

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

[PS-76-92; PS-51-93]

RIN 1545-AR48; RIN 1545-AR93

**Recognition of Gain or Loss by Contributing Partner on Distribution of Contributing Partner on Other Property; Hearing Cancellation**

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed regulations relating to the recognition of gain or loss on certain distributions of contributed property by a partnership. This document also contains proposed regulations relating to the recognition of gain on certain distributions to a contributing partner.

**DATES:** The public hearing originally scheduled for Monday, June 19, 1995, beginning at 10 a.m. is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7190 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations under section 704(c)(1)(B) of the Internal Revenue Code of 1986, and proposed regulations under section 737. A notice of proposed rulemaking, and public hearing appearing in the **Federal Register** for Monday, January 9, 1995 (60 FR 2352), announced that a public hearing on the proposed regulations would be held on Monday, June 19, 1995, beginning at 10 a.m., in the IRS Auditorium, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Monday, June 19, 1995, is cancelled.

**Jacquelyn B. Burgess,**

*Alternate Federal Register Liaison Officer,  
Assistant Chief Counsel (Corporate).*

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## DEPARTMENT OF LABOR

## Office of the Secretary

## 29 CFR Part 4

RIN: 1215-AA98

**Service Contract Act; Labor Standards for Federal Service Contracts**

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of proposed rulemaking; request for comments.

**SUMMARY:** The Department of Labor (DOL) is proposing to delete the requirement in § 4.7 of 29 CFR part 4 that any service contract of the Federal Government in an amount less than \$2,500 that is subject to the McNamara-O'Hara Service Contract Act of 1965, as amended (SCA), must contain a clause specifying that the contractor or any subcontractor shall pay the minimum wage under the Fair Labor Standards Act (FLSA) to employees engaged in the performance of the contract. This proposed revision is being made to conform the regulations to a new class of Federal government purchases established by the Federal Acquisition Streamlining Act of 1994 (FASA). Requirements otherwise applicable to Federal contracting are eliminated for purchases under \$2,500 for the purpose of facilitating the use of government credit cards for the making of low dollar value purchases of supplies and services. The streamlining objectives of the new procurement procedures contemplated by FASA are impeded by contract clause requirements in § 4.7, which were intended for use in contracts awarded traditional procurement procedures.

**DATES:** Comments are due on or before July 17, 1995.

**ADDRESSES:** Submit written comments to Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW, Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card, or to submit them by certified mail, return receipt requested. As a convenience to commenters, comments may be transmitted by facsimile ("FAX") machine to (202) 219-5122 (this is not a toll-free number). If transmitted by facsimile and a hard copy is also submitted by mail, please indicate on the hard copy that it is a duplicate copy of the facsimile transmission.

**FOR FURTHER INFORMATION CONTACT:** Raymond L. Kamrath, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3506, 200 Constitution Avenue, NW, Washington, DC 20210; telephone (202) 219-8412. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:****I. Paperwork Reduction Act**

This proposed rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The existing information collection requirements contained in Regulations, 29 CFR part 4 were previously approved by the Office of Management and Budget under OMB control number 1215-0150. The general Fair Labor Standards Act (FLSA) recordkeeping requirements which are restated in Part 4 were approved by the Office of Management and Budget under OMB control number 1215-0017.

**II. Background**

The Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355, 108 Stat. 3243) was enacted into law on October 13, 1994. Section 4001 of this Act amends the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to establish a "simplified acquisition threshold" of \$100,000. In addition, § 4301 of FASA amends the Office of Federal Procurement Policy Act to establish a new class of purchases referred to as "micro purchases," and a micro purchase threshold of \$2,500. Under this section, among other things, purchases not exceeding \$2,500 are not subject to the Small Business Act reservation requirement, Buy American Act, the requirement to secure competitive quotations, and Federal employees making such purchases are not deemed "procurement officials." The new micro purchase authority, based on a recommendation of The National Performance Review (NPR), facilitates the use of credit cards by Federal agencies on small dollar purchases of supplies and services. For such purchases, the credit card procedure becomes both the method of payment and a method of contracting. Because the inclusion of contract clauses in small purchases hinder implementation of the new micro purchase authority, the Office of Federal Procurement Policy in the Office of Management and Budget asked the Department to review the contract clause requirement in § 4.7 of 29 CFR part 4 for service contracts under \$2,500.

