

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.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 15, 2000.

James Jones,
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. Section 180.472 is amended by alphabetically adding three entries to the table in paragraph (a) to read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation date
Corn, field fodder	0.20	12/31/00
Corn, field forage	0.10	12/31/00
Corn, field grain	0.05	12/31/00

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GENERAL SERVICES ADMINISTRATION

48 CFR Chapter 5

RIN 3090-AE90

General Services Administration Acquisition Regulation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is adopting as final, with changes, the interim rule published in the **Federal Register** at 64 FR 37200, July 9, 1999, the reissuance of the General Services Administration Acquisition Regulation (GSAR). GSA rewrote the GSAR in plain language, included only regulatory material, and removed internal agency guidance. GSA also updated the GSAR to reflect recent changes to the Federal Acquisition Regulation (FAR) The interim rule was effective September 1, 1999.

GSA is also issuing final regulations providing guidance on selection criteria for architect-engineer contracts.

DATES: Effective March 10, 2000.

FOR FURTHER INFORMATION CONTACT: Gloria Sochon, GSA Acquisition Policy Division, (202) 208-6726.

SUPPLEMENTARY INFORMATION:

A. Background

- The GSAR, as reissued—
- Uses plain language to improve clarity and understanding.
- Reduces the amount of regulatory material.
- Eliminates internal operating procedures that do not have significant effect beyond GSA, or a significant cost or administrative impact on contractors or offerors.
- Eliminates guidance which merely implements or supplements the Federal Acquisition Regulation (FAR) without a significant cost or administrative impact on contracts or offerors, or an effect beyond GSA’s internal operating procedures.
- Updates GSA rules for consistency with recent Federal Acquisition Regulation (FAR) changes.

GSA published and interim rule in the **Federal Register** on July 9, 1999 (64 FR 37200). One respondent submitted

comments in response to the interim rule. GSA considered those comments in developing the final rule. The changes in this rule:

- Update references to the GSA Order on use of the credit card to reflect the new order issued by GSA on September 1, 1999, and updating related procedures. The changes include updating the clause at section 552.232-77 to reflect Federal Supply Service (FSS) requirements that FSS contractors accept payment by the Governmentwide commercial purchase card for orders that do not exceed the micropurchase threshold.
- Correct an error at section 515.408 in a reference to the clause to section 552.215-72.
- Update the warranty clause applicable to multiple award schedule contracts to apply to both domestic and overseas locations and deletes the clause applicable to international multiple award schedules to reflect updated Federal Supply Schedule programs.
- Correct a typographical error at section 552.209-70.
- Revise section 552.216-70 to eliminate a duplicated paragraph.
- Revise section 552.232-76 to clarify that electronic funds transfer

payments under acquisitions of leasehold interests in real property occur through the Automated Clearing House.

- Clarify protest procedures on exchange of information between the parties.
- Update section 552.247–71 to refer to common rates instead of tariffs. GSA also published a proposed rule in the **Federal Register** on August 17, 1999 (64 FR 44683) on selection criteria for architect-engineer contracts. No public comments were submitted on the proposed rule. The final rule clarifies the requirement to establish a significant production capability in the general geographical area of the project and makes editorial changes into plain language.

B. Executive Order 12866

This order was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

GSA certifies that this final rule will not 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.* The GSAR rewrite adds guidance on disclosure and use of proprietary information when GSA will release proposals outside the Government for evaluation and provided a contract clause to ensure that evaluation contractors protect proposal information appropriately. The rewrite also adds GSA agency protest procedures. These procedures offer vendors an alternate forum which is quicker and less expensive than protests to the General Accounting Office or the Courts. The guidance on use of selection criteria for architect-engineer contracts eliminates unnecessary restrictions to competition in GSA's use of geographic limitations in the evaluation process for these contracts. The other revisions do not add any new requirements; but reduce the number of agency regulations, restate existing requirements in plain language, and provide consistency with the FAR. These revisions streamline GSA acquisition rules, provide greater flexibility, and promote understanding.

D. Paperwork Reduction Act

The reissued GSAR contains information collection requirements subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) which were approved previously by OMB and

assigned the control numbers shown in section 501.106.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule under 5 U.S.C. 804. This rule was submitted to Congress and GAO under 5 U.S.C. 801.

List of Subjects in 48 CFR Chapter 5

Government procurement.

Interim Rule Adopted as Final With Changes

Accordingly, GSA adopts the interim rule reissuing 48 CFR Chapter 5, which was published in the **Federal Register** on July 9, 1999 (64 FR 37200), as final with the following changes:

1. The authority citation for 48 CFR Parts 513, 515, 532, 536, 546, and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 513—SIMPLIFIED ACQUISITION PROCEDURES

2. In section 513.302–70, revise paragraph (a) to read as follows:

513.302–7 Purchase order and related forms.

(a) See GSA Order, Guidance on Use of the Credit Card for Purchases (CFO 4200.1), for forms required for purchase card actions.

