operations. Since the rule generally will apply to DoD major end-item contractors, and there are a limited number of end items for which the Government assigns these serial numbers, the number of small entities impacted by this rule is not expected to be substantial.

The clause at 252.211–7008, Use of Government-Assigned Serial Numbers, requires the Contractor to mark the Government-assigned serial numbers on those major end items as specified by line item in the Schedule, in accordance with the technical instructions for the placement and method of application identified in the terms and conditions of the contract, and to register the Government-assigned serial number along with the major end item's UII at the time of delivery in accordance with the provisions of the clause at DFARS 252.211–7003(d).

The rule does not duplicate, overlap, or conflict with any other Federal rules. DoD considers the approach described in the rule to be the most practical and beneficial for both Government and industry.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the rule does not impose additional 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 211 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 211 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211 and 252 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

211.274–5 [Redesignated as 211.274–6]

■ 2. Redesignate Section 211.274–5 as 211.274–6.

■ 3. Add new section 211.274–5 to read as follows:

211.274–5 Policy for assignment of Government-assigned serial numbers.

It is DoD policy that contractors apply Government-assigned serial numbers, such as tail numbers/hull numbers and equipment registration numbers, in human-readable format on major end items when required by law, regulation, or military operational necessity. The latest version of MIL–STD–130, Marking of U.S. Military Property, shall be used for the marking of human-readable information.

■ 4. In newly redesignated section 211.274–6, add paragraph (c) to read as follows:

211.274–6 Contract clauses.

* * * * *

(c) Use the clause at 252.211–7008, Use of Government-Assigned Serial Numbers, in solicitations and contracts that—

(1) Contain the clause at 252.211–7003, Item Identification and Valuation; and

(2) Require the contractor to mark major end items under the terms and conditions of the contract.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Section 252.211–7003 is amended by revising the introductory text to read as follows:

252.211–7003 Item identification and valuation.

As prescribed in 211.274–6(a), use the following clause:

* * * * *

■ 6. Section 252.211–7007 is amended by revising the introductory text to read as follows:

252.211–7007 Reporting of Government-Furnished Equipment in the DoD Item Unique Identification (IUID) Registry.

As prescribed in 211.274–6(b), use the following clause:

* * * * *

■ 7. Section 252.211–7008 is added to read as follows:

252.211–7008 Use of Government-Assigned Serial Numbers

As prescribed in 211.274–6(c), use the following clause:

USE OF GOVERNMENT-ASSIGNED SERIAL NUMBERS (SEP 2010)

(a) *Definitions.* As used in this clause—

Government-assigned serial number means a combination of letters or numerals in a fixed human-readable information format (text) conveying information about a major end item, which is provided to a contractor by the requiring activity with accompanying technical data instructions for marking the Government-assigned serial number on major end items to be delivered to the Government.

Major end item means a final combination of component parts and/or materials which is ready for its intended use and of such importance to operational readiness that review and control of inventory management functions (procurement, distribution, maintenance, disposal, and asset reporting) is required at all levels of life cycle management. Major end items include aircraft; ships; boats; motorized wheeled, tracked, and towed vehicles for use on highway or rough terrain; weapon and missile end items; ammunition; and sets, assemblies, or end items having a major end item as a component.

Unique item identifier (UII) means a set of data elements permanently marked on an item that is globally unique and unambiguous and never changes in order to provide traceability of the item throughout its total life cycle. The term includes a concatenated UII or a DoD-recognized unique identification equivalent.

(b) The Contractor shall mark the Government-assigned serial numbers on those major end items as specified by line item in the Schedule, in accordance with the technical instructions for the placement and method of application identified in the terms and conditions of the contract.

(c) The Contractor shall register the Government-assigned serial number along with the major end item's UII at the time of delivery in accordance with the provisions of the clause at DFARS 252.211–7003(d).

(d) The Contractor shall establish the UII for major end items for use throughout the life of the major end item. The Contractor may elect, but is not required, to use the Government-assigned serial number to construct the UII.

(End of clause)

[FR Doc. 2010–23662 Filed 9–24–10; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 247 and 252

RIN 0750–AG30

Defense Federal Acquisition Regulation Supplement; Motor Carrier Fuel Surcharge (DFARS Case 2008–D040)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with changes, an interim rule that implements section 884 of the National Defense Authorization Act for Fiscal Year 2009. Section 884 requires DoD to ensure that, to the maximum extent practicable, in all carriage contracts in which a fuel-related adjustment is provided for, any fuel-related adjustment is passed through to the person who bears the cost of the fuel to which the adjustment relates.

