

clock and will permanently lift any applied, stayed or deferred sanctions. If EPA receives adverse comments and subsequently determines that the State, in fact, did not correct the disapproval deficiency, the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clock. Based on this action, application of the offset sanction will be deferred and application of the highway sanction will be deferred until EPA takes final rulemaking action fully approving the State's submittal or until EPA takes action proposing or disapproving in whole or part the State submittal. If EPA's proposed rulemaking action fully approving the State submittal becomes final, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA's limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.¹ 5 U.S.C. 553(b)(B). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clock. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiencies that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily defer sanctions while EPA completes its rulemaking process on the approvability

¹ As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

III. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the CAA. Therefore, I certify that it does not have an impact on any small entities.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: April 11, 1995.

Felicia Marcus,

Regional Administrator.

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Amendment E-276]

RIN 3090-AF09

Removing Federal Supply Service Schedule Ordering Instructions

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Property Management Regulations (FPMR) to remove Federal Supply Service (FSS) schedule ordering instructions. Over time, these instructions have become obsolete. Hence, it is no longer necessary to retain these instructions in the FPMR. Removing these instructions from the

FPMR will carry out the principles of the National Performance Review by unburdening all Federal agencies from unnecessary regulations.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Nicholas Economou, FSS Acquisition Management Center (703-305-6936).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. GSA published a proposed rule to amend the FPMR to remove FSS schedule ordering instructions on February 23, 1994 [59 FR 8587]. Comments were received from three organizations and one executive department. All comments were considered, and no revisions to the rule were made.

Two of the four respondents were pleased with the proposed change, and felt that it was consistent with the National Performance Review (NPR). The other two respondents expressed concerns regarding the transformation of existing regulations governing FSS schedule ordering into "guiding principles." However, this rule only removes Federal Supply Schedule ordering instructions that are obsolete and no longer necessary. GSA has already streamlined the Federal Supply Schedule ordering procedures in FAR Part 8.

Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101-26

Government property management.

For the reasons set forth in the preamble, 41 CFR Part 101-26 is amended as follows:

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

1. The authority citation for Part 101-26 continues to read as follows:

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

Subpart 101-26.5—GSA Procurement Programs

2. Section 101-26.406-7 is redesignated as § 101-26.502 and revised to read as follows:

§ 101-26.502 U.S. Government National Credit Card.

A waiver has been issued by the Government Printing Office to GSA for

the procurement of the printing of Standard Form 149, U.S. Government National Credit Card.

3. Section 101-26.408-4(c) is redesignated § 101-26.503 and revised to read as follows:

§ 101-26.503 Multiple award schedule purchases made by GSA supply distribution facilities.

GSA supply distribution facilities are responsible for quickly and economically providing customers with frequently needed common-use items. Stocking a variety of commercial, high-demand items purchased from FSS multiple award schedules is an important way in which GSA supply distribution facilities meet this responsibility.

4. The heading for Subpart 101-26.4 is revised and the text is removed and reserved to read as follows:

Subpart 101-26.4—Federal Supply Schedules—[Reserved]

5. Section 101-26.507 is revised to read as follows:

§ 101-26.507 Security equipment.

Federal agencies and other activities authorized to purchase security equipment through GSA sources shall do so in accordance with the provisions of this § 101-26.507. Under section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), the Administrator of GSA has determined that fixed-price contractors and lower tier subcontractors who are required to protect and maintain custody of security classified records and information may purchase security equipment from GSA sources. Delivery orders for security equipment submitted by such contractors and lower tier subcontractors shall contain a statement that the security equipment is needed for housing Government security classified information and that the purchase of such equipment is required to comply with the security provision of a Government contract. In the event of any inconsistency between the terms and conditions of the delivery order and those of the Federal Supply Schedule contract, the latter shall govern. Security equipment shall be used as prescribed by the cognizant security office.

6. Section 101-26.507-3 is revised to read as follows:

§ 101-26.507-3 Purchase of security equipment from Federal Supply Schedules.

To ensure that a readily available source exists to meet the unforeseen demands for security equipment, Federal Supply Schedule contracts have

been established to satisfy requirements that are not appropriate for consolidated procurement and do not exceed the maximum order limitations.

Dated: March 17, 1995.

Julia M. Stasch,

Acting Administrator of General Services.

[FR Doc. 95-9744 Filed 4-19-95; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket 50018]

RIN 2105-AC20

Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Procedures for Non-Evidential Alcohol Screening Devices

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; request for comments.

SUMMARY: When the Department of Transportation published its final alcohol testing rules in February 1994, it said that if non-evidential screening devices were approved, the devices could be used for screening tests in DOT-mandated alcohol testing programs. Several such devices have now been determined by the National Highway Traffic Safety Administration to be capable of detecting the presence of alcohol at the 0.02 or greater level of alcohol concentration. This rule establishes procedures for the use of these devices.

DATES: This rule is effective May 22, 1995. Comments on amendments to §§ 40.59(c), 40.63(d)(1), and 40.63(e)(2) should be received by June 5, 1995. Late-filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Albert Alvarez, Director, Department of Transportation, Office of Drug Enforcement and Program Compliance, 400 7th Street SW., Washington, DC 20590, Room 9404A, 202-366-3784; or Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; 202-366-9306.

SUPPLEMENTARY INFORMATION:

Background

When the Department published its final alcohol testing rules on February 15, 1994 (59 FR 7302 *et seq.*), the Department established breath testing, using evidential breath testing devices

(EBTs), as the method to be used. However, in response to comments requesting additional flexibility in testing methods, the Department said that—

NHTSA [the National Highway Traffic Safety Administration] will develop model specifications (using precision and accuracy criteria), evaluate additional screening devices against them, and periodically publish a conforming products list of those additional screening devices (not exclusively breath testing devices) that meet the model specifications. * * * Please note that the Department will also have to undertake separate rulemaking proceedings to establish procedures for the use of any devices after they are approved. (Id. at 7316.)

NHTSA published model specifications, tested several screening devices and, on December 2, 1994, published a conforming products list (CPL) including four non-evidential breath testing devices and one saliva testing device. As noted in the February 15 common preamble cited above, before these devices can be used in DOT alcohol testing programs, this procedural rule has to be issued. When this rule becomes effective, employers may begin using the approved non-evidential screening devices.

We emphasize that these devices may be used only for alcohol *screening* tests. Confirmation tests must be performed on EBTs. To the greatest extent feasible, we have drafted these procedures to incorporate the same basic requirements as the existing alcohol testing procedures. This makes the procedures simple and achieves the flexibility that is the goal of using non-evidential devices.

Comments and Responses

As of the close of the comment period, the Department received 23 comments on the January 17, 1995, notice of proposed rulemaking (NPRM) for this rule (60 FR 3371). Ten of these comments were from employers or employer associations, another 10 were from manufacturers or distributors of breath testing equipment, and three were from other testing industry participants. The comments focused on several issues.

Interval Between Screening and Confirmation Tests

In the NPRM leading to the February 15, 1994, final rule on alcohol testing procedures (57 FR 59416; December 15, 1992), the Department proposed a 15-minute waiting period before the confirmation test. The purpose of this waiting period was to ensure that residual mouth alcohol did not artificially raise the confirmation test result. The Department had considered,