

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-166012-02]

RIN 1545-BB82

#### Notional Principal Contracts; Contingent Nonperiodic Payments; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains corrections to proposed regulations that were published in the **Federal Register** on February 26, 2004 (69 FR 8886) that relate to the inclusion into income or deduction of a contingent nonperiodic payment provided for under a notional principal contract (NPC).

**FOR FURTHER INFORMATION CONTACT:** Kate Sleeth, (202) 622-3920 (not toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The notice of proposed rulemaking and notice of public hearing that are the subject of these corrections are under section 446 of the Internal Revenue Code.

##### Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG-166012-02) contain errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG-166012-02), which were the subject of FR Doc. 04-4151, is corrected as follows:

1. On page 8886, column 1, in the heading, the subject line “National Principle Contracts; Contingent

Nonperiodic Payments” is corrected to read “Notional Principle Contracts; Contingent Nonperiodic Payments”.

#### § 1.446-3 [Corrected]

2. On page 8897, column 1, § 1.446-3 (g)(7)(v), *Example 8*, line 7, the language “(\$734,347-363,693), the difference between” is corrected to read “(\$734,347-\$363,693), the difference between”.

3. On page 8897, column 1, § 1.446-3 (g)(7)(viii), *Example 8*, line 3, the language “at 11.0% times \$5,000,000, or \$5,500,000. W” is corrected to read “at 11.0% times \$50,000,000, or \$5,500,000. W”.

Cynthia E. Grigsby,

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 04-6468 Filed 3-22-04; 8:45 am]

**BILLING CODE 4830-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL218-01b, FRL-7635-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Illinois; Definition of Volatile Organic Material and Volatile Organic Compound

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve Illinois' October 31, 2003 request to revise the definition for volatile organic material (VOM) and volatile organic compound (VOC) to incorporate exemptions for several nonreactive compounds from the definition of VOM and VOC and thereby, from regulation as ozone precursors. These requested state implementation plan (SIP) revisions were made in response to, and consistent with, EPA's action to add these chemical compounds to the list of chemicals that are exempted from the definition of VOC. In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and

anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments in response to that direct final rule, EPA plans to take no further action on this proposed rule. If EPA receives significant adverse comments, in writing, which EPA has not addressed, EPA will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

**DATES:** EPA must receive written comments on or before April 22, 2004.

**ADDRESSES:** Send written comments to:

J. Elmer Bortzer, Acting Chief, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in part(I)(B)(1)(i) through (iii) of the Supplementary Information section of the direct final rule published in the rules section of this **Federal Register**.

You may inspect copies of the documents relevant to this action during normal business hours at the following location:

Criteria Pollutant Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Please contact Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767. [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Where Can I Find More Information About This Proposal And The Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: March 1, 2004.

**Jo Lynn Traub,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 04-6425 Filed 3-22-04; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 36

#### Federal Acquisition Regulation; Application of the Brooks Act to Mapping Services

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Request for comments.

**SUMMARY:** The Federal Acquisition Regulatory Council (FAR Council) is considering whether guidance in the Federal Acquisition Regulation (FAR) addressing the application of the Brooks Act to mapping services should be amended. The FAR currently requires application of the Brooks Act's qualifications based selection process to certain types of mapping services while precluding application in other instances. The FAR Council requests that interested parties provide comments.

**DATES:** Interested parties should submit comments in writing to the FAR Secretariat at the address shown below on or before May 24, 2004.

**ADDRESSES:** Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—[MappingNotice@gsa.gov](mailto:MappingNotice@gsa.gov).

Please submit comments only and cite "mapping notice" in all correspondence related to this case.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501-4755 for information pertaining to status or publication schedules. The TTY Federal Relay Number for further information is 1-800-877-8973. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219-0202. Please cite "mapping notice."

#### SUPPLEMENTARY INFORMATION:

#### Background

The selection procedures currently prescribed by the FAR for the acquisition of mapping vary depending on the nature of the mapping service. In particular, FAR 36.601-4(a)(4) states that mapping associated with the research, planning, development, design, construction, or alteration of real property is considered to be an architectural and engineering (A&E) service and must be procured using the processes at FAR 36.601, which implements Public Law 92-582, as amended, also known as the "Brooks Architect-Engineers Act." Under the Act, which is codified in chapter 11 of title 40 of the United States Code, contracts are negotiated based on the demonstrated competence and qualifications of prospective contractors to perform the services at a fair and reasonable price.

FAR 36.601-4(a)(4) further states that mapping services that are not connected to traditionally understood or accepted A&E activities are not incidental to such A&E activities or have not, in themselves, traditionally been considered A&E services, shall be procured pursuant to provisions in FAR parts 13, 14, and 15. These FAR parts, used for the procurement of most goods and services, allow agencies to employ sealed bids or competitive negotiations (using streamlined procedures in certain instances) through either the consideration of only price or cost or both price/cost and non-cost factors, including the tradeoff of cost and non-cost factors.

The policy set forth in FAR 36.601-4(a)(4) for the handling of mapping services has been in effect since 1991. This policy is based, in large part, on the 1988 statutory changes to the Brooks Act.

FAR 36.601-4(a)(4) was most recently modified in 1999 to implement section 8101 of the Department of Defense Appropriations Act, 1999 (Public Law 105-262). Section 8101 stated that the National Imagery and Mapping Agency (NIMA), with limited exception, must use the procedures in FAR subpart 36.6 when using fiscal year 1999 funds to award contracts for mapping, charting, and geodesy activities, rather than the provisions in FAR parts 13, 14, and 15. The FAR coverage in effect at the time section 8101 was enacted made specific reference to NIMA as exemplifying the type of mapping services that must not be procured pursuant to FAR subpart 36.6. Consistent with section 8101, the Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) amended

FAR 36.601-4(a)(4) to remove the reference to NIMA. See FAR case 98-023; Item V (64 FR 32746, June 17, 1999). Because the FAR rule only removed the reference to NIMA, as an example, and did not change the FAR policies relating to application of the Brooks Act to mapping, the CAAC and DARC determined that the rule did not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577 and, therefore, publication for public comment was not required prior to issuing a final rule.

After the amendment to FAR 36.601-4(a)(4) was published in the **Federal Register**, the Office of Federal Procurement Policy received a series of letters from interested parties. In particular, some mapping industry representatives stated that the revision created confusion for the Federal procurement community. They considered the rule to be a major narrowing of the application of the Brooks Act.

At least one commenter stated that Congress intended to apply the Brooks Act to a wide scope of mapping services and cited to House Report 105-746, which called upon the FAR drafters to:

\* \* \* define "Surveying and mapping" [subject to Brooks Act's qualifications based selection process] in such a manner as to include contracts and subcontracts for services for Federal agencies for collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man made physical features, phenomena and boundaries of the earth and any information related thereto including but not limited to surveys, maps, charts, remote sensing data and images and aerial photographic services.

The commenter requested that FAR 36.601-4(a)(4) be amended to apply the Brooks Act to a broader range of mapping services. At a minimum, the commenter asked that the public be given an opportunity to comment on the issue.

The FAR Council does not consider the removal of the reference to NIMA in the 1999 FAR amendments to constitute a shift in longstanding policy regarding the application of the Brooks Act to mapping services. However, the FAR Council has decided to seek public comment on the mapping policies articulated in FAR 36.601-4(a)(4) so it, the CAAC, and the DARC may review the effectiveness of current policy in selecting quality firms to perform mapping services and consider if a FAR change should be pursued.

Accordingly, respondents are encouraged to discuss advantages and drawbacks of the current regulatory coverage in FAR 36.601-4(a)(4) as it pertains to the acquisition of mapping