

requirements *in lieu of* pre-existing Federal requirements as applied only to area source dry cleaners. As explained above, the state requirements contain standards that are at least equivalent to the Federal standards; thus, we anticipate only a positive impact from this action.

K. Congressional Review Act

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). This rule will be effective January 22, 2010.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: October 15, 2009.

Ira W. Leighton,

Acting Regional Administrator, EPA-New England.

■ 40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraph (d) introductory text and paragraph (d)(4) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(d) *State and Local Requirements.* The following materials listed below are available at the Air and Radiation Docket and Information Center, 1200 Pennsylvania Avenue, NW.,

Washington, DC 20460, telephone number (202) 566-1745.

* * * * *

(4) Massachusetts Department of Environmental Protection regulations at 310 CMR 7.26(10)–(16), Air Pollution Control, effective as of September 5, 2008, corrected March 6, 2009, and 310 CMR 70.00, Environmental Results Program Certification, effective as of December 28, 2007. Incorporation By Reference approved for § 63.99(a)(22)(ii) of subpart E of this part.

* * * * *

Subpart E—[Amended]

3. Section 63.99 is amended by revising paragraph (a)(22) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(2) Massachusetts.

(i) [Reserved]

(ii) Affected area sources within

Massachusetts must comply with the Massachusetts Regulations Applicable to Hazardous Air Pollutants (incorporated by reference as specified in § 63.14) as described in paragraph (a)(22)(ii)(A) of this section:

(A) The material incorporated into the Massachusetts Department of Environmental Protection regulations at 310 CMR 7.26(10)–(16), Air Pollution Control, effective as of September 5, 2008, corrected March 6, 2009, and 310 CMR 70.00, Environmental Results Program Certification, effective as of December 28, 2007, pertaining to dry cleaning facilities in the Commonwealth of Massachusetts jurisdiction, and approved under the procedures in § 63.93 to be implemented and enforced in place of the Federal NESHAP for Perchloroethylene Dry Cleaning Facilities (subpart M of this part), effective as of July 11, 2008, for area sources only, as defined in § 63.320(h).

(1) Authorities not delegated.

(i) Massachusetts is not delegated the Administrator's authority to implement and enforce Massachusetts regulations at 310 CMR 7.26(10)–(16) and 310 CMR 70.00, in lieu of those provisions of subpart M of this part which apply to major sources, as defined in § 63.320(g).

(ii) Massachusetts is not delegated the Administrator's authority to implement and enforce Massachusetts regulations at 310 CMR 7.26(10)–(16) and 310 CMR 70.00, in lieu of those provisions of subpart M of this part which apply to dry cleaning systems installed in a building with a residence between December 21, 2005 and July 13, 2006, as defined in § 63.320(b)(2)(ii) and § 63.322(o)(5)(i)–(ii).

(B) [Reserved]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 227 and 252

RIN 0750-AG50

Defense Federal Acquisition Regulation Supplement; Government Rights in the Design of DoD Vessels (DFARS Case 2008-D039)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 825 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417). Section 825 clarifies the Government's rights in technical data in the designs of DoD vessels, boats, craft, and components thereof. This interim rule also implements the Vessel Hull Design Protection Amendments of 2008 (Pub. L. 110-434).

DATES: *Effective date:* November 23, 2009.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before January 22, 2010, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcom>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2008-D039 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. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-7887. Please cite DFARS Case 2008-D039.

Interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0328.

SUPPLEMENTARY INFORMATION:

A. Background

The requirements of the Vessel Hull Design Protection Amendments and new section 825 of the National Defense Authorization Act for Fiscal Year 2009 are similar in both substance and language. This interim rule adds language to the existing technical data policy sections and creates two new clause alternates.

10 U.S.C. 2320 establishes requirements for DoD's acquisition of technical data and neither of the above statutory changes covers computer software. Accordingly, additional coverage in the DFARS for computer software is unnecessary.

