D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 6, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides ,Ozone, Reporting and recordkeeping requirements.

Dated: July 9, 1997.

Michael V. Payton,

Acting Regional Administrator .

Chapter I, title 40, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(151) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(151) A Revision to Knox County Ozone Maintenance plan and emission projections submitted by the Tennessee Department of Environment and Conservation on January 18, 1995.

(i) Incorporation by reference.

(A) Knox County Ozone Maintenance plan and emission projections adopted on November 21, 1994.

(ii) Other material. None.

* * * * *

[FR Doc. 97–20578 Filed 8–4–97; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–17

RIN 3090–AF94

Assignment and Utilization of Space

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Interim Rule with Request for Comments.

SUMMARY: This interim rule, initially published in the **Federal Register** March 7, 1996, began the process of replacing Part 101–17 of the Federal Property Management Regulations (FPMR). The rule repealed the outdated and superseded permanent FPMR Part 101–17 and provided new guidance concerning the location of Federal facilities in urban areas. The rule expired March 7, 1997. This supplement extends the interim rule indefinitely.

DATES: Effective date: March 8, 1997.

Comment date: September 4, 1997.

ADDRESSES: Comments should be submitted to the General Services Administration, Public Buildings Service, Office of Property Acquisition and Realty Services (PE), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Alan Waldron, Acting Assistant Commissioner, Office of Property Acquisition and Realty Services, at (202) 501–1025.

SUPPLEMENTARY INFORMATION: The purpose of this interim rule is to provide new, permanent FPMR guidance regarding the location of Federal facilities in urban areas.

On August 16, 1978, President Carter issued Executive Order 12072, which directs Federal agencies to give first consideration to centralized community business areas when filling federal space needs in urban areas. The objective of the Executive order is that Federal facilities and Federal use of space in urban areas serve to strengthen the nation's cities and make them attractive places to live and to work. This regulation serves to reaffirm this Administration's commitment to Executive Order 12072 and its goals.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) An initial regulatory flexibility analysis has therefore not been performed.

The Paperwork Reduction Act does not apply to this action because the proposed changes to the Federal Property Management Regulations do not impose reporting, recordkeeping or information collection requirements which require the approval of the Office of Management and Budget pursuant to 44 U.S.C. 3501, *et seq.*

List of Subjects in 41 CFR Part 101–17

Administrative practices and procedures, Federal buildings and facilities, Government real property management.

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

In 41 CFR Chapter 101, the following Interim Rule D–1 is added to the appendix at the end of Subchapter D to read as follows:

Federal Property Management Regulations; Interim Rule D–1

Supplement 1

To: Heads of Federal Agencies

Subject: Assignment and Utilization of Space

1. *Purpose.* This interim rule, initially published in the **Federal Register** March 7, 1996, began the process of replacing Part 101–17 of the Federal Property Management Regulations (FPMR). The rule repealed the outdated and superseded permanent FPMR Part 101–17 and provided new guidance concerning the location of Federal facilities in urban areas. The rule expired on March 7, 1997. This supplement extends the interim rule indefinitely.

2. *Effective date.* March 8, 1997. Comments should be submitted on or before 30 calendar days following publication in the **Federal Register**.

3. *Comments.* Comments should be submitted to the General Services Administration, Public Buildings Service, Office of Property Acquisition and Realty Services (PE), Washington, DC 20405.

4. *Effect on other directives.* This interim rule amends 41 CFR Part 101–17 by deleting all subparts and sections in their entirety and by adding a new §101–17.205 entitled ''Location of Space.''

Dated: April 21, 1992.

David J. Barram,

Acting Administrator of General Services.

