition limitation.

PART 637—SERVICE CONTRACTING

637.104 [Amended]

116. Section 637.104-70 is amended by adding the words "and the Moscow Embassy Control Office" after "For the Office of Foreign Buildings" in paragraph (f).

117. Section 637.106 is added to read as follows:

637.106 Funding and term of service contracts.

The Department's statutory authority for authorizing contracts for services funded by annual appropriations to be performed in two fiscal years, if the total amount for such contracts is obligated in the earlier fiscal year, is 22 U.S.C. 2696(e). See DOSAR 632.703-3.

118. Section 637.110 is revised to read as follows:

637.110 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 652.237-70, Compensatory Time Off, in personal services contracts awarded in support of International Narcotics Control programs overseas, if the contracting officer determines its use appropriate.

(b) The contracting officer shall insert the clause at 652.237-71, Identification/Building Pass, in all solicitations and contracts where contractor personnel require frequent and continuing access to Department of State facilities.

(c) The contracting officer shall insert a clause substantially the same as the clause at 652.237-72, Observance of Legal Holidays and Administrative Leave, in all solicitations and contracts where contractor personnel will be working on-site in any Department of State facility.

Subpart 637.2 (637.204, 637.204-70, 637.270)—[Removed]

119. Subpart 637.2, consisting of sections 637.204, 637.204-70, and 637.270, is removed.

PART 639—ACQUISITION OF INFORMATION RESOURCES

120. Part 639 is added to read as follows:

PART 639—ACQUISITION OF INFORMATION RESOURCES

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

639.001-70 Policy.

(a) The Assistant Secretary of State for Administration is the Department's Designated Senior Official as defined in the Federal Information Resources Management Regulation (FIRMR) 201-39.201.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 642—CONTRACT ADMINISTRATION

121. Section 642.270 is revised to read as follows:

642.270 Contracting Officer's Representative (COR).

(a) *Scope.* Contracting officers may designate technically qualified personnel as their authorized representatives to assist in the administration of contracts. This section is mandatory for domestic contracting activities and recommended for overseas contracting activities.

(b) *Policy.* It is Department policy that only Department of State employees who have completed adequate training and have the necessary experience and judgment shall be appointed as CORs. This policy shall be reinforced by contracting officers and administered jointly by A/OPE and FSI. Required training shall be funded by the COR's office.

642.271 [amended]

122. Section 642.271 is amended to add the words "a clause substantially the same as" after the word "insert".

PART 643—CONTRACT MODIFICATIONS

123. Section 643.102-70 is amended by revising paragraph (b) to read as follows:

643.102-70 Contract compliance and review.

(a) * * *

(b) Subpart 604.70 prescribes the review requirements for modifying contracts for supplies and services, including construction. The contracting officer shall submit such contract modifications to A/OPE when:

(i) The modification itself exceeds the thresholds established in 604.7002(a);

(ii) The modification will cause the contract to exceed the thresholds established in 604.7002(a); or,

(iii) Any proposed change under the modification results in an increase or decrease exceeding the thresholds in 604.7002(a) in any of the individual cost elements of the existing contract.

PART 647—TRANSPORTATION

124. Part 647 is added to read as follows:

PART 647—TRANSPORTATION

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

647.000 Scope of part.

The FAR and DOSAR do not apply to the acquisition of transportation services via Government bill of lading (GBL) or other similar forms.

PART 649—TERMINATION OF CONTRACTS

125. Part 649 is added to read as follows:

PART 649—TERMINATION OF CONTRACTS**Subpart 649.1—General Principles**

649.106 Fraud or other criminal conduct.

649.111 Review of proposed settlements.

Authority: 40 U.S.C. 485(c); 22 U.S.C. 2658.

Subpart 649.1—General Principles.

649.106 Fraud or other criminal conduct.

If the Termination Contracting Officer (TCO) suspects fraud or other criminal conduct related to the settlement of a terminated contract, the TCO shall discontinue negotiations and report the facts to the Office of the Inspector General.

649.111 Review of proposed settlements.

All proposed termination settlements shall be reviewed and approved by the Office of the Legal Adviser for legal sufficiency. In addition,

(a) All proposed termination settlements from domestic contracting activities shall be approved by the head of the contracting activity; and,

(b) All proposed termination settlements from overseas contracting activities shall be approved by the Procurement Executive.

PART 651—USE OF GOVERNMENT SOURCES BY CONTRACTORS

126. Part 651 is added to read as follows:

PART 651—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subpart 651.70—Contractor Use of Travel Advances, Official Travel Orders, and Government Travel Requisitions**651.701 Policy.**

(a) It is the Department's policy that contractors shall not:

(1) Receive travel advances from the Department for contract-related travel;

(2) Travel under official travel orders; or,

(3) Receive Government Travel Requisitions (GTRs) for transportation.

(b) All contract-related travel shall be performed on the contractor's account with reimbursement provided after submission of a proper voucher.