Section 2(b) of the Service Contract Act of 1995 (SCA) (41 U.S.C. 351(b)(1)) generally obligates all contractors and subcontractors who are awarded contracts principally for the furnishing of services through the use of service employees, regardless of contract amount, to pay not less than the Federal minimum wage under § 6(a)(1) of the Fair Labor Standards Act (FLSA) to the employees engaged in the performance of such contracts. Unlike § 2(a) of the SCA which requires every service contract in excess of \$2,500 to include particular stipulations relating to the Act's prevailing wage and fringe benefit provisions and other labor standard protections, § 2(b) does not statutorily require a "clause" to implement the obligation of covered service contractors or subcontractors to pay service employees not less than the minimum wage under § 6(a)(1) of the FLSA. Because the clause mandated by § 2(a) of the SCA for covered contracts in excess of \$2,500 advises contractors and subcontractors of the obligation to pay FLSA minimum wages in the absence of prevailing wage attachment for the contract (see paragraph (d)(1) of § 4.6), a counterpart minimum wage clause was considered appropriate for contracts not exceeding \$2,500, and the requirement has been a part of the regulations since their inception.

The Department believes that the deletion of the requirement for a minimum wage clause in SCA-covered contracts not exceeding \$2,500 will not adversely affect labor standards protections afforded service employees engaged in the performance of such contracts. Although the proposal removes the obligation of contractors and subcontractors to pay not less than minimum wages to their service employees as a condition of contract, the obligation to pay at least the minimum wage to any service employee performing on an SCA-covered contract is specifically contained in § 2(b) of the SCA, and is also set forth in § 6(e)(1) of the FLSA. This statutory obligation is defined further in the existing regulations at § 4.2 of 29 CFR part 4. Accordingly, the proposal is considered necessary and proper to facilitate the streamlining objectives of FASA's § 4301.

#### **Executive Order 12866/§ 202 of the Unfunded Mandates Reform Act of 1995**

This proposed rule is not a "significant regulatory action" within the meaning of Executive Order 12866, nor does it require a § 202 statement under the Unfunded Mandates Reform Act of 1995. It will facilitate the

handling of Federal agency purchases of \$2,500 or less. The proposed change eliminates a contract clause, which impedes the efficiency contemplated by the use of purchase cards on small purchases authorized by the micro-purchase authority under the Federal Acquisition Streamlining Act of 1994. The proposed revision, however, will not eliminate the obligation of contractors and subcontractors to pay employees on such contracts not less than the minimum wage under § 6 of the FLSA.

Because the deletion of the contract clause would not affect contractor's responsibilities, the proposed change is not expected to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Furthermore, deletion of the clause would facilitate credit card purchases (thereby resulting in savings in paperwork processing) of services—estimated to be about 12 percent of all credit card purchases. Therefore, no regulatory impact analysis has been prepared.

#### **Regulatory Flexibility Analysis**

This proposed rule will not have a significant economic impact on a substantial number of small entities. The rule simplifies the handling of small purchases of services and will primarily affect Federal agencies through reductions in burdensome paperwork. While small entities will benefit from less burdensome procurement procedures, the impact is believed to be insignificant because the purchase of services appropriate for credit card use is relatively small, *i.e.*, the bulk of purchases appropriate for credit card use is supplies. Thus, this proposal is not expected to have a "significant economic impact on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act, and the Department has certified to this effect to the Chief Counsel for Advocacy of the Small

Business Administration. A regulatory flexibility analysis is not required.

#### **Document Preparation**

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

#### **List of Subjects in 29 CFR Part 4**

Administrative practice and procedures, Employee benefit plans, Government contracts, Investigations, Labor, Law enforcement, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Signed at Washington, D.C., on this 13th day of June, 1995.

**Maria Echaveste,**

*Administrator, Wage and Hour Division.*

For the reasons set forth in the preamble, subtitle A of title 29 is proposed to be amended as follows:

#### **PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS**

1. Authority citation for part 4 continues to read as follows:

**Authority:** 41 U.S.C. 351, *et seq.*, 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358; 41 U.S.C. 38 and 39; and 5 U.S.C. 301.

#### **§ 4.7 [Removed and Reserved]**

2. In subpart A, § 4.7 is proposed to be removed and reserved.

[FR Doc. 95-14780 Filed 6-15-95; 8:45 am]

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#### **DEPARTMENT OF THE INTERIOR**

#### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 935**

[OH-235; Amendment Number 70R]

#### **Ohio Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; reopening and extension of public comment period.

**SUMMARY:** OSM is reopening the public comment period for a revised amendment to the Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977. The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations