(vi) A citation of each applicable requirement in the subpart that the owner or operator proposes to replace with the proposed pollution prevention alternative requirements, accompanied by an explanation of how the proposed alternative requirements satisfy the intent of the replaced requirements and/or why the replaced requirements are not necessary.

(vii) A certification signed by a responsible official that each source of emissions will not discontinue the pollution prevention measures or fail to maintain the hazardous air pollutant reductions described in the request unless the owner or operator notifies the Administrator in writing at least 30 days prior to discontinuing the pollution prevention measures or failing to maintain the hazardous air pollutant reductions.

(viii) A certification signed by a responsible official that the requirements in the subpart will again apply to each source of emissions on the date that the owner or operator discontinues the pollution prevention measures and/or fails to maintain the hazardous air pollutant reductions, and that the owner or operator will comply with all applicable requirements of the subpart on that date.

(ix) A certification signed by a responsible official that the affected source is subject to and in compliance with all applicable requirements in the subpart not specifically identified in paragraph (c)(2)(vi) of this section (*i.e.*, not proposed to be replaced by alternative compliance requirements).

(d) *Review and approval or disapproval of request for pollution prevention alternative requirements.* (1) For each request submitted according to paragraph (c) of this section, the Administrator will notify the owner or operator of the affected source in writing of the approval or intent to deny approval within a 45-day period after receiving the request. For a source at a Performance Track member facility, the notification period for approval or intent to deny is 30 days after receiving the request.

(2) The affected source is subject to all of the requirements in the subpart until the Administrator notifies the owner or operator in writing of the approval of the request to use pollution prevention alternative requirements. Failure of the Administrator to notify the owner or operator in writing of the approval or intent to deny approval of the request within the applicable notification period after receiving the request does not constitute approval of the request.

(3) The Administrator may specify additional compliance requirements as a condition of approving the pollution prevention alternative requirements.

(4) If the Administrator intends to disapprove the request for pollution prevention alternative requirements, the written notification will include the information in paragraphs (d)(4)(i) through (d)(4)(iii) of this section.

(i) Notice of the information and findings on which the intended disapproval is based.

(ii) Notice of opportunity for the owner or operator to present additional information to the Administrator before final action on the request.

(iii) A deadline for presenting the additional information to the Administrator.

(5) If additional information is submitted according to paragraph (d)(4)(ii) of this section, the Administrator will notify the owner or operator in writing of the approval or disapproval of the request within the applicable notification period after receiving any additional information. If additional information has not been submitted by the deadline established according to paragraph (d)(4)(iii) of this section, the Administrator will disapprove the request. Failure of the Administrator to notify the owner or operator in writing of the approval or disapproval within the applicable notification period after receiving the additional information does not constitute approval of the request.

(6) If the Administrator approves the request for pollution prevention alternative requirements, the Administrator will transmit written approval to the owner or operator that includes the elements listed in paragraphs (d)(6)(i) through (d)(6)(v) of this section. The written approval document shall be enforceable under the CAA.

(i) Identification of each specific source of emissions covered by the approval.

(ii) The pollution prevention alternative requirements that apply to each designated source of emissions, including any additional compliance measures deemed necessary by the Administrator.

(iii) The applicable requirements of the subpart that no longer apply to each designated source of emissions.

(iv) A requirement that the owner or operator provide written notice to the Administrator at least 30 days prior to discontinuing the pollution prevention measures and/or failing to maintain the HAP reductions described in the request.

(v) A condition that the applicable requirements of the subpart will again apply to each designated source of emissions on the date that the owner or operator discontinues the pollution prevention measures and/or fails to maintain the hazardous air pollutant reductions described in the request for that source of emissions, and that the owner or operator must comply with all applicable requirements of the subpart on that date.

(e) *Review and approval or disapproval of request for modification to approved pollution prevention alternative requirements.* (1) If a request for pollution prevention alternative requirements has been approved according to paragraph (d) of this section, the owner or operator may submit a request to modify the pollution prevention alternative requirements.

(2) The request must include, at a minimum, the information specified in paragraphs (c)(2)(i) through (c)(2)(ix) of this section.

(3) The Administrator will approve or disapprove the request according to the procedures in paragraphs (d)(1) through (d)(6) of this section.

(4) Each source of emissions is subject to the previously-approved pollution prevention alternative requirements until the Administrator notifies the owner or operator in writing of the approval of the modified pollution prevention alternative requirements.

[FR Doc. 03–12180 Filed 5–14–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Parts 208, 219, and 252

[DFARS Case 2002–D003]

Defense Federal Acquisition Regulation Supplement; Competition Requirements for Purchases From a Required Source

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 811 of the National Defense Authorization Act for Fiscal Year 2002 and Section 819 of the National Defense Authorization Act for Fiscal Year 2003. Sections 811 and 819 address requirements for conducting market research before purchasing a product listed in the Federal Prison Industries (FPI) catalog, and for use of competitive procedures if an FPI product is found to be noncomparable to products available from the private sector. Section 819 also addresses

limitations on an inmate worker's access to information and on use of FPI as a subcontractor.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 14, 2003, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2002–D003 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan Schneider, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2002–D003.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

Section 811 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–107) added 10 U.S.C. 2410n, providing that (1) before purchasing a product listed in the FPI catalog, DoD must conduct market research to determine whether the FPI product is comparable in price, quality, and time of delivery to products available from the private sector; (2) if the FPI product is not comparable in price, quality, and time of delivery, DoD must use competitive procedures to acquire the product; and (3) in conducting such a competition, DoD must consider a timely offer from FPI for award in accordance with the specifications and evaluation factors in the solicitation.

On April 26, 2002, DoD published an interim rule at 67 FR 20687 to implement Section 811 of Public Law 107–107. In addition, DoD conducted a public meeting on June 2, 2002, to hear the views of interested parties. Approximately 60 persons attended the public meeting, and 43 sources submitted written comments in response to the interim rule.

On December 2, 2002, Section 819 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) amended 10 U.S.C. 2410n to (1) clarify requirements for conducting market research before purchasing a product listed in the FPI catalog; (2) specify requirements for use of competitive procedures or for making a purchase under a multiple award contract if an FPI product is found to be noncomparable to products available from the private sector; (3) specify that a contracting officer's determination, regarding the comparability of an FPI product to products available from the private sector, is not subject to the arbitration provisions of 18 U.S.C. 4124(b); (4) specify that a DoD contractor may not be required to use FPI as a subcontractor; and (5) prohibit the award of a contract to FPI that would allow an inmate worker access to classified or sensitive information.

This proposed rule further implements the requirements of Section 811 of Public Law 107–107 and implements Section 819 of Public Law 107–314. DoD considered comments received in response to the interim rule published on April 26, 2002, in developing this proposed rule. A discussion of the comments, grouped by subject area, is provided below:

1. Small Business Issues

Comment: DoD should provide guidance on the role of FPI participation in small business set-aside competitions. Some respondents want DoD to restrict FPI participation to those acquisitions that have not been set aside for competition among small businesses. Those respondents indicate that, prior to the issuance of the first interim rule, FPI had been defined as an ''other than small'' business and, therefore, is not eligible to compete for small business set-aside awards. Other respondents commented that FPI participation in small business set-asides will have a positive effect on FPI.

DoD Response: Section 811 of Public Law 107–107 was silent on FPI's relationship to small business set-asides. However, Section 819 of Public Law 107–314 added a definition of ''competitive procedures'' as it applies to 10 U.S.C. 2410n. This definition is the one at 10 U.S.C. 2302(2), which includes, in subsection (2)(D), ''procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) * * *'' Therefore, this proposed rule adds text at 208.601–70, 208.602(a)(iv)(B), subpart 219.5, and Part 252 to provide for the inclusion of FPI in procurements conducted using small business set-aside procedures.

Comment: The Initial Regulatory Flexibility Analysis is correct in stating that the rule will have a positive effect on small business concerns, because the rule permits small businesses to participate in procurements for supplies that were previously allocated to FPI on a priority basis.

DoD Response: DoD expects this rule to have a positive impact on small businesses. If an FPI product is determined to be noncomparable, small businesses will have the opportunity to compete. The rule further provides small businesses an opportunity to compete with FPI as their sole competitor.

2. Micro-Purchase Exclusion

Comment: DoD should exempt micro-purchases ($2,500 and under) from the requirements of the rule. The procedures of the rule are far too burdensome for micro-purchases.

Comment: The requirements of Section 811 and FPI's statute apply regardless of whether the purchase is below the micro-purchase threshold.

DoD Response: 10 U.S.C. 2410n does not authorize DoD to provide an exemption for micro-purchases. However, FPI's Board of Directors recently adopted a resolution exempting purchases at or below $2,500 from FPI clearance requirements. This change is being processed under a separate FAR case. When the FAR is amended to reflect this exemption, the text at DFARS 208.606(1) will become obsolete and will be removed. Therefore, this proposed rule excludes the text at DFARS 208.606(1).

3. Competitive Procedures

Comment: DoD should provide examples of ''competitive procedures.''

DoD Response: Section 819 of Public Law 107–314 added a definition of ''competitive procedures'' as it applies to 10 U.S.C. 2410n. The definition in the proposed rule at 208.601–70 reflects the statutory definition, and also includes competition conducted using simplified acquisition procedures in accordance with FAR Part 13.

4. GSA Multiple Award Schedules

Comment: It is questionable whether the use of GSA multiple award schedules constitutes ''competitive procedures'' as contemplated in Section 811. Confusion arises because orders on GSA schedules do not require issuance of a solicitation or establishment of evaluation factors.

DoD Response: Section 811 of Public Law 107–107 was silent on FPI's relationship to the GSA multiple award schedule program. However, the definition of ''competitive procedures'' added by Section 819 of Public Law 107–314 includes ''the procedures

established by the Administrator of General Services for the multiple award schedule program * * *'' (10 U.S.C. 2302(2)(C)). The definition of ''competitive procedures'' in the proposed rule at 208.601–70 includes the use of GSA multiple award schedules (as one of the procedures in FAR 6.102). The proposed rule provides further clarification, at 208.602(a)(iv)(C), regarding competitive procedures involving multiple award schedules.

Comment: Contracting officers should be authorized to acquire the product off the Federal Supply Schedule, eliminating further competition if Federal Supply Schedule published prices are lower than FPI catalog prices.

DoD Response: Do not concur. This would violate 10 U.S.C. 2410n, which requires market research to determine if the FPI product is comparable. If the FPI product is determined to be noncomparable, competitive procedures must be used to acquire the product.

5. Comparability

Comment: The meaning of ''comparable price, quality, and time of delivery'' is questionable with respect to FPI products compared to private sector competition. Recognizing that it may not be feasible to produce a single general methodology that applies to every product, the rule should require disclosure of specific guidelines and the methodology used. Several respondents believed it was clear from both the statute and the interim rule that, to be found comparable to a product from the private sector, the FPI product must meet all three criteria of price, quality, and time of delivery. The inability to meet any one of the criteria should result in an automatic failure to find FPI comparable. Several other respondents stated exactly the opposite, *i.e.*, that for the FPI product to be considered comparable, it need only be comparable in one of the three areas. Several respondents requested that the final rule contain procedures for making the noncomparability determination.

DoD Response: Section 819(b) of Public Law 107–314 clarifies that DoD may determine an FPI product to be noncomparable based on price, quality, or time of delivery. The proposed rule clarifies this point at 208.602(a)(iv). The comparability determination must be fair, but it is not practicable to set the criteria that will apply to all circumstances. The contracting officer must retain flexibility. The word ''comparable'' is already used throughout the FAR with its common dictionary meaning (''having sufficient features in common with something else to afford comparison''). To support the comparability determination, a requirement for a written document has been included in the proposed rule at 208.602(a)(ii). This document will include an assessment of the three factors, based on the results of market research that compares FPI products to those available from the private sector.

