

domestic partner" after the words "unaccompanied spouse".

■ b. In the table, in the heading of the third column, by adding the words "domestic partner" after the words "accompanied spouse".

■ c. In footnote 1 of the table, by adding the words "or domestic partner" after the words "when the spouse".

PART 303-70—AGENCY REQUIREMENTS FOR PAYMENT OF EXPENSES CONNECTED WITH THE DEATH OF CERTAIN EMPLOYEES

■ 17. The authority citation for 41 CFR part 303-70 continues to read as follows:

Authority: 5 U.S.C. 5721-5738; 5741-5742; E.O. 11609, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-70.305 [Amended]

■ 18. Amend § 303-70.305 by adding in paragraph (c) the words "or domestic partner" after the words "unaccompanied spouse".

[FR Doc. 2010-27691 Filed 11-2-10; 8:45 am]

BILLING CODE 6820-14-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 237 and 252

RIN 0750-AG88

Defense Federal Acquisition Regulation Supplement; Prohibition on Interrogation of Detainees by Contractor Personnel (DFARS Case 2010-D027)

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

ACTION: Interim rule with request for comments.

SUMMARY: DoD is issuing an interim rule to implement section 1038 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). Section 1038 prohibits contractor personnel from interrogating detainees under the control of the Department of Defense. It also allows the Secretary of Defense to waive the prohibition for a limited period of time, if determined necessary to the national security interests of the United States.

DATES: *Effective Date:* November 3, 2010. *Comment Date:* Comments on the interim rule should be submitted to the address shown below on or before January 3, 2011, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments, identified by DFARS Case 2010-D027, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting "DFARS Case 2010-D027" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 20109-D027." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2010-D027" on your attached document.

- *E-mail:* dfars@osd.mil. Include DFARS Case 2010-D027 in the subject line of the message.

- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Julian E. Thrash, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Julian E. Thrash, 703-602-0310. Please cite DFARS Case 2010-D027.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1038 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84) prohibits the interrogation of detainees by contractor personnel. DoD is amending the DFARS at subpart 237.1, Service Contracts—General, to add DFARS 237.173, Prohibition on Interrogation of Detainees by Contractor Personnel, adding a DFARS clause at 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel; adding this new clause to paragraphs (b) and (c) of the clause at 252.212-7001, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items; and to paragraph (c) of the clause at 252.244-7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts).

DFARS language at 237.173 prescribes policies that prohibit interrogation of detainees by contractor personnel, as required by section 1038 of the National Defense Authorization Act for Fiscal

Year 2010 (Pub. L. 111-84). It also covers permissible support roles for contractors by providing that contractor personnel with proper training and security clearances may be used as linguists, interpreters, report writers, information technology technicians, and other employees filling ancillary positions, including as trainers of and advisors to interrogations, if they meet the criteria provided by DoD Instruction 1100.22, Policy and Procedures for Determining Workforce Mix (<http://www.dtic.mil/whs/directives/corres/pdf/110022p.pdf>); DoD Directive 2310.01E, The Department of Defense Detainee Program (<http://www.dtic.mil/whs/directives/corres/pdf/231001p.pdf>); and DoD Directive 3115.09, DoD Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning (<http://www.dtic.mil/whs/directives/corres/pdf/311509p.pdf>).

Furthermore, the statute allows the Secretary of Defense to waive for a limited period of time the prohibition on interrogation of detainees by contractor personnel, if determined necessary to the national security interests of the United States.

II. Executive Order 12866

This is a significant regulatory action and, therefore, was 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.

III. Regulatory Flexibility Act

DoD does not expect this interim rule to have a significant economic impact on a substantial number of entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it only affects companies that provide intelligence-related services by precluding them from interrogating detainees. However, an initial regulatory flexibility analysis has been prepared and is summarized as follows:

The objective of this rule is to implement section 1038 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). This statute provides that no enemy prisoner of war, civilian internee, retained personnel, other detainee, or any other individual who is in the custody or under the effective control of the DoD, or otherwise under detention in a DoD facility in connection with hostilities, may be interrogated by contractor personnel. In fiscal year 2009, DoD awarded contracts for intelligence-related requirements to only 255 unique Data Universal Numbering System (DUNS) numbers. Of this total, there were 143 unique DUNS numbers for

small business concerns. This rule only prescribes policies that prohibit interrogation of detainees by contractor personnel. DoD anticipates that there will be no additional costs imposed on small business. There is no reporting or recordkeeping requirement established by this rule. This rule does not duplicate, overlap, or conflict with any other Federal rules. DoD anticipates that there will be limited, if any, additional costs imposed on small business.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2010–D027) in correspondence.