Attachment A

"Subchapter D—Public Buildings and Space

PART 101–17—ASSIGNMENT AND UTILIZATION OF SPACE

§101–17.205 Location of Space

(a) Each Federal agency is responsible for identifying its geographic service area and the delineated area within which it wishes to locate specific activities, consistent with its mission and program requirements, and in accordance with all applicable statutes, regulations and policies. Specifically, under the Rural Development Act of 1972, as amended, 42 U.S.C. §3122, agencies are required to give first priority to the location of new offices and other facilities in rural areas. When agency mission and program requirements call for location in an urban area, agencies must comply with Executive Order 12072, August 16, 1978, 3 CFR 213 (1979), which requires that first consideration be given to central business areas (CBAs) and other designated areas. The agency shall submit to GSA a written statement explaining the basis for the delineated area.

(b) GSA shall survey agencies' mission, housing, and location requirements in a community and include these considerations in community-based policies and plans. These plans shall provide for the location of federally-owned and leased facilities, and other interests in real property including purchases, at locations which represent the best overall value to the Government consistent with agency requirements.

(c) Whenever practicable and cost-effective, GSA will consolidate elements of the same agency or multiple agencies in order to achieve the economic and programmatic benefits of consolidation.

(d) (1) GSA will consult with local officials and other appropriate Government officials and consider their recommendations for, and review of, general areas of possible space or site acquisition. GSA will advise local officials of the availability of data on GSA plans and programs, and will agree upon the exchange of planning information with local officials. GSA will consult with local officials to identify CBAs.

(2) With respect to an agency's request for space in an urban area, GSA shall provide appropriate Federal, State, regional, and local officials such notice as will keep them reasonably informed about GSA's proposed space action. For all proposed space actions with delineated areas either partially or wholly outside the CBA, GSA shall consult with such officials by providing them with written notice, by affording them a proper opportunity to respond, and by considering all recommendations for and objections to the proposed space action. All contacts with such officials relating to proposed space actions must be appropriately documented in the official procurement file.

(e) GSA is responsible for reviewing an agency's delineated area to confirm that, where appropriate, there is maximum use of existing Government-controlled space and that established boundaries provide competition when acquiring leased space.

(f) In satisfying agency requirements in an urban area, GSA will review an agency requested delineated area to ensure that the area is within the CBA. If the delineated area requested is outside the CBA, in whole or part, an agency must provide written justification to GSA setting forth facts and considerations sufficient to demonstrate that first consideration has been given to the CBA and to support the determination that the agency program function(s) involved cannot be efficiently performed within the CBA.

(g) Agency justifications for locating outside CBAs must address, at a minimum, the efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance and improvement of safe and healthful working conditions for employees.

(h) GSA is responsible for approving the final delineated area. As the procuring agency, GSA must conduct all acquisitions in accordance with the requirements of all applicable laws, regulations, and Executive orders. GSA will review the identified delineated area to confirm its compliance with all applicable laws, regulations, and Executive orders, including the Rural Development Act of 1972, as amended, the Competition in Contracting Act, as amended, 41 U.S.C. §§252–266, and Executive Order 12072.

(i) Executive Order 12072 provides that "space assignments shall take into account the management needs for consolidation of agencies or activities in common or adjacent space in order to improve administration and management and effect economies." Justifications that rely on consolidation or adjacency requirements will be carefully reviewed for legitimacy.

(j) Executive Order 12072 directs the Administrator of General Services to "[e]nsure, in cooperation with the heads of Executive agencies, that their essential space requirements are met in a manner that is economically feasible and prudent." Justifications that rely on budget or other fiscal restraints for locating outside the CBA will be carefully reviewed for legitimacy.

(k) Justifications based on executive or personnel preferences or other matters which do not have a material and significant adverse impact on the efficient performance of agency program functions are not acceptable.

(l) In accordance with the Competition in Contracting Act, GSA may consider whether restricting the delineated area to the CBA will provide for competition when acquiring leased space. Where it is determined that an acquisition should not be restricted to the CBA, GSA may expand the delineated area in consultation with the requesting agency and local officials. The CBA must continue to be included in such an expanded area.