Comment: Eliminate the requirement to allow FPI to compete if, based on market research, it is determined noncomparable to the private sector. The private sector does not receive two chances, so FPI should not either.

DoD Response: Do not concur. The recommended change does not comply with 10 U.S.C. 2410n, which requires that an offer from FPI be considered if made in a timely fashion.

Comment: Section 811 is not appropriate for build-to-print items (spares) that support older weapons systems. It is more appropriate for commercial-type items, where it is easier to conduct market surveys for comparison purposes. In some cases, the organization uses the Government's depot cost to fabricate, as a basis of comparison. The use of the term ''private sector'' invalidates that comparison and requires a further comparison before award to FPI.

DoD Response: It appears that 10 U.S.C. 2410n was tailored more for commercial-type items than build-to-print items. However, DoD organizations must comply with its requirements.

Comment: The rule does not address buys of military-unique items, because those items do not have catalog prices. Each requirement is built to customer specification and must be individually quoted. There are no catalogs to consult for pricing and delivery, from either FPI or commercial sources. Section 811 would require following manual procedures, outside of automated procurement systems, and cause additional unnecessary lead time. In these situations, is it permissible to solicit commercial sources and FPI simultaneously and have the competitive offers and subsequent award decision serve as the basis for making the determination of whether the FPI product is comparable?

DoD Response: Although 10 U.S.C. 2410n does not prohibit this method of conducting comparability determinations, the statute clearly establishes an ''if-then'' situation, *i.e.*, if the Secretary makes a noncomparability determination, then he uses competitive procedures. Therefore, section 208.602 of the proposed rule addresses the market research and resulting comparability determination as a step separate from the solicitation process, to adhere to the ''if-then'' approach established in 10 U.S.C. 2410n.

6. The Resolution Process

Comment: Does the arbitration panel affect the resolution of protests? In enacting Section 811, Congress was silent regarding the arbitration panel's authority or whether a clearance or waiver from FPI is required if the market research indicates that FPI's products are not comparable to those available from the private sector.

DoD Response: Although Section 811 was silent on this matter, Section 819 of Public Law 107–314 provides that the contracting officer's determination, regarding the comparability of FPI products or services to those available from the private sector that best meet DoD's needs in terms of price, quality, and time of delivery, is not subject to 18 U.S.C. 4124(b). 18 U.S.C. 4124(b) addresses the arbitration board process as it relates to disputes as to price, quality, character, or suitability of FPI products. The proposed rule amends the text at DFARS 208.602(a)(i) to clarify that the arbitration board process does not apply to a contracting officer's comparability determination.

7. Delegation of Authority

Comment: Will the determination to award to other than FPI be delegated down to the contracting officer level, as opposed to being kept at the department or agency level as stated in 208.602?

DoD Response: The proposed rule amends DFARS 208.602(a) to provide contracting officers the authority to make comparability determinations with regard to FPI products. This amendment is consistent with the language in Section 819(c)(1) of Public Law 107–314.

8. Unilateral Decision at 208.602(a)

Comment: It is inappropriate for the rule to state that the comparability determination is ''a unilateral decision made solely at the discretion of the department or agency.'' This sentence should either be stricken or clarified. The provisions of the rule may conflict with other statutes or lead to possible misapplication of applicable law. DoD should be afforded discretion in making its decision, however, there must be guidance setting forth the criteria so the decisions are not arbitrary or capricious.

DoD Response: Do not concur. The comparability determination is clearly and solely a DoD determination.

9. Terminology

Comment: The words ''FPI Schedule'', in the first sentence of 208.602(a),

should be changed to ''FPI Catalog'' to conform to the language in Section 811.

DoD Response: Do not concur. The word ''Schedule'' has been retained to conform to the terminology used in FAR subpart 8.4.

10. Previous DoD Guidance

Comment: The validity of a policy memorandum from the Office of the Assistant Secretary of Defense, dated October 1988, that directs use of GSA schedules as a ''quick and efficient'' way to obtain furniture for DoD activities is questionable.

DoD Response: DoD recommends that the respondent not use this memorandum for guidance. The policy has been superceded by 10 U.S.C. 2410n and its implementing regulations.

