

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a state program.

Compliance With Executive Order 13132 (Federalism)

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it affects only one State. This action simply provides EPA approval of South Carolina’s voluntary proposal for its State underground storage tank program

to operate in lieu of the Federal underground storage tank program in that State. Thus, the requirements of section 6 of the Executive Order do not apply.

Compliance With Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.”

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. South Carolina is not approved to implement the RCRA underground storage tank program in Indian country. This action has no effect on the underground storage tank program that EPA implements in the Indian country within the State. Thus, Executive Order 13175 does not apply to this rule.

Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted

by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This document is issued under the authority of section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 11, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–2123 Filed 1–28–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98–67; FCC 01–371]

Telecommunications Services for Individuals With Hearing and Speech Disabilities; Recommended Telecommunications Relay Services Cost Recovery Guidelines; Request by Hamilton Telephone Company for Clarification and Temporary Waivers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this *Further Notice of Proposed Rulemaking (Further NPRM)* the Federal Communications Commission (FCC or Commission) solicits additional comment on the recommendations submitted by the Interstate Telecommunications Relay Services (TRS) Advisory Council and the TRS Fund Administrator (Advisory Council and Fund Administrator, respectively) relating to the appropriate cost recovery mechanism for video relay services (VRS) as proposed in comments

to the recommendations. VRS allows individuals with hearing and speech disabilities who use sign language to communicate with voice telephones.

DATES: Comments due February 28, 2002. Reply comments due March 15, 2002.. Written comments by the public on the proposed information collections are due February 28, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before April 1, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW-B204F, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff, 202/418-7705, Fax 202/418-2345, TTY 202/418-0484, pslipako@fcc.gov, Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 01-371 (Further NRPM)*, adopted December 17, 2001 and released December 21, 2001. The full text of the *Further NRPM* is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554, or copies may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Suite CY-B402, Washington, DC 20554, phone (202) 863-2893.

This *Further NPRM* contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act Analysis

This *Further NPRM* contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this *Further NPRM*, as required by the Paperwork Reduction Act of 1995, Public Law 104-

13. Public and agency comments are due at the same time as other comments on this *Further NPRM*; OMB notification of action is due 60 days from date of publication of this *Further NPRM* in the **Federal Register**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060-0463.

Title: Telecommunications Services for Individuals with Hearing and Speech Disabilities and the Americans with Disabilities Act of 1990, 47 CFR part 64 (Sections 64.601-64.605).

Form No.: N/A.

Type of Review: Proposed Revision of Existing Collection.

Respondents: Business or other for-profit institutions.

Title: Report of interstate TRS minutes of use.

No. of respondents: 10.

Hours per response: 6.

Total annual burden: 60.

Total Annual Burden: 6 hours per respondent, 60 hours for all respondents. Estimate reflects burden for TRS reporting only.

Cost to Respondents: \$0.

Needs and Uses: The Commission solicits public comment on, among other things, the data needed to be collected from the VRS service providers. The proposed data collections will be used to develop an effective and efficient cost recovery methodology for VRS.

Synopsis of the Further Notice of Proposed Rulemaking CC Docket No. 98-67

1. Title IV of the Americans with Disabilities Act of 1990 (ADA) requires Commission to ensure that TRS is available to the extent possible and in the most efficient manner to persons with hearing or speech disabilities in the United States. The Commission first ordered all carriers to provide TRS services nationwide on July 26, 1991. The rules for cost recovery were established in the *TRS Third Report and Order*, 58 FR 39671 (July 26, 1993). The Commission's rules require TRS providers to submit annually to the TRS Fund Administrator the data necessary to compute the TRS Fund requirements

and payments. The administrator uses these data to develop formulas that are filed annually with the Commission. Payments to relay service providers are distributed based on the approved formulas. The compensation formulas are based on conversation minutes of use for completed interstate TRS calls.