(m) If, based on its review of an agency's requested delineated area, GSA concludes that changes are appropriate, GSA will discuss its recommended changes with the requesting agency. If after discussions the requesting agency does not agree with GSA's delineated area recommendation, the agency may take the steps described below. If an agency elects to request a review of the GSA's delineated area recommendation, GSA will continue to work on the requirements development and other activities related to the requesting agency's space request. GSA will not issue a solicitation to satisfy an agency's space request until all requested reviews have been resolved.

(1) For space actions of less than 25,000 square feet, an agency may request a review of GSA's delineated area recommendation by submitting a written request to the responsible Assistant Regional Administrator for the Public Buildings Service. The request for review must state all facts and other considerations and must justify the requesting agency's proposed delineated area in light of Executive Order 12072 and other applicable statutes, regulations, and policies. The Assistant Regional Administrator will issue a decision within fifteen (15) working days. The decision of the Assistant Regional Administrator will be final and conclusive.

(2) For space actions of 25,000 square feet or greater, a requesting agency may request a review of GSA's delineated area recommendation by submitting a written request to the Commissioner of the Public Buildings Service that the matter be referred to an interagency council for decision. The interagency council will be established specifically to consider the appeal and will be comprised of the Administrator of General Services or his/her designee, the Secretary of Housing and Urban Development, or his/her designee, and such other Federal official(s) as the Administrator may appoint.

(n) The presence of the Federal Government in the National Capital Region (NCR) is such that the distribution of Federal installations will continue to be a major influence in the extent and character of development. These policies shall be applied in the GSA National Capital Region, in conjunction with regional policies established by the National Capital Planning Commission and consistent with the general purposes of the National Capital Planning Act of 1959 (66 Stat. 781), as amended. These policies shall guide the development of strategic plans for the housing of Federal agencies within the National Capital Region.

(o) Consistent with the policies cited in paragraphs (a), (b), (c) and (e) above, the use of buildings of historic architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2505) will be considered as alternative sources for meeting Federal space needs.

(p) As used in §101–17.205, the following terms have the following meanings:

(1) "CBA" means the centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials in accordance with Executive order 12072.

(2) "Delineated area" means the specific boundaries within which space will be obtained to satisfy an agency space requirement.

(3) "Rural area" means any area that (i) is within a city or town if the city or town has

a population of less than 10,000 or (ii) is not within the outer boundaries of a city or town if the city or town has a population of 50,000 or more and if the adjacent urbanized and urbanizing areas have a population density of more than 100 per square mile.

(4) ''Urban area'' means any Metropolitan Area (MA) as defined by the Office of Management and Budget (OMB) and any non-MA that meets one of the following criteria:

(i) A geographical area within the jurisdiction of any incorporated city, town, borough, village, or other unit of general local government, except county or parish, having a population of 10,000 or more inhabitants.

(ii) That portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government, but has a population density equal to or exceeding 1,500 inhabitants per square mile; or

(iii) That portion of any geographical area having a population density equal to or exceeding 1,500 inhabitants per square mile and situated adjacent to the boundary of any incorporated unit of general local government which has a population of 10,000 or more inhabitants. (Reference: Intergovernmental Cooperation Act of 1968, 40 U.S.C. 535.)

[FR Doc. 97–20544 Filed 8–4–97; 8:45 am]

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DEPARTMENT OF ENERGY

48 CFR Parts 904, 909, 923, 926, 952 and 970

RIN 1991–AB31

Acquisition Regulation: Elimination of Non-Statutory Certification Requirements

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to eliminate all non-statutorily imposed contractor and offeror certification requirements.

DATES: This final rule is effective September 4, 1997.

FOR FURTHER INFORMATION CONTACT: John R. Bashista (202) 586–8192 (telephone); (202) 586–0545 (facsimile); john.bashista@hq.doe.gov (electronic mail).