* * * * *

PART 515—CONTRACTING BY NEGOTIATION

3. In section 515.408, revise paragraph (d) to read as follows:

515.408 Solicitation provisions and contract clauses.

* * * * *

(d) Insert the clause at 552.215–72, Price Adjustment—Failure to Provide Accurate Information, in solicitations and contracts under the MAS program.

* * * * *

PART 532—CONTRACT FINANCING

4. Revise sections 532.7002 and 532.7003 to read as follows:

532.7002 Solicitation requirements.

(a) In solicitations for supplies and services, except FSS schedule solicitations, request offerors to indicate if they will accept payment by Governmentwide commercial purchase card. Identify the card brand(s) under the GSA SmartPay program that may be used to make payments under the contract, on the cover page or in Section L of the solicitation.

(b) For FSS schedule contracts, identify the card brand(s) under the

GSA SmartPay program that may be used to make payments under the contract in the contract award letter.

(c) For orders placed by GSA, you may authorize payment by Governmentwide commercial purchase card only for orders that do not exceed \$100,000 (see GSA Order, Guidance on Use of the Credit Card for Purchases (CFO 4200.1)).

(d) Consider requesting offerors to designate different levels for which they may accept payment by Governmentwide commercial purchase card, for example:

“If awarded a contract under this solicitation, the offeror agrees to accept payment by Governmentwide commercial purchase card for orders of:

- \$2,500 or less
- \$25,000 or less
- \$50,000 or less
- \$100,000 or less”

532.7003 Contract Clause.

(a) *Indefinite-delivery, indefinite-quantity (IDIQ) contracts other than Federal Supply Service.* Insert the clause at 552.232–77, Payment by Governmentwide Commercial Purchase Card, in IDIQ solicitations and contracts for supplies and services if the contract will provide for payment by Governmentwide commercial purchase card as an alternative method of payment for orders.

(b) *Federal Supply Service Contracts.* Use Alternate I of the clause at 552.232–77 for all FSS schedule solicitations and contracts. You may use the clause in other FSS IDIQ contract as appropriate.

PART 536—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

5. Add subpart 536.6 to read as follows:

SUBPART 536.6—ARCHITECT-ENGINEER SERVICES

536.602 Selection of firms for architect-engineer contracts.

536.602–1 Selection criteria.

(a) FAR 36.602–1 requires that agencies include “location in the general geographical area of the project and knowledge of locality of the project” as one of several selection criteria.

(1) Do not use this evaluation factor as a minimum qualification requirement for determining whether a firm is eligible to compete for a proposed project.

(2) This factor must not exceed 5 percent of the total weight of all evaluation criteria. In order to receive maximum score for this factor, the

architect-engineer firm(s) must demonstrate that at least 35 percent of the architect-engineer contract services (based on the total contract price) will be accomplished within the geographical boundaries established for the project.

(3) Under an approved class deviation from FAR 36.602-1(a)(5), this factor does not apply to projects that the Chief Architect of GSA determines have national significance.

(b) The public announcement (Commerce Business Daily notice) for a proposed project should identify the general geographical area of the project by either:

(1) A radius in miles or other appropriate unit of measure.

(2) The Standard Metropolitan Statistical Area, county(ies), state(s) surrounding the project, or other appropriate geographic boundaries.

(c) Architect-engineer selections under the Design Excellence Program must apply the geographical evaluation criteria in the second phase.

(d) The public announcement (Commerce Business Daily notice) must provide the number of calendar days the architect-engineer of record has to establish a production capability within the general geographical area of the project. You may allow the architect-engineer of record up to 45 calendar days after contract award to establish this production capability.

PART 546—QUALITY ASSURANCE

6. In section 546.710, revise paragraph (b) to read as follows, remove paragraph (c), and redesignate paragraphs (d) and (e) as paragraphs (c) and (d) respectively:

546.710 Contract clauses.

* * * * *

(b) *Multiple award schedules.* Insert the clause at 552.246-73, Warranty—Multiple Award Schedule, in solicitations and contracts.

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7.-9. Amend section 552.232-76 to revise the date and paragraph (b)(1) to read as follows:

552.232-76 Electronic Funds Transfer Payment.

ELECTRONIC FUNDS TRANSFER PAYMENT (MAR 2000)

* * * * *

(b) * * *

(1) The American Bankers Association 9-digit identifying number for Automated Clearing House (ACH) transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.

* * * * *

10. Revised section 552.232-77 to read as follows:

552.232-77 Payment By Governmentwide Commercial Purchase Card.

PAYMENT BY GOVERNMENTWIDE COMMERCIAL PURCHASE CARD (MAR 2000)

(a) Definitions. "Governmentwide commercial purchase card" means a uniquely numbered credit card issued by a contractor under GSA's Governmentwide Contract for Fleet, Travel, and purchase Card Services to named individual Government employees or entities to pay for official Government purchases.

"Oral order" means an order placed orally either in person or by telephone.

(b) At the option of the Government and if agreeable to the Contractor, payments of _____* or less for oral or written orders may be made using the Governmentwide commercial purchase card.