11. Sole-source Purchases

Comment: Is there a requirement to perform a comparability determination if the need is to be acquired on a sole-source basis?

DoD Response: 10 U.S.C. 2410n does not provide for sole-source purchases. If a product is on the FPI Schedule, the purchaser must follow the DFARS policy implementing 10 U.S.C. 2410n.

12. Architect-engineer Contracts

Comment: There is concern about mandating the use of FPI products for architect-engineer contracts. The rule should state that ''FPI may not be specified as a source, nor shall an FPI product be prescribed or recommended in any design or specification prepared by an architect or engineer under contract to the Government. * * *''

DoD Response: The requirements of 10 U.S.C. 2410n are imposed on the Government, not on the contractor. Section 819 of Public Law 107–314 added text prohibiting DoD from requiring a contractor or potential contractor to use FPI as a subcontractor or supplier. This prohibition is addressed in the proposed rule at 208.670.

13. Use of the Term ''Solicitation''.

Comment: Use of the term ''solicitation'' means one must proceed with issuing a formal solicitation whenever an agency determines that an FPI product is not comparable.

DoD Response: Do not concur. As defined in FAR 2.101, ''solicitation'' means any request to submit offers or quotations to the Government. For further clarification, the proposed rule separately addresses the use of multiple award schedules at 208.602(a)(iv)(C).

14. Use of the Phrase ''That Best Meet the Government's Needs''.

Comment: The rule should be revised to conform to the text of Section 811 by deleting the phrase ''that best meet the Government's needs'' at each of the three locations where it appears. This phrase does not meet the intent of the statute.

DoD Response: DoD used the phrase ''that best meet the Government's needs'' in the interim rule to provide needed guidance in this area. This phrase was included in Section 819 of Public Law 107–314 and, therefore, has been retained in the proposed rule.

15. Application of Priorities for Use of Government Supply Sources.

Comment: If the FPI item is not comparable, can the Government go directly to JWOD?

DoD Response: No. FPI can still fulfill the requirement, even though it has been determined to be noncomparable.10 U.S.C. 2410n requires DoD to consider a timely offer from FPI under such circumstances.

This rule was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule may 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 rule will permit small entities to compete with FPI for DoD contract awards under certain conditions. An initial regulatory flexibility analysis has been prepared and is summarized as follows: This rule proposes amendments to DoD policy pertaining to the acquisition of products from FPI. The rule implements 10 U.S.C. 2410n. The impact of the rule is unknown at this time. However, the rule could benefit small business concerns that offer products comparable to those listed in the FPI Schedule, by permitting those concerns to compete for DoD contract awards.

A copy of the analysis may be obtained from the point of contact specified herein. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2002–D003.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any 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 208, 219, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 208, 219, and 252 as follows:

1. The authority citation for 48 CFR Parts 208, 219, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.601–70 is added to read as follows:

208.601–70 Definitions.

As used in this subpart—

Competitive procedures includes the procedures in FAR 6.102, the set-aside procedures in FAR subpart 19.5, and competition conducted in accordance with FAR part 13.

Market research means obtaining specific information about the price, quality, and time of delivery of products available in the private sector and may include techniques described in FAR 10.002(b)(2).

3. Sections 208.602 and 208.606 are revised to read as follows:

208.602 Policy.

(a)(i) Before purchasing a product listed in the FPI Schedule, conduct market research to determine whether the FPI product is comparable to products available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery (10 U.S.C. 2410n). This is a unilateral determination made at the discretion of the contracting officer. The procedures of FAR 8.605 do not apply.

(ii) Prepare a written determination that includes supporting rationale explaining the assessment of price, quality, and time of delivery, based on the results of market research comparing FPI products to those available from the private sector.

(iii) If the FPI product is comparable, follow the policy at FAR 8.602(a).

