

Act, EPA is fully approving these rules into the California SIP.

#### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 July 19, 2004. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 28, 2004.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 *et seq.*

#### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(300) (i)(D)(1), (c)(325), and (c)(326) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(300) \* \* \*

(i) \* \* \*

(D) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4703 adopted on April 25, 2002.

\* \* \* \* \*

(325) Amended regulations for the following APCD were submitted on September 29, 2003, by the Governor’s Designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rules 4305 and 4351 adopted on August 21, 2003, and Rule 4306 adopted on September 18, 2003.

(326) Amended regulations for the following APCD were submitted on October 9, 2003, by the Governor’s Designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rules 4701 and 4702 adopted on August 21, 2003.

[FR Doc. 04–11114 Filed 5–17–04; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 25 and 101

[ET Docket No. 98–206; RM–9147; RM–9245; FCC 02–116]

**Order To Permit Operation of NGSO FSS Systems Co-Frequency With GSO and Terrestrial Systems in the Ku-Band Frequency Range; Authorize Subsidiary Terrestrial Use of the 12.2–12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and in Re Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. in the 12.2–12.7 GHz Band**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** The Commission adopted new rules to establish technical, service and licensing rules governing Multichannel Video Distribution and Data Service (MVDDS) in the 12 GHz band. Certain rules contained new and modified information collection requirements and were published in the **Federal Register** on June 26, 2002. This document announces the effective date of these published rules.

**DATES:** The amendments to §§ 25.139, 101.103, 101.1403, 101.1413, 101.1417, and 101.1440, published in the **Federal Register** on June 26, 2002, became effective on November 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Mock, Broadband Division, Wireless Telecommunications Bureau at (202) 418-2487.

**SUPPLEMENTARY INFORMATION:** On November 30, 2002, the Office of Management and Budget (OMB) approved the information collection requirements contained in Sections 25.139, 101.103, 101.1403, 101.1413, 101.1417, and 101.1440, pursuant to OMB Control Nos. 3060-1021, 3060-1023, 3060-1022, 3060-1024, 3060-1026, and 3060-1025, respectively. Accordingly, the information collection requirements contained in these rules became effective on November 30, 2002.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## GENERAL SERVICES ADMINISTRATION

**48 CFR Parts 511, 516, 532, 538, 546,  
and 552**

**[Amendment 2004-01; GSAR Case 2002-  
G505]**

**RIN 3090-AH76**

### **General Services Administration Acquisition Regulation; Federal Supply Schedule Contracts—Acquisition of Information Technology by State and Local Governments Through Federal Supply Schedules**

**AGENCIES:** General Services  
Administration (GSA), Office of  
Acquisition Policy.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) has issued a final rule amending the General Services Administration Acquisition Regulation (GSAR) to implement section 211 of the E-Government Act of 2002. Section 211

authorizes the Administrator of GSA to provide for the use by States or local governments of its Federal Supply Schedules for automated data processing equipment (including firmware), software, supplies, support equipment, and services.

**DATES:** *Effective Date:* May 18, 2004.

*Applicability Date:* This amendment applies to solicitations and existing contracts for Schedule 70, Information Technology (IT), and Consolidated Products and Services Schedule contracts, containing Information Technology (IT) Special Item Numbers (SINs), as defined in GSAM 538.7001, Definitions, Schedule 70. Further, this amendment applies to contracts awarded after the effective date of this rule for Schedule 70 and Consolidated Products and Services Schedule contracts, containing IT SINs. Existing Schedule 70 contracts and Consolidated Products and Services Schedule contracts, containing IT SINs, shall be modified by mutual agreement of both parties.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. The TTY Federal Relay Number for further information is 1-800-877-8973. Please cite Amendment 2004-01, GSAR case 2002-G505.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

###### *1. Interim and Final Rules*

GSA published an interim rule in the **Federal Register** at 68 FR 24372, May 7, 2003, with a request for comments. This interim rule implemented section 211 of the E-Government Act of 2002. Section 211 of the E-Government Act of 2002 (Pub. L. 107-347) amended the Federal Property and Administrative Services Act to allow for “cooperative purchasing,” where the Administrator of GSA provides States and localities access to certain items offered through GSA’s Federal Supply Schedules. Section 211 amends 40 U.S.C. 502 by adding a new subsection (c) that allows, to the extent authorized by the Administrator, a State or local government to use Federal Supply Schedules of the General Services Administration to purchase automated data processing equipment (ADPE) (including firmware), software, supplies, support equipment, and services. “State or local government” includes any State, local, regional, or tribal government, or any

instrumentality thereof (including any local educational agency or institution of higher education).

GSA concluded that the interim rule should be converted to a final rule with minor changes. In particular, the final rule amends—

- GSAM Parts 511, 516, 532, 538, 546, and 552 to delete the term “Corporate” Schedule and substitute it with “Consolidated Products and Services” Schedule;
- Paragraphs (d)(2) and (d)(3) of the clause at 552.238-75, Price Reduction, to clarify that price reductions are not triggered for sales made to State and local government entities under Cooperative Purchasing;
- Paragraphs (b) and (c) of the clause at 552.238-78, Scope Of Contract (Eligible Ordering Activities), to define domestic and overseas delivery, and provide the contractor the option of providing supplies or services on an international basis; and paragraph (f) to clarify the contractor’s option in accepting or not accepting orders from activities outside the Executive Branch of the Federal Government; and
- Paragraph (a)(1) of the clause at 552.238-79, Use of Federal Supply Schedule Contracts by Certain Entities—Cooperative Purchasing, to clarify that both contracts and Blanket Purchase Agreements (BPAs) established under Cooperative Purchasing are separate contracts; and paragraph (a)(3) to clarify that State and local government entities may add terms and conditions other than those required by statute, ordinance, regulation, or order.

###### *2. Summary and Disposition of Comments*

Comments were received from four respondents. These comments were considered in the formulation of the final rule. A summary of the comments and their respective disposition is as follows:

*Comment:* One respondent had concerns about State and local government entities’ ability to use the finance and leasing terms under the GSA IT Schedule. Will State and local government entities have the ability to terminate a lease for convenience, nonrenewal and nonappropriation?

*Response:* State and local government entities are provided access to all goods and services offered through both Schedule 70 and Consolidated Products and Services Schedule contracts, containing IT SINs. Further, State and local government entities are afforded the same terms and conditions offered through those Schedules. State and local government entities may include additional contract terms and