DATES: *Effective Date:* September 27, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Overstreet, Defense Acquisition Regulations System, OUSD (AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060. Telephone 703–602–0311; facsimile 703–602–0350. Please cite DFARS Case 2008–D040.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 74 FR 37652 on July 29, 2009, to implement section 884 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417). Section 884 requires DoD to ensure that, to the maximum extent practicable, in all carriage contracts for which a fuel-related adjustment is provided, any fuel-related adjustment is passed through to the person who bears the cost of the fuel to which the adjustment relates. Section 884 also applies to commercial contracts for carriage.

Two respondents submitted comments on the interim rule. A discussion of the comments received and the changes to the rule as a result of these comments is provided below:

1. *Comment.* One respondent stated that it is customary in the motor carrier freight industry to assume a fixed cost of diesel fuel with a cost recovery mechanism (fuel surcharge) for a time period exceeding 30 days. In the majority of instances, approximately 99 percent of the time, industry passes fuel surcharges to the party that pays for the fuel. The respondent is concerned that the new law will require documenting 100 percent of all activity and as a result, there will be additional administrative work and cost for no appreciable benefit.

Response. DoD does not agree. The statute requires that, to the maximum extent practicable, any fuel-related adjustment is passed through to the person who bears the cost. Since, for the majority of instances, industry passes the fuel surcharges to the party that pays for the fuel, contractor records would reflect this. The only additional documentation requirement would be for the estimated one percent of actions where the fuel-adjustment is not passed through.

2. *Comment.* Both respondents stated that there are some instances where it is not practicable to mandate an absolute requirement to pass the fuel-related adjustment to the party that paid for the fuel, and one respondent proposed the following remedy:

"(a) Except in instances where doing so would be impracticable, or pose a disproportionate administrative burden, the contractor shall pass through any motor carrier fuel-related surcharge adjustments to the person, corporation, or entity that directly bears the cost of fuel for shipment(s) transported under this contract.

(i) Examples of impracticable instances may include but not be limited to, spot bids, one-time-only bids, or other services that are provided within 30 days of the time service was ordered."

Response. DoD agrees with the respondents in part. The examples of impracticable instances provided, however, are for short-term arrangements where there would not generally be a fuel surcharge and where the clause would not apply. DoD recognizes there may be limited instances where pass-through of fuel surcharge may not be feasible. Since the statute provides for application to the maximum practicable extent, the clause will include a statement that "Unless an exception is approved by the Contracting Officer," the contractor shall pass through any motor carrier fuel-related surcharge adjustments to the person, corporation, or entity that directly bears the cost of fuel for shipment(s) transported under this contract.

This regulatory action 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

DoD does not expect this final 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.* However, DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

This final rule amends the DFARS to implement section 884 of the National Defense Authorization Act for Fiscal Year 2009. Section 884 requires DoD to ensure that, to the maximum extent practicable, in all carriage contracts in which a fuel-related adjustment is provided for, any fuel-related adjustment is passed through to the person who bears the cost of the fuel to which the adjustment relates. The objective of the rule is to establish a DoD contract clause with appropriate flow-down requirements addressing the statutory requirement for fuel-related contract adjustments to be passed to the entity bearing the cost of the fuel. The clause is to be inserted in all contracts with motor carriers, brokers, or freight forwarders providing or arranging truck transportation services that provide for a fuel-related adjustment.

An interim rule was published on July 29, 2009, at 74 FR 37652 to which two responses were received. The responses indicated that current commercial marketplace practices already reflect the requirement to flow down any fuel surcharge to the party that incurs the cost of the fuel. Therefore, any impact of this rule on small entities is expected to be minimal.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose any new 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 247 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Accordingly, the interim rule amending 48 CFR parts 247 and 252, which was published at 74 FR 37652 on July 29, 2009, is adopted as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 247 and 252 continues to read as follows:

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

PART 247—TRANSPORTATION

■ 2. Section 247.207 is revised to read as follows:

247.207 Solicitation provisions, contract clauses, and special requirements.

Use the clause at 252.247–7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer, in solicitations and contracts for carriage in which a motor carrier, broker, or freight forwarder will provide or arrange truck transportation services that provide for a fuel-related adjustment.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 252.2—Text of Provisions and Clauses

252.212–7001 [Amended]

■ 3. Section 252.212–7001 is amended by revising the clause date, and the

dates of the clauses in paragraphs (b)(22) and (c)(2) to read "(SEP 2010)".

■ 4. Section 252.247–7003 is revised to read as follows:

252.247–7003 Pass-Through of Motor Carrier Fuel Surcharge Adjustment To The Cost Bearer.

As prescribed in 247.207, use the following clause:

PASS-THROUGH OF MOTOR CARRIER FUEL SURCHARGE ADJUSTMENT TO THE COST BEARER (SEP 2010)

(a) This clause implements section 884 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417).

(b) Unless an exception is authorized by the Contracting Officer, the Contractor shall pass through any motor carrier fuel-related surcharge adjustments to the person, corporation, or entity that directly bears the cost of fuel for shipment(s) transported under this contract.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts with motor carriers, brokers, or freight forwarders.

(End of clause)

[FR Doc. 2010–23664 Filed 9–24–10; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket DOT–OST–2010–0161]

RIN 2105–AE03

Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Federal Drug Testing Custody and Control Form; Technical Amendment

AGENCY: Office of the Secretary, DOT.

ACTION: Interim Final rule.

SUMMARY: The Department of Health and Human Services recently issued a new Federal Drug Testing Custody and Control Form for use in both the Federal employee and Department of Transportation drug testing programs. In order to accommodate the form's use within our transportation industry program, the Department is making a few necessary regulation changes in order for collectors, laboratories, and Medical Review Officers to know how to use the new form. The form's use is authorized beginning October 1, 2010. The Department is also making a technical amendment to its drug testing procedures. The purpose of the technical amendment is to add a provision of the rule which was inadvertently omitted from the final rule in August 2010.

DATES: The rule is effective October 1, 2010. Comments to this interim final rule should be submitted by October 27, 2010. Late-filed comments will be considered to the extent practicable.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor Room W12–140, Washington, DC 20590–0001;
- *Hand Delivery:* West Building Ground Floor Room W12–140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329;

Instructions: You must include the agency name and docket number DOT–OST–2010–0161 or the Regulatory Identification Number (2105–AE03) for the rulemaking at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Bohdan Baczara, U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue, SE., Washington, DC 20590; 202–366–3784 (voice), 202–366–3897 (fax), or *bohdan.baczara@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Background

All urine specimens collected under the Department of Transportation (DOT) drug testing regulation, 49 CFR Part 40, must be collected using chain-of-custody procedures that incorporate the use of the Federal Drug Testing Custody and Control Form (CCF) promulgated by the Department of Health and Human Services (HHS). On November 17, 2009, HHS published a proposal to revise the CCF. [74 FR 59196] All the comments submitted were thoroughly reviewed by HHS and taken into consideration in fashioning the new CCF. The Department worked closely with HHS on the new CCF. Recently, HHS announced the new CCF in the **Federal Register** [75 FR 41488] which has an effective date of October 1, 2010.

The following items in the revised CCF are worth noting for the DOT transportation industry drug testing program:

(1) In Step 1 of the CCF, the Federal testing authorities—HHS; DOT; and Nuclear Regulatory Commission (NRC)—are noted, with further specificity for the DOT Agencies—Federal Motor Carrier Safety Administration (FMCSA); Federal Aviation Administration (FAA); Federal Railroad Administration (FRA); Federal Transit Administration (FTA); Pipeline and Hazardous Materials Safety Administration (PHMSA); and the United States Coast Guard (USCG) [1]—also noted;

(2) In Step 5A on Copy 1 of the CCF, the new drug analytes MDMA, MDA, and MDEA are added, as are "Δ9–THCA" after "Marijuana Metabolite" and "BZE" after "Cocaine Metabolite" to specify the drug analytes;

(3) In Step 6 on Copy 2 of the CCF, a line has been included on which the Medical Review Officer (MRO) would write the drug for which a positive result is verified, and a new line item "other" was added to assist the MRO in documenting other "refusal to test" situations—for example, when there is no legitimate medical explanation for the employee providing an insufficient amount of urine;

(4) In Step 7 on Copy 2 of the CCF, a box has been added for the MRO to check if the split specimen is reported as cancelled; and

(5) On the reverse side of Copy 5—the "Donor Copy"—of the CCF, are the revised instructions for completing the CCF.

Because HHS sought and received comments on the form and its use, we seek only to receive comments on the actual implementation of the new CCF, and not on the form itself.

In addition, the technical amendment is intended to address an omission which has been called to our attention since the publication of the Department's final rule in August 2010 [75 FR 49850] which was intended to create consistency with many of the new drug testing requirements established by HHS. Specifically, the HHS Guidelines require laboratories to report the concentration of the drug or drug metabolite for a positive result to the MRO. This was omitted from our rule text in the section that directs what laboratories are to report and how they are to report it. We have amended the rule text to reflect this requirement.

[1] For purposes of following the requirements of 49 CFR Part 40, "*DOT, The Department, DOT Agency*" is defined, at 40.3, to include the United States Coast Guard.