(iv) If the FPI product is not comparable in one or more of the areas of price, quality, and time of delivery—

(A) Acquire the product using—

(1) Competitive procedures; or

(2) The fair opportunity procedures in FAR 16.505, if placing an order under a multiple award task or delivery order contract;

(B) Include FPI in the solicitation process and consider a timely offer from FPI for award in accordance with the requirements and evaluation factors in the solicitation, including solicitations issued using small business set-aside procedures; and

(C) When using a multiple award schedule issued under the procedures of FAR subpart 8.4—

(1) Establish and communicate to FPI the requirements and evaluation factors that will be used as the basis for selecting a source, so that an offer from FPI can be evaluated on the same basis as the schedule holder; and

(2) Consider a timely offer from FPI.

208.606 Exceptions.

For DoD, FPI clearances also are not required when the contracting officer makes a determination that the FPI product is not comparable to products available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery, and the procedures at 208.602(a)(iv) are used.

4. Sections 208.670 and 208.671 are added to read as follows:

208.670 Performance as a subcontractor.

Do not require a contractor, or subcontractor at any tier, to use FPI as a subcontractor for performance of a contract by any means, including means such as—

(a) A solicitation provision requiring a potential contractor to offer to make use of FPI products or services;

(b) A contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by FPI; or

(c) Any contract modification directing the use of FPI products or services.

208.671 Protection of classified and sensitive information.

Do not enter into any contract with FPI that allows an inmate worker access to any—

(a) Classified data;

(b) Geographic data regarding the location of—

(1) Surface and subsurface infrastructure providing communications or water or electrical power distribution;

(2) Pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

(3) Other utilities; or

(c) Personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

PART 219—SMALL BUSINESS PROGRAMS

5. Section 219.502–70 is added to read as follows:

219.502–70 Inclusion of Federal Prison Industries, Inc.

When using competitive procedures in accordance with 208.602(a)(iv), include Federal Prison Industries, Inc. (FPI), in the solicitation process and consider a timely offer from FPI.

6. Section 219.508 is added to read as follows:

219.508 Solicitation provisions and contract clauses.

(c) Use the clause at FAR 52.219–6, Notice of Total Small Business Set-Aside, with 252.219–70XX, Alternate A, when the procedures of 208.602(a)(iv) apply to the acquisition.

(d) Use the clause at FAR 52.219–7, Notice of Partial Small Business Set-Aside, with 252.219–70YY, Alternate A, when the procedures of 208.602(a)(iv) apply to the acquisition.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Sections 252.219–70XX and 252.219–70YY are added to read as follows:

252.219–70XX Alternate A.

Alternate A (XXX 2003)

As prescribed in 219.508(c), substitute the following paragraph (b) for paragraph (b) of the clause at FAR 52.219–6:

(b) *General.* (1) Offers are solicited only from small business concerns and Federal Prison Industries, Inc. (FPI). Offers received from concerns that are not small business concerns or FPI shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to either a small business concern or FPI.

252.219–70YY Alternate A.

Alternate A (XXX 2003)

As prescribed in 219.508(d), add the following paragraph (d) to the clause at FAR 52.219–7:

(d) Notwithstanding paragraph (b) of this clause, offers will be solicited and considered from Federal Prison Industries, Inc., for both the set-aside and non-set-aside portion of this requirement.

[FR Doc. 03–12190 Filed 5–14–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[DOT Docket No. NHTSA–03–14907]

RIN 2127–AI43

Federal Motor Vehicle Safety Standards; Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to amend the starter interlock requirements of Federal Motor Vehicle Safety Standard No. 102 to permit a vehicle's engine to stop and restart automatically after the driver has initially started the vehicle. The amendment would facilitate the development of propulsion systems, such as hybrid/electric systems, that conserve energy and reduce emissions by stopping the engine (internal combustion engine) when it is not needed. To prevent inadvertent vehicle motion in reverse gear that may result from a driver shifting error, the proposed amendment would allow a propulsion system to start and stop automatically in reverse gear only if the system exhibits, at least, a minimum ''creep force'' when the engine is stopped.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than July 14, 2003.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590.

You may call the Docket at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. William Evans, Office of Crash Avoidance Standards at (202) 366–2272. His FAX number is (202) 493–2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief