

b. What information exists that describes the relationship between the quantity and quality of wetlands and Bay Delta Estuary water quality and fish populations?

c. In light of projected impacts of climate change (including sea level rise and its effects on levee stability), what specific activities can EPA undertake to improve long-term protection of existing and future wetlands, especially those resources on subsided islands?

### III. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51,735, October 4, 1993), this is a “significant regulatory action”. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

Because this action does not propose or impose any requirements and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various statutes and Executive Orders that normally apply to rulemaking do not apply in this case. Should EPA subsequently determine to pursue a rulemaking, EPA will address the statutes and Executive Orders as applicable to that rulemaking.

Dated: February 10, 2011.

**Jared Blumenfeld,**

*Regional Administrator, U.S. Environmental Protection Agency, Region 9.*

[FR Doc. 2011-3861 Filed 2-18-11; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1170]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule; correction.

**SUMMARY:** On January 7, 2011, FEMA published in the **Federal Register** a proposed rule that included an erroneous Base Flood Elevation (BFE) for the Skykomish River in Snohomish

County, Washington. The BFE currently in effect for the location approximately 216 feet downstream of Burlington Northern Santa Fe Railway should have been listed as 355 feet, referenced to the North American Vertical Datum of 1988.

**DATES:** Comments pertaining to the Skykomish River BFE for the location approximately 216 feet downstream of Burlington Northern Santa Fe Railway are to be submitted on or before May 23, 2011.

**ADDRESSES:** You may submit comments, identified by Docket No. FEMA-B-1170, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-4064 or (e-mail) [luis.rodriguez1@dhs.gov](mailto:luis.rodriguez1@dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-4064 or (e-mail) [rodriguez1@dhs.gov](mailto:rodriguez1@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

#### Correction

In the proposed rule published at 76 FR 1121, in the January 7, 2011, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled

“Snohomish County, Washington, and Incorporated Areas” addressed several flooding sources, including the Skykomish River. The proposed rule incorrectly listed the effective BFE for the Skykomish River, for the location approximately 216 feet downstream of Burlington Northern Santa Fe Railway. The effective BFE for that location was listed as 359 feet, referenced to the North American Vertical Datum of 1988. The correct effective BFE is 355 feet, referenced to the North American Vertical Datum of 1988. The proposed modified BFE was correctly listed as 351 feet, referenced to the North American Vertical Datum of 1988. This proposed rule correction is reopening the comment period for the Skykomish River, for the location approximately 216 feet downstream of Burlington Northern Santa Fe Railway, due to the error in listing the effective BFE in the previously published proposed rule at 76 FR 1121.

(Catalog of Federal Domestic Assistance No. 97.022, “Flood Insurance.”)

Dated: February 11, 2011.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2011-3865 Filed 2-18-11; 8:45 am]

**BILLING CODE 9110-12-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 211 and 252

RIN 0750-AH05

#### Defense Federal Acquisition Regulation Supplement; Passive Radio Frequency Identification (DFARS Case 2010-D014)

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update requirements relating to the use of passive Radio Frequency Identification (RFID).

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 25, 2011, to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2010–D014, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “DFARS Case 2010–D014” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2010–D014.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2010–D014” on your attached document.

- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2010–D014 in the subject line of the message.

- *Fax:* 703–602–0350.

- *Mail:* Defense Acquisition Regulations System, Attn: Meredith Murphy, 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, 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:** Meredith Murphy, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–1302; facsimile 703–602–0350.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This DFARS case was initiated at the request of the Office of Logistics and Materiel Readiness (L&MR) of the Office of the Secretary of Defense (Acquisition, Technology, and Logistics) to revise DFARS 211.275, Radio frequency identification, to—

- Clarify that the RFID requirement pertains solely to “passive RFID”;
- Supply a link to a web site in lieu of individually listing ship-to addresses;
- Enable contracting officers to add tagging requirements to contracts shipping to DoD Activity Address Codes (DoDAACs) not specifically listed at the web site;
- Make pharmaceuticals subject to the Class VIII RFID tagging requirements; and
- Revise the clause at 252.211–7006, including the title, to reflect the changes above.

As the use of passive RFID technology continues to expand and additional DoD sites gain the capability to use RFID identifier tags, the DFARS regulations associated with passive RFID are being proposed for complementary updates.

First, DFARS 211.275 is being renamed and revised to clarify that the DoD RFID requirement relates solely to “passive RFID”, which is defined in the associated clause 252.211–7006(a).