Both statutory changes provide new requirements, not presently covered in the DFARS, for the acquisition of vessels and hulls covered by vessel hull design registrations. DFARS coverage is appropriate because these statutory changes directly impact the acquisition of vessels and hulls by DoD and its components.

To implement the statutory changes, DoD has added new paragraph (c) to current 227.7102-1, Policy, and new paragraph (g) to current 227.7103-1, Policy. Contracting officers must be made aware of the requirements of 17 U.S.C. 1301(a)(3) and 10 U.S.C. 7317, as these statutes affect both the rights of the contractors and DoD.

The rule also provides Alternates to clauses 252.227-7013, Rights in Technical Data—Noncommercial Items, and 252.227-7015, Technical Data—Commercial Items. Each Alternate adds to the basic clause—

- (i) A new definition for "vessel designs"; and
(ii) An affirmative grant of appropriate rights in same to the Government.

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

B. Regulatory Flexibility Act

DoD does not expect this 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 it does not create any burden for small business concerns. The rule just clarifies the Government's rights in technical data in the designs of DoD vessels, boats, craft, and components thereof. For acquisition of vessels and hulls covered by vessel hull design registrations, the rule provides that the Government shall have certain rights for a vessel design (including a vessel design embodied in a useful article) that

is developed or delivered to the Government, to the same extent that the Government is granted rights in the technical data pertaining to the vessel design. Therefore, DoD has not performed an initial regulatory flexibility analysis. 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 2008-D039.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the DFARS rule will not impose any additional reporting or recordkeeping requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements section 825 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417) and the Vessel Hull Design Protection Amendments of 2008 (Pub. L. 110-434). These statutes were effective upon enactment. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 227 and 252

Government procurement.

Amy G. Williams,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 227 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 227 and 252 continues to read as follows:

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

PART 227—PATENTS, DATA, AND COPYRIGHTS

2. Section 227.7100 is amended by redesignating paragraphs (a)(6) and (a)(7) as paragraphs (a)(8) and (a)(9) respectively and adding new paragraphs (a)(6) and (a)(7), to read as follows:

227.7100 Scope of subpart.

* * * * *

- (a) * * *
(6) 10 U.S.C. 7317.
(7) 17 U.S.C. 1301, et seq.

3. Section 227.7102-1 is amended by adding paragraph (c) to read as follows:

227.7102-1 Policy.

* * * * *

(c) The Government's rights in a vessel design, and in any useful article embodying a vessel design, must be consistent with the Government's rights in technical data pertaining to the design (10 U.S.C. 7317; 17 U.S.C. 1301(a)(3)).

4. Section 227.7102-3 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding paragraph (a)(2) to read as follows:

227.7102-3 Contract clause.

(a)(1) * * *

(2) Use the clause at 252.227-7015 with its Alternate I in contracts for the development or delivery of a vessel design or any useful article embodying a vessel design.

* * * * *

5. Section 227.7103-1 is amended by adding paragraph (g) to read as follows:

227.7103-1 Policy.

* * * * *

(g) The Government's rights in a vessel design, and in any useful article embodying a vessel design, must be consistent with the Government's rights in technical data pertaining to the design (10 U.S.C. 7317; 17 U.S.C. 1301(a)(3)).

6. Section 227.7103-6 is amended by redesignating paragraphs (b)(1) and (b)(2) as (b)(i) and (b)(ii), paragraph (b) as (b)(1), and adding paragraph (b)(2) to read as follows:

227.7103-6 Contract clauses.