2. On March 6, 2000, the Commission released the *Improved TRS Order*, 65 FR 38490 (June 21, 2000), which amended the rules governing the delivery of TRS by expanding the kinds of relay services available to consumers and by improving the quality of relay services. The *Improved TRS Order* permitted the recovery of VRS costs through the interstate TRS funding mechanism and directed the Advisory Council and the Fund Administrator to develop recommendations on how the compensation formula for each service should be structured. On November 9, 2000, the Advisory Council and the Fund Administrator submitted recommended guidelines outlining proposed cost recovery procedures for traditional TRS, STS, and VRS.

3. VRS allows a TRS user with a hearing and/or speech disability who uses sign language to communicate with a voice telephone user through video equipment installed at either the premises of the person with the disability or another appropriate location and at the relay center. The Commission's rules require that VRS CAs be qualified interpreters, defined as being able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. VRS is generally subject to the same mandatory minimum standards as TRS.

4. The Advisory Council and the Fund Administrator made the following recommendations for VRS cost recovery: (1) The TRS Center Data Request should be expanded to include specific VRS sections to capture the costs and minutes separately; (2) due to its unique characteristics, a separate reimbursement rate based on VRS cost and demand should be calculated; (3) providers should be reimbursed based on completed conversation minutes of use at a national average reimbursement rate; and (4) the same methodology for rate development in place today for traditional TRS interstate cost recovery could be used to develop the VRS reimbursement rate.

5. In the *Memorandum Opinion and Order* accompanying this *Further NPRM*, the Commission adopts the Advisory Council and the Fund Administrator's recommendations that the TRS Center Data Request should be expanded to include specific sections to

capture the costs and minutes for VRS separately and that a separate reimbursement rate based on VRS cost and demand should be calculated. The Commission declines to adopt the Advisory Council and the Fund Administrator's recommendations to use, on a permanent basis, the same methodology for rate development in place today for traditional TRS interstate cost recovery to develop a VRS reimbursement rate, and the recommendation to reimburse providers (based on completed conversation minutes of use) at a national average reimbursement rate. The Commission nevertheless directs the TRS administrator to ensure that providers are able to recover their fair costs related to providing VRS by establishing an interim VRS cost recovery rate using the average per minute compensation methodology used for traditional TRS. The Commission now seeks further comment on what VRS cost recovery mechanism should be established on a permanent basis.

6. In this *Further NPRM*, the Commission solicits additional comment on the appropriate cost recovery mechanism for VRS. Because the commenters' proposals are not sufficiently detailed for the Commission to act, the Commission seeks additional comment on these proposals, and any other proposals relating to VRS cost recovery. Specifically, the Commission requests comment on the proposal that VRS compensation be a monthly flat charge based on a fixed number of conversation minutes investment in VRS. The Commission also seeks comment on whether it would be feasible to combine flat-rate and usage-based methodologies to obtain the benefits of both. Parties are also encouraged to propose other compensation plans.

Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in *Further NPRM*. 5 U.S.C. 603. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Further NPRM*. The Commission will send a copy of the *Further NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). 5 U.S.C. 603(a).

Need for, and Objectives of, the Proposed Rules

8. The Commission is issuing this document to seek further comment on the recommended cost recovery guidelines for VRS filed by the Advisory Council and the Fund Administrator on November 9, 2000. The Advisory Council and the Fund Administrator made the following four recommendations with respect to VRS cost recovery: (1) The same methodology for rate development in place today for traditional TRS interstate cost recovery could be used to develop the VRS reimbursement rate; (2) providers should be reimbursed based on completed conversation minutes at a national average reimbursement rate; (3) the TRS Center Data Request should be expanded to include specific VRS sections to capture VRS costs and demand separately; and (4) due to its unique characteristics, a separate reimbursement rate based on VRS costs and demand should be calculated.