(c) The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased supplies have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty item under other contract requirements, the Contractor must immediately credit a cardholder's account for items returned as defective or faulty.

(d) Payments made using the Governmentwide commercial purchase card are not eligible for any negotiated prompt payment discount. Payment made using a Government debit card will receive the applicable prompt payment discount. (End of clause)

* Enter amount not to exceed \$100,000. *Alternate I (MAR 2000).* For FSS schedule solicitations and contracts, replace paragraph (b) of the basic clause and add paragraph (c) as follows. Redesignate paragraphs (c) and (d) of the basic clause as (d) and (e) respectively.

(b) The Contractor must accept the Governmentwide commercial purchase card for payments equal to or less than the micro-purchase threshold (see Federal Acquisition Regulation 2.101) for oral or written orders under this contract.

(c) The Contractor and the ordering agency may agree to use the Governmentwide commercial purchase card for dollar amounts over the micro-purchase threshold, and the Government encourages the Contractor to accept payment by the purchase card. The dollar value of a purchase card action must not exceed the ordering agency's established limit. If the Contractor will not accept payment by the purchase card for an order exceeding the micro-purchase threshold, the Contractor must so advise the ordering

agency within 24 hours of receipt of the order.

11. Amend section 552.233-70 to revise the clause date and paragraphs (h)(4) and (h)(5) to read as follows, and to remove paragraph (h)(6):

552.233-70 Protests Filed Directly with the General Services Administration.

PROTESTS FILED DIRECTLY WITH THE GENERAL SERVICES ADMINISTRATION (MAR 2000)

* * * * *

(h) * * *

(4) Except as provided in paragraph (5)(ii) below, the parties are encouraged, but not required, to exchange information submitted to the Agency Protest Official for GSA.

(5) If the agency makes a written response to the protest, the following filling requirements apply unless the deciding official approves other arrangements:

(i) The agency must file its response to the protest with the deciding official within five (5) days after the filing of the protest.

(ii) The agency must also provide the protester with a copy of the response on the same day it files the response with the deciding official. If the agency believes it needs to redact or withhold any information in the response from the protester, it must obtain the approval of the deciding official.

* * * * *

12. Revise section 552.246-73 to read as follows:

552.246-73 Warranty—Multiple Award Schedule.

WARRANTY—MULTIPLE AWARD SCHEDULE (MAR 2000)

(a) *Applicable to domestic locations.* Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the Contractor's commercial price list applies to this contract.

(b) *Applicable to overseas destinations.* Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the commercial price list applies to this contract, except as follows:

(1) The Contractor must provide, at a minimum, a warranty on all non-consumable parts for a period of 90 days from the date that the Government accepts the product.

(2) The Contractor must supply parts and labor required under the warranty provisions free of charge.

(3) The Contractor must bear the transportation costs of returning the products to and from the repair facility, or the costs involved with Contractor personnel traveling to The Government facility for the purpose of repairing the product onsite, during the 90-day warranty period.

552.246-74 [Removed]

(End of clause)

13. Remove and reserve section 552.246-74

14. Revise the prescription at section 552.246-75 to read as follows:

552.246-75 Guarantees.

As prescribed in 546.710(c), insert the following clause.

* * * * *

15. Revise the prescription at section 552.246-76 to read as follows:

552.246-76 Warranty of Pesticides.

As prescribed in 546.710(d), insert the following clause:

* * * * *

16. Amend section 552.247-71 to revise the clause date and paragraph (c)(2) to read as follows:

552.247-71 Diversion of Shipment Under f.o.b. Destination Contracts.

* * * * *

DIVERSION OF SHIPMENT UNDER F.O.B. DESTINATION CONTRACTS (MAR 2000)

* * * * *

(c) * * *

(2) If (i) shipments to the new destination are made by the Contractor's owned or leased trucks or (ii) shipments to the original destination were or would have been made by the Contractor's owned or leased trucks, the Government shall determine the adjustment by substituting a rate equal to 70 percent of the lowest applicable rate published in common carrier rates as of the date of shipment for the Contractor's actual rate or contemplated transportation costs.

* * * * *

Dated: February 18, 2000.

J. Les Davison,

Acting Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 00-4699 Filed 3-1-00; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 000211040-0040-01; I.D. 022500B]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District and Bering Sea subarea of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal allowance of Atka mackerel total allowable catch (TAC) specified for the Central Aleutian District.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 26, 2000, until 1200 hrs, A.l.t., September 1, 2000.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 2000 Harvest Specifications for Groundfish (65 FR 8282, February 18, 2000) established the first seasonal allowance of Atka mackerel TAC specified for the Central Aleutian

District as 11,424 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal allowance of Atka mackerel TAC specified for the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 11,174 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently attained from the fishery. It must be implemented immediately to prevent overharvesting the first seasonal allowance of Atka mackerel TAC specified for the Central Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 25, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00-4942 Filed 2-25-00; 4:15 pm]

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