

have been taken to comply with the consumer education recommendations contained in the Report and Order.

Second, although this *Fifth Report and Order* recommends an extensive consumer outreach program, the program is only recommended, not required. Therefore, we conclude that the action taken herein should not adversely affect any small entities. Furthermore, this action aids all affected entities, including small businesses, as states and carriers consider such costs when entering into their contracts and determining their general overhead expenses.

6. Report to Congress

The Commission will send a copy of the *Fifth Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Fifth Report and Order* including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Fifth Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

Paperwork Reduction Act of 1995 Analysis

This *Fifth Report and Order* contains new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA) Pub. L. 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public and other Federal agencies are invited to comment on the new or modified information collections(s) contained in this proceeding.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 225 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 225 and 303, this Report and Order is adopted, and part 64 of the Commission's rules is amended and shall be effective March 10, 2003.

It is further ordered that the information collection(s) contained in the Report and Order shall become effective following approval by the Office of Management and Budget in the **Federal Register** announcing the effective date for those sections.

It is further ordered that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of

this *Fifth Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Reporting and recordkeeping requirements, Telecommunications. Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 is amended to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Public Law 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

2. Section 64.604 is amended by revising paragraph (a)(3) to read as follows:

§ 64.604 Mandatory Minimum Standards.

* * * * *

(a) * * *

(3) *Types of Calls*—Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services. Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. Relay service providers are permitted to decline to complete a call because credit authorization is denied.

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[FR Doc. 03-3069 Filed 2-6-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF ENERGY

48 CFR Parts 923, 936 and 970

RIN 1991-AB47

Acquisition Regulation: Affirmative Procurement Program—Acquisition of Products Containing Recovered Materials

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to further implement Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*, dated September 14, 1998. On June 6, 2000, the Federal Acquisition Regulation (FAR) was amended to implement the Executive Order by a final rule published in the **Federal Register**. Today's amendment to the DEAR is necessary to supplement the FAR regarding agency policy applicable to DOE's facility management contractors.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of Public Comments
- III. Section-by-Section Analysis
- IV. Procedural Requirements
 - A. Review Under Executive Order 12866
 - B. Review Under Executive Order 12988
 - C. Review Under the Regulatory Flexibility Act
 - D. Review Under the Paperwork Reduction Act
 - E. Review Under the National Environmental Policy Act
 - F. Review Under Executive Order 13132
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996
 - J. Review Under Executive Order 13211
 - K. Approval by the Office of the Secretary of Energy

I. Background

This action follows a Notice of Proposed Rulemaking published in the **Federal Register** on November 30, 2000 (65 FR 71292). The public comment period for the notice ended January 2, 2001. The purpose of this rule is to provide additional guidance regarding Executive Order 13101, dated September 14, 1998 (63 FR 49641), entitled *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*, which superseded Executive Order 12873 dated October 20, 1993, entitled *Federal Acquisition, Recycling, and Waste Prevention*. Among the changes made by this rule is the revision of the clause at section 970.5223-2 of the DEAR to