

2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 263A and by adding Channel 227A at Custer.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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#### GENERAL SERVICES ADMINISTRATION

#### 48 CFR Parts 501, 549, and 552

[GSAR Case 2008–G515; Docket 2008–0007; Sequence 17]

RIN 3090–AI62

#### General Services Acquisition Regulation; GSAR Case 2008–G515; Rewrite of GSAR Part 549, Termination of Contracts

**AGENCY:** Office of the Chief Acquisition Officer, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to revise language

that provides requirements for termination of contracts.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat on or before October 14, 2008 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by GSAR Case 2008–G515 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “GSAR Case 2008–G515” under the heading “Comment or Submission”. Select the link “Send a Comment or Submission” that corresponds with GSAR Case 2008–G515. Follow the instructions provided to complete the “Public Comment and Submission Form”. Please include your name, company name (if any), and “GSAR Case 2008–G515” on your attached document.

- Fax: 202–501–4067.

- Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4041, ATTN: Laurieann Duarte, Washington, DC 20405.

**Instructions:** Please submit comments only and cite GSAR Case 2008–G515 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Jeritta Parnell at (202) 501–4082, or by e-mail at [jeritta.parnell@gsa.gov](mailto:jeritta.parnell@gsa.gov). For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2008–G515.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to delete two outdated clauses and the prescriptions for the two clauses. This proposed rule is a result of the General Services Administration Acquisition Manual (GSAM) rewrite initiative. The initiative was undertaken by GSA to revise the GSAM so as to maintain consistency with the FAR and implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can use when entering into and administering contractual relationships. The GSAM incorporates the General

Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy.

GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, GSA will publish it in the **Federal Register**.

This proposed rule revises GSAR Part 549 by deleting the prescriptive language at section 549.502 for two outdated clauses. The clause at 552.249–70, Termination for Convenience of the Government (Fixed Price) (Short Form), and the clause at 552.249–71, Submission of Termination Liability Schedule, are being deleted. These are two GSA-unique clauses for acquisition and maintenance of telephone systems funded through the Information Technology (IT) Fund. This fund no longer exists. These clauses are obsolete.

#### Discussion of Comments

There were no comments received in response to the “Advanced Notice of Proposed Rulemaking” at 71 FR 7910, February 15, 2006, pertaining to this GSAR Part 549.

This is not a significant regulatory action and, therefore, was not subject to 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.

#### B. Regulatory Flexibility Act

The General Services Administration does not expect this proposed rule 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 the revisions are not considered substantive. The revisions delete obsolete coverage. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. GSA will consider comments from small entities concerning the affected GSAR Parts 501, 549, and 552 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (GSAR case 2008–G515), in correspondence.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the GSAM do not impose 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 501, 549, and 552

Government procurement.

Dated: August 6, 2008.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, GSA proposes to amend 48 CFR parts 501, 549 and 552 as set forth below:

### PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

1. The authority citation for 48 CFR part 501 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

#### 501.106 [Amended]

2. Amend section 501.106 by removing the GSAR Reference “549.502(b)” and corresponding OMB Control Number “3090-0027”; and removing the GSAR Reference “552.249-71” and corresponding OMB Control Number “3090-0227”.

### PART 549—TERMINATION OF CONTRACTS

3. The authority citation for 48 CFR part 549 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c).

#### 549.5 [Removed]

4. Remove subpart 549.5.

#### 549.502 [Removed]

5. Remove section 549.502.

### PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. The authority citation for 48 CFR part 552 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

#### 552.249-70 and 552.249-71 [Removed]

7. Remove sections 552.249-70 and 552.249-71.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 214

[Docket No. FRA-2008-0059, Notice No. 2]

RIN 2130-AB93

### Railroad Workplace Safety; Adjacent-Track On-Track Safety for Roadway Workers

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM); withdrawal.

**SUMMARY:** On July 17, 2008, FRA published an NPRM in the **Federal Register** addressing adjacent-track on-track safety procedures for roadway workers. For the reasons stated below, FRA has decided to withdraw the NPRM.

**DATES:** The NPRM published on July 17, 2008 at 73 FR 41214 is withdrawn as of August 13, 2008.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Rusk, Staff Director, Track Division, Office of Safety Assurance and Compliance, FRA, 1200 New Jersey Avenue, SE., RRS-15, Mail Stop 25, Washington, DC 20590 (telephone 202-493-6236); or Anna Winkle, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., RCC-12, Mail Stop 10, Washington, DC 20590 (telephone 202-493-6166 or 202-493-6052).

**SUPPLEMENTARY INFORMATION:** The NPRM was developed in order to respond to fatal train incidents and in response to recommendations from the Railroad Safety Advisory Committee (RSAC). The NPRM was published with an abbreviated comment period in order to address the issue in a more timely fashion, in response to a joint petition for Emergency Order that was filed by the Brotherhood of Maintenance of Way Employees Division (BMWED) and the Brotherhood of Railroad Signalmen (BRS). However, since the publication of the NPRM, FRA received a joint request from BMWED and BRS that FRA extend the comment period for this NPRM to 60 days, due to concern that parts of the NPRM failed to accurately capture the consensus recommendations of the RSAC.<sup>1</sup> The joint request did not specify

which parts of the NPRM failed to reflect the consensus recommendations, and no formal comments have been submitted by the BMWED or BRS to that effect. However, there have been several “ex parte” communications subsequent to the filing of the joint request in which a representative of the BMWED has recommended that FRA make very specific changes to the proposed rule. In accordance with the Department of Transportation’s Policy (Order No. 2100.2 (1970)), all communications between FRA employees and other parties since the publication of the NPRM have been reduced to writing and placed in the public docket.

It should be noted that while the proposed rule text was intended to be responsive to the intent of the consensus language recommended to FRA by the RSAC, FRA may not delegate its rulemaking authority to a committee, and may choose to accept or reject any or all of the consensus proposals for cause stated. However, in consideration of the assistance provided by the RSAC, FRA does endeavor to ensure that FRA representatives to the consensus process reflect the policies of the Federal Railroad Administrator. In reviewing the consensus language, there were several areas that FRA thought needed clarification in order to ensure uniform application of the law, as well as enforceability of the consensus language if it were to be adopted as written. In crafting the NPRM, FRA presented the RSAC consensus language in the preamble verbatim and transparently explained its rationale for all changes it made to the consensus language. As this was an NPRM, FRA sought comment on the entire proposal, including those portions that FRA sought to clarify.

FRA recognizes that inadvertent errors do sometimes occur in formulating a proposal and expects that interested parties would provide comments to both FRA and all other interested parties through the established comment process detailed in the NPRM. Given the alleged discrepancies between the consensus language and the proposed rule, the need to clarify the essential issues and move toward resolution of the safety concern at hand, and the ex parte communications regarding this proposed rule, FRA has decided to withdraw this rulemaking and will take such further regulatory steps as safety requires. The docket for this rulemaking has been closed. Any formal comments submitted on this NPRM will need to be resubmitted by the commenter, if still applicable, to a future rulemaking docket.

<sup>1</sup> FRA notes that extending the comment period to September 15, 2008, would remove all possibilities of any final rule becoming effective prior to the fourth quarter (October–December), in which the majority of the adjacent-track fatalities have occurred.