IV. 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.*

V. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comments pursuant to 41 U.S.C. 418b and FAR 1.501–3(b). This interim rule is necessary to implement section 1038 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84), which restricts the unauthorized interrogation of detainees by contractor personnel. The U.S. military continues to make extraordinary efforts in Iraq and Afghanistan to ensure mission success. Interrogation of detainees is a key tool it uses to protect U.S. forces, host nation forces and citizens, and provide support for the governments of Iraq and Afghanistan during a critical period in their existence. It is imperative that contractor activities in support of these efforts comply with the law and do not detract from the commander's intent in order to contribute to mission success. A lack of compliance affects the perception of both local citizens and the international community, which would provide support to our adversaries that will adversely impact the U.S. Government's efforts. Immediate implementation of this statute is necessary to preclude a contracting

officer from inadvertently awarding a contract that allows for the interrogation of detainees by contractor personnel.

DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 237 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 237 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 237 and 252 continues to read as follows:

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

PART 237—SERVICE CONTRACTING

■ 2. Sections 237.173 through 237.173–5 are added to subpart 237.1 to read as follows:

237.173 Prohibition on interrogation of detainees by contractor personnel.

237.173–1 Scope.

This section prescribes policies that prohibit interrogation of detainees by contractor personnel, as required by section 1038 of the Fiscal Year 2010 National Defense Authorization Act (Pub. L. 111–84).

237.173–2 Definitions.

As used in this subpart—

Detainee means any person captured, detained, held, or otherwise under the effective control of DoD personnel (military or civilian) in connection with hostilities. This includes, but is not limited to, enemy prisoners of war, civilian internees, and retained personnel. This does not include DoD personnel or DoD contractor personnel being held for law enforcement purposes.

Interrogation of detainees means a systematic process of formally and officially questioning a detainee for the purpose of obtaining reliable information to satisfy foreign intelligence collection requirements.

237.173–3 Policy.

(a) No detainee may be interrogated by contractor personnel.

(b) Contractor personnel with proper training and security clearances may be used as linguists, interpreters, report writers, information technology technicians, and other employees filling ancillary positions, including as trainers of and advisors to interrogators, in interrogations of detainees if—

(1) Such personnel are subject to the same laws, rules, procedures, and policies (including DoD Instruction 1100.22, Policy and Procedures for Determining Workforce Mix (<http://www.dtic.mil/whs/directives/corres/pdf/110022p.pdf>); DoD Directive 2310.01E, The Department of Defense Detainee Program (<http://www.dtic.mil/whs/directives/corres/pdf/231001p.pdf>); and DoD Directive 3115.09, DoD Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning (<http://www.dtic.mil/whs/directives/corres/pdf/311509p.pdf>)); pertaining to detainee operations and interrogations as those that apply to Government personnel in such positions in such interrogations; and

(2) Appropriately qualified and trained DoD personnel (military or civilian) are available to oversee the contractor's performance and to ensure that contractor personnel do not perform activities that are prohibited under this section.

237.173–4 Waiver.

The Secretary of Defense may waive the prohibition in 237.173–3(a) for a period of 60 days, if the Secretary determines such a waiver is vital to the national security interests of the United States. The Secretary may renew a waiver issued pursuant to this paragraph for an additional 30-day period, if the Secretary determines that such a renewal is vital to the national security interests of the United States. Not later than five days after issuance of the waiver, the Secretary shall submit written notification to Congress. See specific waiver procedures at DoDI 1100.22.

237.173–5 Contract clause.

Insert the clause at 252.237–7010, Prohibition on Interrogation of Detainees by Contractor Personnel, in solicitations and contracts for the provision of services.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Section 252.212–7001 is amended as follows:

■ a. Revise the clause date;

■ b. Redesignate paragraphs (b)(21) through (b)(25) as paragraphs (b)(22) through (b)(26), respectively.

■ c. Add new paragraph (b)(21);

■ d. Redesignate paragraphs (c)(2) through (c)(4) as paragraphs (c)(3) through (c)(5), respectively; and

■ e. Add new paragraph (c)(2).

252.212-7001 Contract terms and conditions required to implement statutes or Executive Orders applicable to Defense acquisitions of commercial items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (NOV 2010)

* * * * *

(b) * * *

(21) 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).

* * * * *

(c) * * *

(2) 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).

* * * * *

■ 4. Section 252.237-7010 is added to read as follows:

252.237-7010 Prohibition on interrogation of detainees by contractor personnel.

As prescribed in 237.173-5, use the following clause:

PROHIBITION ON INTERROGATION OF DETAINEES BY CONTRACTOR PERSONNEL (NOV 2010)

(a) *Definitions.* As used in this clause—
Detainee means any person captured, detained, held, or otherwise under the effective control of DoD personnel (military or civilian) in connection with hostilities. This includes, but is not limited to, enemy prisoners of war, civilian internees, and retained personnel. This does not include DoD personnel or DoD contractor personnel being held for law enforcement purposes.

Interrogation of detainees means a systematic process of formally and officially questioning a detainee for the purpose of obtaining reliable information to satisfy foreign intelligence collection requirements.

(b) Contractor personnel shall not interrogate detainees.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that may require subcontractor personnel to interact with detainees in the course of their duties.

(End of clause)

■ 5. Section 252.244-7000 is amended as follows:

- a. Revise the clause date;
- b. Redesignate paragraphs (c) through (e) as paragraphs (d) through (f), respectively; and
- c. Add new paragraph (c).

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts).

* * * * *

SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS) (NOV 2010)

* * * * *

(c) 252.237-7010 Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).

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[FR Doc. 2010-27780 Filed 11-2-10; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 325

[Docket No. FMCSA-2006-24065]

RIN-2126-AB31

Compliance With Interstate Motor Carrier Noise Emission Standards: Exhaust Systems

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) confirms the effective date of the direct final rule, titled “Compliance with Interstate Motor Carrier Noise Emission Standards: Exhaust Systems,” published on September 20, 2010, in the **Federal Register** (75 FR 57191). This rule eliminates turbochargers from the list of equipment considered to be noise dissipative devices.

DATES: This rule is effective November 19, 2010.

ADDRESSES: The docket for this rulemaking (FMCSA-2006-24065) is available for inspection at <http://www.regulations.gov>. If you do not have access to the Internet, you may also view the docket by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, e-mail or call Mr. Brian Routhier, Vehicle and Roadside Operations Division (MC-PSV), Office of Bus and Truck Standards and Operations, at FMCSA_MCPSV@dot.gov or (202) 366-1225.

SUPPLEMENTARY INFORMATION: On September 20, 2010, FMCSA published

a direct final rule entitled “Compliance with Interstate Motor Carrier Noise Emission Standards: Exhaust Systems” in the **Federal Register** (75 FR 57191). The direct final rule amends 49 CFR part 325 by removing turbochargers from the list of equipment considered to be noise dissipative devices. FMCSA used the direct final rule procedures (75 FR 29915, May 28, 2010) because it was a routine and non-controversial amendment, and the Agency did not expect any adverse comments. The direct final rule advised the public that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received by October 20, 2010, the Agency would provide notice confirming the effective date. Because FMCSA did not receive any comments to the docket by October 20, 2010, the direct final rule will become effective November 19, 2010.

Issued on: October 27, 2010.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2010-27797 Filed 11-2-10; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA-2010-0186]

RIN-2126-AB27

Parts and Accessories Necessary for Safe Operation: Antilock Brake Systems

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) confirms the effective date of the direct final rule titled “Parts and Accessories Necessary for Safe Operation: Antilock Brake Systems,” published on September 21, 2010, in the **Federal Register** (75 FR 57393). This rule made permanent the existing requirement in the Federal Motor Carrier Safety Regulations that each trailer with an antilock brake system be equipped with an external malfunction indicator lamp.

DATES: This rule is effective November 22, 2010.

ADDRESSES: The docket for this rulemaking (FMCSA-2010-0186) is available for inspection at <http://www.regulations.gov>. If you do not have