The current DFARS lists approximately 20 specific DoD activity addresses and provides the authority for using other ship-to locations “outside the contiguous United States” under certain circumstances. However, the Defense Logistics Agency and the Navy have proposed adding more than 200 additional sites, making it impracticable to list all DoD passive RFID addresses in the DFARS text or its associated clause. Instead, a website is proposed to be added so that contractors can refer to the website to find the RFID identifier for each specific DoD ship-to address that uses RFID technology. The new website referenced in the DFARS has the added benefit of enabling the addition of new ship-to addresses in the future without the need to revise the DFARS in each instance. DoD proposes to amend the revised shortened list of ship-to addresses at DFARS 211.275–2(a)(2) to allow contracting officers to add tagging requirements to contract deliverables shipping to DoD activity address codes not specifically included in the list, as needed.

Also, the DFARS currently excludes shipments of pharmaceuticals from the Class VIII RFID tagging requirements. Changes are proposed that will include shipments of pharmaceuticals in the requirement for passive RFID tags. To date, this requirement has been informally effected via contract-specific provisions.

**II. Executive Order 12866**

This is a significant regulatory action and, therefore, it was subject to review under Section 6 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 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 the rule does not add to or delete the existing regulations on RFID use. However, DoD has performed a regulatory flexibility analysis to address the proposed rule changes, which are summarized as follows.

The current DFARS lists approximately 20 specific DoD activity addresses and provides the authority for using other ship-to locations “outside the contiguous United States” under certain circumstances. However, the Defense Logistics Agency and the Navy have proposed adding more than 200 additional sites, making it impracticable to list all DoD passive RFID addresses in the DFARS text or its associated clause. Instead, a web site is proposed to be added so that contractors can refer to the web site to find the RFID Identifier for each specific DoD ship-to address that uses RFID technology. Including the web site in the DFARS has the added benefit of enabling the addition of new ship-to addresses in the future as necessary without the need to revise the DFARS in each case. DoD proposes to amend the revised, shortened list of ship-to addresses at DFARS 211.275–2(a)(2) to allow contracting officers to add tagging requirements to contract deliverables shipping to DoDAACs not specifically included in the list as they deem necessary.

The current OMB information collection justification for the clause associated with the current DFARS, 252.211–7006, entitled “Radio Frequency Identification,” lists the number of contractors impacted by the RFID requirement as 25,500. While each contractor has multiple submissions (one for each shipment), it takes only 1.12 seconds per response. The changes proposed should decrease the response time, not increase it. Therefore, any impact to small businesses will be both positive and minimal.

The only alternative to the proposed rule is to leave the current DoD RFID requirements intact. However, that alternative would not minimize the economic impact on small entities, as does the proposed rule.

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

DoD will consider comments from small entities concerning the existing regulations in subparts affected by the 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–D014) in correspondence.

**IV. Paperwork Reduction Act**

There are information collection requirements associated with the use of RFIDs. However, there will be no change to the existing information collection requirements currently approved under OMB Information Control Number 0704–0434, DFARS;

Radio Frequency Identification Advance Shipment Notices. Therefore, DoD has determined that the proposed rule, if adopted as a final rule, would have no material impact on the approved collection. However, DoD will accept comments on how the rule would impact either the burden or other aspects of the approved information collection.

#### List of Subjects in 48 CFR Parts 211 and 252

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211 and 252 are proposed to be 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

2. Section 211.275–1 is revised to read as follows:

##### 211.275–1 Definitions.

“Bulk commodities,” “case,” “palletized unit load,” “passive RFID tag,” and “radio frequency identification” are defined in the clause at 252.211–7006, Passive Radio Frequency Identification.

3. Section 211.275–2 is revised to read as follows:

##### 211.275–2 Policy.

(a) Except as provided in paragraph (b) of this section, radio frequency identification (RFID), in the form of a passive RFID tag, is required for cases and palletized unit load packaging levels and any additional consolidation level(s) deemed necessary by the requiring activity for shipments of items that—

(1) Contain items in any of the following classes of supply, as defined in DoD 4140.1–R, DoD Supply Chain Materiel Management Regulation, AP1.1.11:

- (i) Subclass of Class I—Packaged operational rations.
- (ii) Class II—Clothing, individual equipment, tentage, organizational tool kits, hand tools, and administrative and housekeeping supplies and equipment.
- (iii) Class IIIP—Packaged petroleum, lubricants, oils, preservatives, chemicals, and additives.
- (iv) Class IV—Construction and barrier materials.
- (v) Class VI—Personal demand items (non-military sales items).