(c) This policy does not apply to personal services contractor; *provided*, that such contractors are paid through the Department's payroll system and they are subject to the standard payroll deductions of Federal Withholding Tax and FICA. It also does not apply to contracts awarded by the Office of Language Services (A/OPR/LS).

SUBCHAPTER H—CLAUSES AND FORMS**PART 652—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****652.202-70 [Removed]**

127. Section 652.202-70 is removed.

128. Section 652.203-70 is added to read as follows:

652.203-70 Prohibition Against the Use of Federal Employees.

As prescribed in 603.670, insert the following clause:

Prohibition Against the Use of Federal Employees (Dec 1994)

In accordance with Federal Acquisition Regulation 3.601, contracts are not to be awarded to Federal employees or a business concern or other organization owned or substantially owned or controlled by one or more Federal employees. For the purposes of this contract, this prohibition against the use of Federal employees includes any work performed by the contractor or any of its employees, subcontractors, or consultants. (End of clause)

129. Section 652.203-71 is added to read as follows:

652.203-71 Certification Regarding Federal Employment.

As prescribed in 603.670, insert the following provision:

Certification Regarding Federal Employment (Dec 1994)

By submitting an offer, the offeror hereby certifies that it is not owned or substantially owned or controlled by one or more Federal employees.

(End of provision)

130. Section 652.206-70 is added to read as follows:

652.206-70 Competition Advocacy/Ombudsman.

As prescribed in 606.570, insert the following provision:

Competition Advocacy/Ombudsman (Dec 1994)

The Department of State's Competition Advocate is responsible for assisting industry in removing restrictive requirements from Department of State solicitations and removing barriers to full and open competition. If such a solicitation is considered competitively restrictive or does not appear properly conducive to competition and contracting practices, potential offerors are encouraged to first contact the contracting office for the respective solicitation identified elsewhere in this solicitation. If concerns are not adequately addressed, contact the Department of State Competition Advocate on (703) 516-1680, or write to: U.S. Department of State, Competition Advocate, Office of the Procurement Executive, A/OPE/CA, Suite 603, SA-6, Washington, DC 20522-0602.

(End of provision)

614.214-70 [Removed]**652.214-71 [Redesignated as 652.214-70]**

131. Section 652.214-70 is removed; section 652.214-71 is redesignated as 652.214-70, and the date for the clause at redesignated 652.214-70 is revised from "(JUL 1988)" to "(DEC 1994)"

652.214-72 [Redesignated as 652.214-71]

132. Section 652.214-72 is redesignated as 652.214-71; the date for the provision at redesignated 652.214-71 is revised from "(JUL 1988)" to "(DEC 1994)"; the prescription is

revised to read as follows; and, the parenthetical "(End of clause)" is revised to read "(End of provision)":

652.214-71 Authorization to Perform

As prescribed in 614.201-7-70(c), insert the following provisions:

* * * * *

133. Section 652.216-70 is amended by revising the clause to read as follows:

652.216-70 Ordering—Indefinite-Delivery Contracts.

* * * * *

Ordering—Indefinite-Delivery Contracts (Dec 1994)

The Government shall use one of the following forms to issue orders under this contract:

(a) The Optional Form 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule—Continuation; or,

(b) The Optional Form 206, Purchase Order, Receiving Report and Voucher, and Optional Form 206A, Continuation Sheet. (End of clause)

134. Section 652.216-71 is added to read as follows:

652.216-71 Price Adjustment.

As prescribed in 616.203-4, insert a clause substantially the same as follows:

Price Adjustment (Dec 1994)

(a) The contract cost may be adjusted based on increases or decreases in actual costs of direct service labor which result directly from laws enacted and effective during the term of this contract by the [insert name of country] Government.

(b) For the contracting officer to consider any request for adjustment, the contractor shall demonstrate in writing:

(1) That the change in the law occurred subsequent to the award date of the contract; and,

(2) That the change in the law could not have been reasonably anticipated prior to contract award; and,

(3) How the change in the law directly affects the direct cost of direct service labor under the contract.

(c) The contractor shall present documentation that clearly supports any request for adjustment, including the calculation of the amount of adjustment requested. This documentation must identify and provide the appropriate portions of the text of the particular law from which the request is derived.

(d) Any request for adjustment shall be certified by signature by an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

(e) No adjustment shall be made to the contract price that relates to any overhead, fixed costs, profit or fee for the contractor. Only the amount charged to direct service labor cost shall be considered by the Government as basis for contract price adjustments.

(f) No request by the contractor for an adjustment under this clause shall be allowed if asserted after final payment under this contract has been made.

(g) This clause shall only apply to laws enacted by the [insert name of country] Government meeting the criteria set forth above in paragraph (a). No adjustments shall be made due to currency devaluations fluctuations in exchange rates.

(End of clause)

135. Section 652.219-70 is added to read as follows:

652.219-70 Department of State Subcontracting Goals.