SUPPLEMENTARY INFORMATION:

I. Background
II. Explanation of Revisions
III. Procedural Requirements
  A. Review Under Executive Order 12612.
  B. Review Under Executive Order 12866.
  C. Review Under Executive Order 12988.
  D. Review Under the Regulatory Flexibility Act.
  E. Review Under the National Environmental Policy Act.
  F. Review Under the Paperwork Reduction Act.
  G. Review Under the Small Business Regulatory Enforcement Fairness Act.
  H. Review Under the Unfunded Mandates Reform Act.

I. Background

Section 4301(b)(1)(B) of the Clinger-Cohen Act of 1996, Pub. L. 104–106, requires agencies that have procurement regulations containing one or more certification requirements for contractors and offerors that are not specifically imposed by statute to issue for public comment a proposal to amend their regulations to remove the certification requirements. Such certification requirements may be omitted from the agency proposal if (i) the senior procurement executive for the executive agency provides the head of the executive agency with a written justification for the requirement and a determination that there is no less burdensome means for administering and enforcing the particular regulation that contains the certification requirement; and (ii) the head of the executive agency approves in writing the retention of such certification requirement.

A notice of proposed rulemaking was published in the **Federal Register** on August 29, 1996 (61 FR 45391) which constituted DOE's proposal for the elimination of all non-statutorily imposed contractor and offeror certification requirements from the DEAR pursuant to section 4301(b)(1)(B) of the Clinger-Cohen Act of 1996. No comments were received. Accordingly, the Department adopts the proposed rule as final.

The proposed rule made reference to a separate rulemaking which would eliminate the certification contained in section 952.209–70, Organizational conflicts of interest, disclosure or representation. A separate final rule will be published in the **Federal Register** to amend section 952.209–70 to eliminate the certification previously contained therein.

II. Explanation of Revisions

1. Section 952.204–2, Security Requirements, is amended to remove the non-statutory certification requirement pertaining to retention by a contractor of classified matter after contract completion or termination. A contractor seeking to retain classified material is still required to identify such material, and the reasons for its retention, to the contracting officer. However, there is no need to certify the information.

2. Section 952.204–73, Foreign ownership, control, or influence (FOCI) over contractor, is amended to remove the requirement for offerors to certify that FOCI data submitted to the Department is accurate, complete and current and that the disclosure is made in good faith; and to remove the requirement for offerors to certify that FOCI information previously submitted to DOE for a facility security clearance is accurate, complete and current. The disclosure requirement at DEAR 904.7003, however, will remain. In addition, technical and conforming amendments to the DEAR are made to 904.7003, 904.7005 and 904.7103.

3. Section 952.226–73, Energy Policy Act target group certification, is amended to remove the language requiring offerors to certify as to their status as one of the designated target groups under section 3021 of the Energy Policy Act of 1992. This provision is amended to require a representation from offerors regarding their status instead of a certification. In addition, technical and conforming amendments to the DEAR are made to subsection 926.7007 pursuant to the amendment of subsection 952.226–73.

4. Section 952.227–13, Patent Rights—Acquisition by the Government, paragraph (e)(3), is amended to remove the certification requirements for contractors in the interim and final reports pertaining to the disclosure of all inventions developed under the subject contract. Contractors are still required to submit interim and final reports and to disclose all inventions developed under the subject contract, however, there is no need to certify the information.

5. Section 952.227–80, Technical data certification, which includes a requirement for offerors to certify that they have not delivered or are not obligated to deliver to the Government under any other contract or subcontract the same or substantially the same technical data as included in their offer to the Department, is removed.

6. Section 952.227–81, Royalty Payments Certification, which includes a certification requirement for offerors to disclose whether their contract price includes an amount representing the payment of royalty by the offeror to others in connection with contract performance and, if so, to identify pertinent information about the royalty, is removed.

7. Section 970.5204–57, Certification regarding workplace substance abuse programs at DOE facilities, is amended to remove the requirement for offerors to certify that they will provide to the contracting officer within 30 days after