Legal Basis

9. The proposed action is authorized under §§ 64.603, and 64.604 of the Commission's Rules, 47 CFR 64.603, 64.604, and sections 1, 2, 4, 225, 255, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 225, 255, 303(r).

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(a)(3). The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 5 U.S.C. 601(3). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the *Federal Register*." 5 U.S.C. 601(3). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the

SBA. 15 U.S.C. 632. The Commission notes that any small entities affected by any action proposed herein, should not be adversely affected. Furthermore, like all other entities affected, this action will aid small businesses by allowing them to recover costs for providing relay services. Below, the Commission further describes and estimates the number of small entity licensees and regulatees that may be affected by these proposals.

11. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its Telecommunications Industry Revenue report, regarding TRS.

12. TRS Providers. Neither the Commission nor the SBA has developed a definition of "small entity" specifically applicable to providers of telecommunications relay services (TRS). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The SBA defines such establishments to be small businesses when they have no more than 1,500 employees. According to the FCC's most recent data, there are approximately 12 interstate TRS providers, which consist of interexchange carriers, local exchange carriers, state-managed entities, and non-profit organizations. Approximately five or fewer of these entities are small businesses according to the National Association for State Relay Administration (NASRA). These numbers are estimates because of recent and pending mergers and partnerships in the telecommunications industry. The FCC notes that these providers include several large interexchange carriers and incumbent local exchange carriers. Some of these large carriers may only provide TRS service in a small area but they nevertheless are not small business entities. MCI, for example, provides relay service in approximately only 3 states but is not a small business. Consequently, the FCC estimates that there are fewer than 5 small TRS providers that may be affected by the proposed rules, if adopted.

13. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone

company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent local exchange carriers (LECs). The FCC does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, the FCC estimates that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs.

14. The Commission has included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard, and "is not dominant in its field of operation." 15 U.S.C. 632. The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

15. The proposed cost recovery measures may require additional recordkeeping requirements imposed for VRS. These costs, however, should be minimal because the tracking procedures are similar to those already in place for traditional TRS. In addition, these recordkeeping measures will promote more efficient service and allow the TRS providers to be reimbursed more accurately for their costs, thus negating any minimal costs imposed by these requirements. In addition, the Commission does not expect these costs to burden small entities any more than large entities because the costs are part of the reimbursement process and will allow all providers to be accurately reimbursed and develop effective methods of providing VRS.

Furthermore, the FCC tentatively concludes that the proposals in this document would impose minimum burdens on small entities. The FCC seeks comment on these tentative conclusions.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

16. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c). The Commission has tentatively concluded that the proposed guidelines will have minimal, if any, adverse economic impact on small entities because they are designed to allow all providers to be accurately reimbursed.

17. The Commission is issuing this *Further NPRM* to seek additional comment on the cost recovery methodology for VRS, which is a relatively new service offering. Commenters believe that VRS will require a substantially higher initial capital expenditure than traditional TRS and that a per minute reimbursement rate may not allow them to recover that expenditure. Commenters propose that, for the present time, VRS compensation be based on a flat monthly payment for an assumed number of minutes rather than the completed conversation minutes of use at a national average reimbursement rate. Once VRS generates sufficient monthly use, however, the flat monthly payment could be abandoned for the completed conversation minutes methodology suggested by the Advisory Council and the Fund Administrator. These proposals, however, are not sufficiently detailed for the Commission implement a cost recovery scheme. Thus, the Commission now seeks further comment on what VRS cost recovery mechanism should be established on a permanent basis.

18. The Commission has set forth the proposed rule primarily for the purpose of generating comment. At this time, the Commission has not tentatively concluded that any of the proposals provided should be adopted. To the

contrary, the purpose of this *Further NPRM* is to seek comments and proposals to develop the most effective method of cost recovery for VRS. Thus, the Commission is receptive of comments proposing alternatives to the ones provided by the Advisory Council and Fund Administrator and commenters. If comments received indicate that smaller entities may be impacted differently or adversely affected by the proposed rules or any alternative proposals, the Commission will seek alternatives that will prevent such an impact.