As prescribed in 619.708-70, insert a provision substantially the same as follows:

Department of State Subcontracting Goals (Dec 1994)

(a) The offeror shall provide a Small, Small Disadvantaged and Woman-Owned Enterprise Subcontracting Plan that details its approach to selecting and using Small, Small Disadvantaged, and Woman-Owned Business Enterprises as requested by the contracting officer.

(b) For the fiscal year [insert appropriate fiscal year], the Department's subcontracting goals are as follows:

(1) Goal for subcontracting to SB:

(2) Goal for subcontracting to SDB:

(3) Goal for subcontracting to SWB:

(4) Omnibus goals (if applicable):

(i) 10% to minority business

(ii) 10% to small business

(End of provision)

136. Section 652.223-70 is added to read as follows:

652.223-70 Estimates of the Total Percentage of Recovered Materials to be Utilized in the Performance of the Contract.

As prescribed in 623.480(a), insert the following provision:

Estimates of the Total Percentage of Recovered Materials to be Utilized in the Performance of the Contract (Dec 1994)

(a) As required under Section 6002 of the Resource Conservation and Recovery Act, an officer or employee of the offeror shall estimate the total percentage of recovered material to be utilized in the performance of the contract.

(b) I, (insert name of certifier) am an officer employee responsible for the preparation of this offer and hereby estimate the total percentage of recovered material to be utilized in the performance of the contract as follows:

Product	Estimate of total percent of recovered material to be utilized

Product	Estimate of total percent of recovered material to be utilized

(End of provision)

137. Section 652.223-71 is added to read as follows:

652.223-71 Certification of Minimum Content Actually Utilized in the Performance of the Contract.

As prescribed in 623.480(b), insert the following clause:

Certification of Minimum Content Actually Utilized in the Performance of the Contract (Dec 1994)

(a) As required under Section 6002 of the Resource Conservation and Recovery Act, an officer or employee of the contractor shall execute the following certification:

I, (insert name of certifier) am an officer or employee responsible for the performance of this contract and hereby certify the following minimum recovered material content was actually utilized in the performance of this contract:

Product	Percent of minimum recovered material actually utilized

(b) The contractor shall submit this certification by January 31 in each year during the period of performance of this contract. The period of the certification shall cover the preceding calendar year.

Signature of the officer or employee

Typed name of officer or employee

Title

Name of company, firm, or organization

Date

(End of clause)

138. Section 652.223-72 is added to read as follows:

652.223-72 Use of Double-Sided Copying in the Submissions of Bids or Proposals.

As prescribed in 623.480(c), insert the following provision:

Use of Double-Sided Copying in the Submissions of Bids or Proposals (Dec 1994)

(a) For the purposes of this provision, "double-sided copying" means copying two one-sided originals on to the front and back side of one sheet of paper.

(b) Unless otherwise stated in the solicitation, offerors shall use double-sided copying to reproduce all bids or proposals in response to this solicitation.

(End of provision)

139. Section 652.223-73 is added to read as follows:

652.223-73 Use of Double-Sided Copying in the Submission of Reports.

As prescribed in 623.480(d), insert the following clause:

Use of Double-Sided Copying in the Submission of Reports (Dec 1994)

(a) For the purposes of this clause, "double-sided copying" means copying two one-sided originals on to the front and back side of one sheet of paper.

(b) Unless otherwise stated in this contract or otherwise directed by the contracting officer, the contractor shall use double-sided copying to reproduce any progress report,

draft report, of final report produced under this contract.

(End of clause)

140. Section 652.223-74 is added to read as follows:

652.223-74 Use of Fly Ash as a Partial Replacement for Cement and Concrete.

As prescribed in 623.480(e), insert the following clause:

Use of Fly Ash as a Partial Replacement for Cement and Concrete (Dec 1994)

The Architect/Engineer shall specify the performance requirements of the cement and concrete products required under the contract using standard specifications when available. Consistent with such performance specifications, the Architect/Engineer shall specify the use of fly ash, a finely divided residue resulting from the combustion of coal, as a partial replacement for cement and concrete to the maximum extent practicable

in accordance with ANSI/ASTM Standards and all applicable codes.

(End of clause)

141. Section 652.223-75 is added to read as follows:

652.223-75 Use of Recovered Materials in Building Insulation Products.

As prescribed in 623.480(f), insert the following clause:

Use of Recovered Materials in Building Insulation Products (Dec 1994)

(a) This clause applies to building insulation products used in the construction of ceilings, floors, foundations, and walls, and includes blanket, board, spray-in place and loose-fill insulations.

(b) The Department's minimum content standard for recovered material in building insulation products is set forth below.

Material type	Percent by weight
Cellulose loose-fill and spray on	75% post-consumer recovered material.
Perlite composition board	23% post-consumer recovered paper.
Plastic Rigid Foams—polyisocyanurate/polyurethane:	
Rigid foam	9% recovered material.
Foam-in-place	5% recovered material.
Glass fiber reinforced	6% recovered material.
Phenolic rigid foam	5% recovered material.
Rock Wool	75% recovered material.