* * * * *

(b)(1) * * *

(2) Use the clause at 252.227-7013 with its Alternate II in contracts for the development or delivery of a vessel design or any useful article embodying a vessel design.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 252.227-7013 is amended in the introductory text of Alternate I by removing "227.7103-6(b)" and adding in its place "227.7103-6(b)(1)"; and adding Alternate II to read as follows:

* * * * *

Alternate II (NOV 2009)

As prescribed in 227.7103–6(b)(2), add the following paragraphs (a)(16) and (b)(7) to the basic clause:

(a)(16) “Vessel design” means the design of a vessel, boat, or craft, and its components, including the hull, decks, superstructure, and the exterior surface shape of all external shipboard equipment and systems. The term includes designs covered by 10 U.S.C. 7317, and designs protectable under 17 U.S.C. 1301, *et seq.*

(b)(7) *Vessel designs.* For a vessel design (including a vessel design embodied in a useful article) that is developed or delivered under this contract, the Government shall have the right to make and have made any useful article that embodies the vessel design, to import the article, to sell the article, and to distribute the article for sale or to use the article in trade, to the same extent that the Government is granted rights in the technical data pertaining to the vessel design.

■ 8. Section 252.227–7015 is amended in the introductory text by removing “227.7102–3” and adding in its place “227.7102–3(a)(1)”; and adding Alternate I to read as follows:

252.227–7015 Technical data—Commercial items.

* * * * *

Alternate I (NOV 2009)

As prescribed in 227.7102–3(a)(2), add the following paragraphs (a)(5) and (b)(3) to the basic clause:

(a)(5) “Vessel design” means the design of a vessel, boat, or craft, and its components, including the hull, decks, superstructure, and the exterior surface shape of all external shipboard equipment and systems. The term includes designs covered by 10 U.S.C. 7317, and designs protectable under 17 U.S.C. 1301, *et seq.*

(b)(3) *Vessel designs.* For a vessel design (including a vessel design embodied in a useful article) that is developed or delivered under this contract, the Government shall have the right to make and have made any useful article that embodies the vessel design, to import the article, to sell the article, and to distribute the article for sale or to use the article in trade, to the same extent that the Government is granted rights in the technical data pertaining to the vessel design.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[DFARS Case 2009–D010]

Defense Federal Acquisition Regulation Supplement; World Trade Organization Government Procurement Agreement Designated Country

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add Taiwan as a designated country to the list of World Trade Organization Government Procurement Agreement designated countries in the trade agreements provisions and clauses in part 252, due to the accession of Taiwan to the World Trade Organization Government Procurement Agreement.

DATES: *Effective Date:* November 23, 2009.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before January 22, 2010, to be considered in the formulation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2009–D010, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *E-mail:* dfars@osd.mil. Include DFARS Case 2009–D010 in the subject line of the message.

○ *Fax:* 703–602–7887.

○ *Mail:* Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone 703–602–0328; facsimile 703–602–7887. Please cite DFARS Case 2009–D010.

SUPPLEMENTARY INFORMATION:

A. Background

On July 15, 2009, Taiwan became a party to the World Trade Organization Government Procurement Agreement. This interim rule adds Taiwan to the list of World Trade Organization Government Procurement Agreement countries in the definition of “designated country” in the trade agreements provisions and clauses in part 252.

Taiwan is known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei). In accordance with 22 U.S.C. 3303(b)(1), it is appropriate to treat Taiwan as a country for purposes of this regulation.

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

B. Regulatory Flexibility Act

DoD does not expect this 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.* Although the rule opens up Government procurement to the products of Taiwan, DoD does not believe there will be a significant economic impact on U.S. small businesses. DoD only applies the trade agreements to acquisitions of those non-defense items listed at DFARS 225.401–70, and acquisitions of supplies that are set aside for small businesses are exempt. Therefore, DoD has not performed an initial regulatory flexibility analysis.

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 2009–D010.

C. Paperwork Reduction Act

Although this rule does not make any direct change to the provision at DFARS 252.225–7020, this interim rule does affect the certification and information collection requirements in that provision, which is currently approved under Office of Management and Budget Control Number 0704–0229. DFARS 252.225–7020(a) references the definition of “designated country” in the clause at DFARS 252.225–7021, which has been changed by this rule to include Taiwan. The impact, however, is negligible.