Federal Rules That May Duplicate, or Conflict With the Proposed Rules

19. None.

Report to Congress

20. The Commission will send a copy of this *Further NPRM*, including a copy of this IRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the *Further NPRM* and this IRFA will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

Ordering Clauses

21. Pursuant to the authority contained in § 64.604 of the Commission's Rules, 47 CFR 64.604, and in sections 1, 2, 4, 225, 255 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 225, 255, 303(r) that this *Further Notice of Proposed Rulemaking* is hereby *Adopted*.

22. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725-17th Street, NW., Washington, DC 20503 or via the Internet to Edward.Springer@omb.eop.gov. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202-418-0214, or via the Internet at jboley@fcc.gov.

23. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02-1981 Filed 1-28-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE

48 CFR Parts 208, 239, 251, and 252

[DFARS Case 2000-D023]

Defense Federal Acquisition Regulation Supplement; Enterprise Software Agreements

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy pertaining to the use of enterprise software agreements for the acquisition of commercial software and software maintenance.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 1, 2002, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@acq.osd.mil. Please cite DFARS Case 2000-D023 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan Schneider, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2000-D023.

At the end of the comment period, interested parties may view public comments on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, (703) 602-0326. Please cite DFARS Case 2000-D023.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule adds a new DFARS Subpart 208.74 to address the use of enterprise software agreements for the acquisition of commercial software and software maintenance in accordance with the DoD Enterprise Software Initiative. This initiative

promotes the use of enterprise software agreements with contractors that allow DoD to obtain favorable terms and pricing for commercial software and related services. Associated DFARS changes are made in parts 208, 239, 251, and 252.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed 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.*, because most enterprise software agreements are blanket purchase agreements established under Federal Supply Schedules. Establishment of such agreements is already permitted by section 8.404(b)(4) of the Federal Acquisition Regulation. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000-D023 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 208, 239, 251, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 208, 239, 251, and 252 as follows:

1. The authority citation for 48 CFR Parts 208, 239, 251, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.001 is amended by revising paragraph (a)(1)(v) to read as follows:

208.001 Priorities for use of Government supply sources.

(a)(1)(v) See Subpart 208.70, Coordinated Acquisition, and Subpart 208.74, Enterprise Software Agreements.

* * * * *

3. Subpart 208.74 is added to read as follows:

Subpart 208.74—Enterprise Software Agreements

Sec.

208.7400 Scope of subpart.

208.7401 Definitions.

208.7402 General.

208.7403 Acquisition procedures.

208.7400 Scope of subpart.

This subpart prescribes policy and procedures for acquisition of commercial software and software maintenance, including software and software maintenance that is acquired—

- (a) As part of a system or system upgrade;
- (b) Under a service contract;
- (c) Under a contract administered by another agency;
- (d) Under an interagency agreement;

or

- (e) By a contractor that is authorized to order from a Government supply source pursuant to FAR 51.101.

208.7401 Definitions.

As used in this subpart—

Enterprise software agreement means a blanket purchase agreement or a contract that is used to acquire designated commercial software or related services such as software maintenance.

Enterprise Software Initiative means an initiative led by the DoD Chief Information Officer to develop processes for DoD-wide software asset management.

Golden Disk means a purchased license or entitlement to distribute an unlimited or bulk number of copies of software throughout DoD.

Software product manager means the person who manages an enterprise software agreement.

208.7402 General.

Departments and agencies must fulfill requirements for commercial software and related services, such as software maintenance, in accordance with the DoD Enterprise Software Initiative (ESI). ESI promotes the use of enterprise software agreements (ESA) with contractors that allow DoD to obtain favorable terms and pricing for commercial software and related services.

208.7403 Acquisition procedures.

(a) Requiring officials must obtain commercial software rights or