Note: The minimum content standards are based on the weight of the material (not volume) in the insulating core only.

(c) The Architect/Engineer shall include as a design consideration the Department's preference for the use of building insulation produced with recovered materials. The Architect/Engineer shall specify the type of building insulation products to be supplied, and shall justify in writing the basis of the selected product type if it is listed above, or if any product listed above has a higher minimum content standard than the selected product.

(End of clause)

142. Section 652.223-76 is added to read as follows:

652.223-76 Use of Lubricating Oils Containing Re-Refined Oils.

As prescribed in 623.480(g), insert the following clause:

Use of Lubricating Oils Containing Re-Refined Oils (Dec 1994)

(a) If the contractor is required to supply lubricating oils, hydraulic fluids, or gear oils under this contract, the contractor shall supply products conforming to the listed military specifications as set forth below unless the contracting officer determines that the listed products will not satisfy the Department's needs.

EPA Lubricating Oils Containing Re-Refined Oil

(1) Engine Lubricating Oils

(i) MIL-L-46152 (or current version)—Lubricating Oil Internal Combustion Engine, Administrative Service

(ii) API Engine Service Category SF-1980 Gasoline Engine Warranty Maintenance Service

(iii) API Engine Service Category CC-Diesel Engine Service

(iv) MIL-L-2104D (or current version)—Lubricating Oil Internal Combustion Engine, Tactical Service

(v) API Engine Service Category CD-Diesel Engine Service

(vi) MIL-L-21260D (or current version)—Lubricating Oil Internal Combustion Engine, Preservative and Break-In

(vii) MIL-L-4617 (or current version)—Lubricating Oil, Internal Combustion Engine, Arctic

(2) Hydraulic Fluids

(i) MIL-H-5606 (or current version)—Hydraulic Fluid, Petroleum Base: Aircraft, Missile, and Ordnance

(ii) MIL-H-6083 (or current version)—Hydraulic Fluid, Petroleum Base: Preservation and Operation

(3) Gear Oils

(i) MIL-L-2105d (or current version)—Lubricating Oil, Gear, Multipurpose

(b) Copies of the above specifications may be obtained from: Standardization Document Order Desk, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094.

(c) Any lubricating oils, hydraulic fluids, or gear oils delivered under this contract that conform to the above listed military specifications shall contain a minimum of 25% re-refined oils.

(End of clause)

143. Section 652.223-77 is added to read as follows:

652.223-77 Use of Retread Tires.

As prescribed in 623.480(h), insert the following clause:

Use of Retread Tires (Dec 1994)

(a) If the contractor is required to maintain or replace Government tires under this contract, the contractor shall to the maximum extent practicable obtain retreading services for existing tires, if the carcass is retreadable, from firms identified in the U.S. General Services Administration's Federal Supply Schedule 26 II, Pneumatic Tires.

(b) If such retreading services are not practicable, replacement retread tires shall be procured in accordance with GSA specification ZZ-T-381 for replacement tires.

(End of clause)

144. Section 652.223-78 is added to read as follows:

652.223-78 Use of Recovered Materials in Paper and Paper Products.

As prescribed in 623.480(i), insert the following clause:

Use of Recovered Materials in Paper and Paper Products (Dec 1994)

(a) If the contractor is required under this contract to deliver any of the paper and paper products listed below, all such items delivered shall meet the minimum content standards for recovered materials,

postconsumer recovered materials, or waste paper set forth in paragraph (b).

(1) Recovered materials are defined as waste material and by-products that have been recovered or diverted from solid waste, not including those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(2) Postconsumer recovered materials are defined as waste materials recovered from retail stores, office buildings, homes and so forth after they passed through their end usage as a consumer item.

(3) Waste paper is defined as all items from the first two categories above in addition to forest residues, and manufacturing and other wastes.

(b) Unless otherwise stated in this contract or otherwise directed by the contracting officer, the contractor shall use "High Grade Bleached Printing and Writing Papers" as defined in this clause to produce all progress reports, final reports, and any other products required to be delivered to the Government under this contract.

Minimum Content Standards for Selected Paper and Paper Products

Newsprint

40% minimum postconsumer recovered materials

High Grade Bleached Printing and Writing Papers

Offset printing—50% minimum waste paper

Mimeo and duplicator paper—50% minimum waste paper

Writing (stationery)—50% minimum waste paper

Office paper (e.g., note pads)—50% minimum waste paper

Paper for high speed copiers—50% minimum waste paper

Envelopes—50% minimum waste paper

Form bond including computer paper and carbonless—50% minimum waste paper

Book papers—50% minimum waste paper

Bond papers—50% minimum waste paper

Ledger—50% minimum waste paper

Cover stock—50% minimum waste paper

Cotton fiber papers—25% minimum recovered materials and 50% minimum waste paper

Tissue Products

Toilet tissue—20% minimum postconsumer recovered materials

Paper towels—40% minimum postconsumer recovered materials

Paper napkins—30% minimum postconsumer recovered materials

Facial tissue—5% minimum postconsumer recovered materials

Doilies—40% minimum postconsumer recovered materials

Industrial wipes—0% minimum postconsumer recovered materials

Unbleached Packaging

Corrugated boxes—35% minimum postconsumer recovered materials

Fiber boxes—35% minimum postconsumer recovered materials

Brown papers (e.g., bags)—5% minimum postconsumer recovered materials

Recycled Paperboard

Recycled paperboard products—80% minimum postconsumer recovered materials

Pad backing—90% minimum postconsumer recovered materials

(End of clause)

145. Section 652.228-71 is added to read as follows:

652.228-71 Worker's Compensation Insurance (Defense Base Act)—Services.

As prescribed in 628.305(b)(1), insert the following clause:

Worker's Compensation Insurance (Defense Base Act)—Services (Dec 1994)

(a) This clause supplements FAR 52.228-3.

(b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the Department of State and the Department's DBA insurance carrier unless the contractor has a DBA self-insurance program approved by the Department of Labor. The contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award.

(c) Since the Department of State has secured a waiver of DBA coverage for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(d) The contractor agrees to insert a clause substantially the same as this one in all subcontracts to which the DBA is applicable. Subcontractors shall be required to insert a similar clause in any of their subcontracts subject to the DBA.

(e) The cost of DBA insurance is paid on an annual basis. If the period of performance of this contract extends beyond one year, the Department shall reimburse the contractor for any additional insurance cost on a reimbursable basis through a contract modification.

(f) Should the rates for DBA insurance coverage increase during the performance of this contract, the Department shall reimburse the contractor for the increased cost through a contract modification. In the event the DBA insurance rates decrease during contract performance, the contractor shall reduce the reimbursable cost proportionately.

(End of clause)

146. Section 652.228-72 is added to read as follows:

652.228-72 Worker's Compensation Insurance (Defense Base Act)—Construction

As prescribed in 628.305(b)(2), insert the following clause:

Worker's Compensation Insurance (Defense Base Act)—Construction (Dec. 1994)

(a) This clause supplements FAR 52.228-4.

(b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the Department of State and the Department's DBA insurance carrier unless the contractor has a DBA self-insurance program approved by the Department of Labor. The contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award. The current rate under the Department of State contract is [contracting officer insert current rate] of compensation for construction.

(c) Since the Department of State has secured a waiver of DBA coverage for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(d) The contractor agrees to insert a clause substantially the same as this one in all subcontracts to which the DBA is applicable. Subcontractors shall be required to insert a similar clause in any of their subcontracts subject to the DBA.

(e) Should the rates for DBA insurance coverage increase or decrease during the performance of this contract, the Department shall modify this contract accordingly.

(f) The contractor shall demonstrate to the satisfaction of the contracting officer that the equitable adjustment as a result of the insurance increase or decrease does not include any reserve for such insurance. Adjustment shall not include any overhead, profit, general and administrative expense, etc.

(End of clause)

147. Section 652.228-73 is added to read as follows:

652.228-73 Waiver of the Defense Base Act

As prescribed in 628.305(b)(3), insert the following clause:

Waiver of the Defense Base Act (Dec 1994)

(a) Upon recommendation of the Secretary of State, the Secretary of Labor may waive the applicability of the Defense Base Act with respect to any contract, subcontract, or subordinate contract; work location; or classification of employees.

(b) Either the contractor or the Department of State may request a waiver from coverage. Such a waiver may apply to any employees who are not U.S. citizens, not residents of, or are not hired in the United States. Waivers requested by the contractor shall be submitted to the contracting officer for approval and further submission to the contracting officer for approval and further submission to the Department of Labor. Application for a waiver shall be submitted on Department of Labor Form BEC-565. Where such waivers are granted from coverage under the DBA, the waiver is conditioned on providing other worker's compensation coverage to employees to which the waiver applies. Usually this takes the form of securing worker's compensation

coverage of the country where work will be performed or of the employee's native country, whichever offers greater benefits. Information as to whether a DBA waiver has been obtained by the Department for a particular country may be obtained from the contracting officer.

(End of clause)

148. Section 652.228-74 is added to read as follows:

652.228-74 Defense Base Act Insurance Rates—Limitation—Services.

As prescribed in 628.306(a)(1), insert the following provision:

Defense Base Act Insurance Rates—Limitation—Services (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier to provide DBA insurance to Department of State contractors at a contracted rate. The rates for this insurance are as follows:

Services @ [contracting officer insert current rate] of compensation.

(b) Bidders/Offers should compute the total compensation (direct salary plus differential, but excluding per diem, housing allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance and the cost of DBA insurance in their bid/proposal using the foregoing rate, and insert the totals in the spaces provided. The DBA insurance cost shall be included in the total fixed price. The DBA insurance costs shall be reimbursed directly to the contractor.

(1) Compensation of Covered Employees:

(2) Defense Base Act Insurance Costs:

(3) Total Cost: _____

(c) Bidders/Offers shall include a statement as to whether or not local nationals or third country nationals will be employed on the resultant contract.

(End of provision)

149. Section 652.228-75 is added to read as follows:

652.228-75 Defense Base Act Insurance Rates—Limitation—Construction.

As prescribed in 628.306(a)(2), insert the following provision:

Defense Base Act Insurance Rates—Limitation—Construction (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier to provide DBA insurance to Department of State contractors at a contracted rate. The rates for this insurance are as follows:

Construction @ [contracting officer insert current rate] of compensation.

(b) Bidders/Offers should compute the total compensation (direct salary plus differential, but excluding per diem, housing allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance and the cost of DBA insurance in their bid/proposal using the foregoing rate, and insert the totals in the spaces provided for the base year and each

year thereafter, if applicable. The DBA insurance cost shall be included in the total fixed price. The DBA insurance costs shall be reimbursed directly to the contractor.

(1) Compensation of Covered Employees:

(2) Defense Base Act Insurance Costs:

(3) Total Cost: _____

(End of provision)

150. Section 652.228-76 is added to read as follows:

652.228-76 Defense Base Act Insurance Rates—Limitation—Cost-Reimbursement.

As prescribed in 628.307, insert the following provision:

Defense Base Act Insurance Rates—Limitation—Cost-Reimbursement (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier for Defense Base Act (DBA) insurance which applies to all contracts entered into by the Department which requires DBA insurance coverage. In preparing the cost proposal, the offeror shall use the following rates in computing the cost for such insurance:

Services—[contracting officer insert current rate] of compensation (direct salary plus differential but excluding per diem, housing allowance, education allowance, and miscellaneous allowances); and

(2) Construction—[contracting officer insert current rate] of compensation.

(b) These rates apply to all job classifications in those particular categories. The successful offeror shall be advised of the name and address of the insurance broker who will process the DBA insurance coverage.

(c) Should an offeror compute or include higher DBA insurance rates, the rates shall be disallowed.

(d) Offerors shall include in their proposals a statement as to whether or not local nationals or third country nationals are proposed on this contract.

(End of provision)

151. Section 652.228-77 is added to read as follows:

652.228-77 Defense Base Act Insurance Rates—Limitation—Labor-Hour and Time-and-Materials.

As prescribed in 628.307-70, insert the following provision:

Defense Base Act Insurance Rates—Limitation—Labor-Hour and Time-and-Materials (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier for Defense Base Act (DBA) insurance which applies to all contracts entered into by the Department which requires DBA insurance coverage. In preparing the cost proposal, the offeror shall use the following rates in computing the cost for such insurance:

(1) Services—[contracting officer insert current rate] of compensation (direct salary plus differential but excluding per diem, housing allowance, education allowance, and miscellaneous allowances); and

(2) Construction—[contracting officer insert current rate] of compensation.

(b) These rates apply to all job classifications in those particular categories. The successful offeror shall be advised of the name and address of the insurance broker who will process the DBA insurance coverage.

(c) Offerors shall include in their proposals a statement as to whether or not local nationals or third country nationals are proposed on this contract.

(End of provision)

152. Section 652.232-70 is revised to read as follows:

652.232-70 Payment Schedule and Invoice Submission (Fixed-Price).

As prescribed in 632.908(a), the contracting officer may insert a clause substantially the same as follows:

Payment Schedule and Invoice Submission (Fixed-Price) (Dec 1994)

(a) *General.* The Government shall pay the contractor as full compensation for all work required, performed and accepted under this contract, inclusive of all costs and expenses, the firm fixed-price stated in Section B of this contract.

[Use paragraph (b) only if partial payments apply. Otherwise, paragraph (a) above assumes the contractor will be paid in full amount upon completion of all contractual requirements].

(b) *Payment Schedule.* Payments will be made in accordance with the following partial payment schedule:

Partial payment No.	Specific deliverable	Delivery date	Payment amount
1			
2			
3			

[Continue as necessary]

(c) *Invoice Submission.* Invoices shall be submitted in an original and [contracting officer insert appropriate number of copies] copies to the Office identified in Block 5 of the SF-26 or Block 7 of the SF-33. To constitute a proper invoice, the invoice must include all items per FAR 52.232-25, "Prompt Payment".

(d) *Contractor Remittance Address.* Payment shall be made to the contractor's address as specified on the cover page of this contract, unless a separate remittance address is specified below:

(End of clause)

153. Section 652.232-71 is revised to read as follows:

652.232-71 Voucher Submission (Cost-Reimbursement).

As prescribed in 632.908(b), the contracting officer may insert a clause substantially the same as follows:

Voucher Submission (Cost-Reimbursement) (Dec 1994)

(a) *General.* The contractor shall submit, on a monthly basis [contracting officer may substitute a different time frame, if appropriate], an original and [contracting officer insert appropriate number] copies of each voucher. In addition to the items necessary per FAR 52.232-25, "Prompt Payment", the voucher shall show the elements of cost for the billing period and the cumulative costs to date. All vouchers shall be submitted to the office identified in Block 5 of the SF-26 or Block 7 of the SF-33.

(b) *Contractor Remittance Address.* Payment shall be made to the contractor's address as specified on the cover page of this contract, unless a separate remittance address is specified below:

(End of clause)

154. Section 652.237-70 is revised to read as follows:

652.237-70 Compensatory time off.

As prescribed in 637.110(a), insert the following clause:

Compensatory Time Off (Dec 1994)

(a) Compensatory time off means time from work during the personal service contract employee's basic work week in exchange for performing an equal amount of irregular or occasional overtime work which is officially ordered or approved.

(b) At the discretion of the Contracting Officer's Representative (COR), the contractor may earn compensatory time off in accordance with 3 FAM Section 232.6—Compensatory Time Off. Compensation time off remaining to the credit of a personal services contract employee at the end of a 16-week period and/or at the end of the contract period shall be forfeited.

(c) Compensatory time may not be converted to overtime.

(End of clause)

155. Section 652.237-71 is added to read as follows:

652.237-71 Identification/Building Pass.

As prescribed in 637.110(b), insert the following clause:

Identification/Building Pass (Dec 1994)

(a) The contractor shall obtain a Department of State building pass for all employees performing under this contract who require frequent and continuing access to Department of State facilities. Passes shall be issued only to contractor employees who are United States citizens. Passes will be issued by the Bureau of Diplomatic Security, Office of Procedural Security, Domestic

Facilities Division. They shall be used for the purpose of contractor performance only, and shall not be used for any other purpose.

(b) The contractor shall submit an application in the form prescribed by the COR. The contractor shall also provide a letter on company letterhead to accompany the application containing the following information:

(1) The purpose for which the pass is being requested;

(2) The type of access the applicant requires;

(3) Whether or not the applicant has a valid security clearance; and,

(4) The contract number and period of performance of the contract.

(c) The complete package, including the COR's approval memorandum, shall be delivered to the Building Pass Application Unit, Room 309, State Annex Number 1, Columbia Plaza, 2401 E Street, NW., Washington, DC; or, the post security officer, if the contract is performed at a U.S. owned or leased building overseas. The employee(s) for whom the pass(es) is/are being requested may be required to personally submit the application and to provide evidence of identity and United States citizenship.

(d) All contractor employees shall wear the passes in plain sight at all times while in Department of State buildings. All contractor employees shall show their passes when entering these buildings and upon request.

(e) All passes shall be returned to the COR upon separation of the employee, or expiration or termination of the contract. Final payment under this contract shall not be made until all passes are returned to the COR.

(End of clause)

156. Section 652.237-72 is added to read as follows:

652.237-72 Observance of Legal Holidays and Administrative Leave.

As prescribed in 637.110(c), insert the following clause:

Observance of Legal Holidays and Administrative Leave (Dec 1994)

(a) The Department of State observes the following days as holidays:

New Year's Day
Martin Luther King's Birthday
Presidents' Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Christmas Day

Any other day designated by Federal law, Executive Order, or Presidential Proclamation.

(b) When any such day falls on a Saturday, the preceding Friday is observed; when any such day falls on a Sunday, the following Monday is observed. Observance of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of

holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(c) When the Department of State grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the contracting officer or his/her duly authorized representative.

(d) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided. If services are provided for portions of days, appropriate adjustment will be made by the contracting officer to ensure that the contractor is compensated for services provided.

(e) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any "Excusable Delays" clause of this contract, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the contractor's accounting policy.

(End of clause)

157. Section 652.242-70 is amended by revising the introductory text; by revising the date from "(JUL 1988)" to "(DEC 1994)"; by designating the existing clause text as paragraph (a); and, by adding a new paragraph (b) to read as follows:

652.242-70 Contracting Officer's Representative (COR).

As prescribed in 642.271, insert a clause substantially the same as follows:

Contracting Officer's Representative (COR) (Dec 1994)

(a) * * *

(b) the COR is [insert name of COR].

(End of clause)

158. Section 652.242-72 is amended by revising the clause date from "(JUL 1988)" to "(DEC 1994)"; by revising the chart in paragraph (a) to read as set forth below; by removing the designation "3/4" and inserting "19.05mm" in its place in paragraph (b); by removing the words "1000 pounds" and inserting the

words "453.5kg" in their place in the first sentence of paragraph (c); by removing the words "2x6-inch", "2x4-inch", and "10-inch" and inserting the words "50.8 x 152.4mm", "50.8 x 101.6mm", and "254mm" in their place, respectively, in the second sentence in paragraph (c); by removing the words "pounds and" in the third sentence of paragraph (c); by removing the words "pounds and" from the second sentence in paragraph (d); and, by removing the parenthetical "(One kilogram equals 2.2046 pounds avoirdupois.)" from paragraph (d);

652.242-72 Shipping Instructions.

* * * * *

Shipping Instructions (Dec 1994)

Weight of box and contents	Minimum dimensions of lumber for struts, frame members, and single diagonal braces
Up to 45 kg	19.05 x 57.15mm
46 to 113 kg	22.23 x 73.03mm
114 to 181 kg	22.23 x 98.43mm
182 to 272 kg	22.23 x 123.83mm or 25.4 x 98.43 mm

* * * * *

PART 653—FORMS

159. Section 653.213-70 is revised to read as follows:

653.213-70 DOS forms (OF-206, OF-206A, DST-1918, DST-1919, DST-1920).

As provided in 613.505-2 and 613.505-70, the following forms are prescribed for use in simplified acquisitions, delivery orders, and blanket purchase agreements:

(a) Optional Form (OF) 206, Purchase Order, Receiving Report and Voucher, and Optional Form (OF) 206A, Continuation Sheet. OF-206 and OF-206A are prescribed for use by overseas contracting activities in lieu of the OF-347 and OF-348, as specified in 613.505-2(a).

(b) Optional Form (OF) 127, Receiving and Inspection Report. OF-127 is prescribed for use by overseas contracting activities as a receiving report when using the OF-206, as specified in 613.505-2(b).

(c) DST-1918, Purchase Order File. DST-1918 is prescribed for use in recording and documenting relevant data pertaining to open market simplified acquisitions, as specified in 613.505-70.

(d) DST-1919, Deliver Order File. DST-1919 is prescribed for use in recording and documenting relevant data pertaining to delivery orders issued against GSA mandatory and

nonmandatory schedule contracts, as well as Department of State and other agency contracts, as specified in 613.505-70.

(e) DST-1920, Blanket Purchase Agreement (BPA) File. DST-1920 is prescribed for use in recording and documenting relevant data pertaining to Blanket Purchase Agreements, as specified in 613.505-70.

160. Sections 653.217 and 653.217-70 are added to read as follows:

653.217 Special contracting methods.

653.217-70 DOS form DS-1921, Award/Modification of Interagency Acquisition Agreement.

As prescribed in 617.504-70(b)(5)(i), DS-1921 is prescribed for use when awarding or modifying Economy Act Interagency Acquisition Agreements where the Department is the requesting agency.

161. Sections 653.219 and 653.219-70 are added to read as follows:

653.219 Small business and small disadvantaged business concerns.

653.219-70 DOS form DS-1910, Small Business/Labor Surplus Agency Review—Actions Above the Small Purchase Limitation.

As prescribed in 619.501(c), DS-1910 is prescribed for use in documenting set-aside decisions.

653.302 [Removed]

162. Section 653.302 is removed.

SUBCHAPTER I—DOS SUPPLEMENTATIONS

PART 670—[REMOVED]

163. Subchapter I, consisting of Part 670, is removed.

Dated: December 14, 1994.

Lloyd W. Pratsch,
Procurement Executive.

[FR Doc. 94-31211 Filed 12-27-94; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93-02; Notice 08]

RIN [2127-AF47]

Federal Motor Vehicle Safety Standards; Compressed Natural Gas Fuel Container Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to Petitions for reconsideration.

SUMMARY: This rule provides a partial response to petitions for reconsideration of the final rule that established performance requirements applicable to compressed natural gas (CNG) fuel containers. The final rule specified a safety factor of 3.33 for use in evaluating the strength of carbon fiber containers. This rule takes the intermediate step of specifying a 2.25 safety factor for carbon fiber containers and makes several minor changes to the final rule. After thoroughly analyzing the large number of petitions for reconsideration, the agency plans to issue another final rule establishing a permanent safety factor for carbon fiber containers and addressing the other issues raised in the petitions for reconsideration. If the safety factor is increased, a two year lead time will be given.

DATES: *Effective Date:* The amendments in today's final rule become effective March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, NRM-01.01, Special Projects Staff, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-366-4931).

SUPPLEMENTARY INFORMATION:

I. Final Rule Establishing FMVSS No. 304

On September 26, 1994, NHTSA published a final rule addressing the safe performance of compressed natural gas (CNG) containers¹ (59 FR 49010). The final rule established a new Federal motor vehicle safety standard, FMVSS No. 304, *Compressed Natural Gas Fuel Containers*, that specifies pressure cycling, burst, and bonfire tests for the purpose of ensuring the durability, initial strength, and venting of CNG containers. The pressure cycling test evaluates a container's durability by requiring a container to withstand, without any leakage, 18,000 cycles of pressurization and depressurization. This requirement helps to ensure that a CNG container is capable of sustaining the cycling loads imposed on the container during refuelings over its entire service life. The burst test evaluates a container's initial strength and resistance to degradation over time. This requirement helps to ensure that a container's design and material are

¹ When used as a motor fuel, natural gas is stored on-board a vehicle in cylindrical containers at a pressure of approximately 20,684 kPa (3,000 psi). Among the terms used to describe CNG fuel containers are tanks, containers, cylinders, and high pressure vessels. The agency will refer to them as "containers" throughout this document.