(vi) Subclass of Class VIII—Medical materials, including pharmaceuticals (excluding biologicals, and reagents—suppliers should limit the mixing of excluded and non-excluded materials).

(vii) Class IX—Repair parts and components including kits, assemblies and subassemblies, reparable and consumable items required for maintenance support of all equipment, excluding medical-peculiar repair parts; and

(2) Will be shipped to one of the locations listed at <http://www.acq.osd.mil/log/rfid/> or to—

- (i) A location outside the contiguous United States when the shipment has been assigned Transportation Priority 1; or
- (ii) Any additional location(s) deemed necessary by the requiring activity.

(b) The following are excluded from the requirements of paragraph (a) of this section:

- (1) Shipments of bulk commodities.
  - (2) Shipments to locations other than Defense Distribution Depots when the contract includes the clause at FAR 52.213–1, Fast Payment Procedures.
4. Section 211.275–3 is revised to read as follows:

##### 211.275–3 Contract clause.

(a) Use the clause at 252.211–7006, Passive Radio Frequency Identification, in solicitations and contracts that will require shipment of items meeting the criteria at 211.275–2.

(b) Complete paragraph (b)(1)(ii) of the clause at DFARS 252.211–7006 as appropriate.

#### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.211–7006 is revised to read as follows:

##### 252.211–7006 Passive Radio Frequency Identification.

As prescribed in 211.275–3, use the following clause:

##### PASSIVE RADIO FREQUENCY IDENTIFICATION (DATE)

(a) *Definitions.* As used in this clause—  
*Advance shipment notice* means an electronic notification used to list the contents of a shipment of goods as well as additional information relating to the shipment, such as passive radio frequency identification (RFID) or item unique identification (IUID) information, order information, product description, physical characteristics, type of packaging, marking, carrier information, and configuration of goods within the transportation equipment.

*Bulk commodities* means the following commodities, when shipped in rail tank cars, tanker trucks, trailers, other bulk wheeled conveyances, or pipelines:

- (1) Sand.
- (2) Gravel.
- (3) Bulk liquids (water, chemicals, or petroleum products).
- (4) Ready-mix concrete or similar construction materials.
- (5) Coal or combustibles such as firewood.
- (6) Agricultural products such as seeds, grains, or animal feed.

*Case* means either a MIL–STD–129 defined exterior container within a palletized unit load or a MIL–STD–129 defined individual shipping container.

*Electronic Product Code™ (EPC®)* means an identification scheme for universally identifying physical objects via RFID tags and other means. The standardized EPC™ data consists of an EPC™ (or EPC™ identifier) that uniquely identifies an individual object, as well as an optional filter value when judged to be necessary to enable effective and efficient reading of the EPC™ tags. In addition to this standardized data, certain classes of EPC™ tags will allow user-defined data. The EPC™ Tag Data Standards will define the length and position of this data, without defining its content.

*EPCglobal®* means a subscriber-driven organization comprised of industry leaders and organizations focused on creating global standards for the adoption of passive RFID technology.

*Exterior container* means a MIL–STD–129 defined container, bundle, or assembly that is sufficient by reason of material, design, and construction to protect unit packs and intermediate containers and their contents during shipment and storage. It can be a unit pack or a container with a combination of unit packs or intermediate containers. An exterior container may or may not be used as a shipping container.

*Palletized unit load* means a MIL–STD–129 defined quantity of items, packed or unpacked, arranged on a pallet in a specified manner and secured, strapped, or fastened on the pallet so that the whole palletized load is handled as a single unit. A palletized or skidded load is not considered to be a shipping container. A loaded 463L System pallet is not considered to be a palletized unit load. Refer to the Defense Transportation Regulation, DoD 4500.9–R, Part II, Chapter 203, for marking of 463L System pallets.

*Passive RFID tag* means a tag that reflects energy from the reader/interrogator or that receives and temporarily stores a small amount of energy from the reader/interrogator signal in order to generate the tag response. The only acceptable tags are EPC Class 1 passive RFID tags that meet the EPCglobal™ Class 1 Generation 2 standard.

*Radio frequency identification (RFID)* means an automatic identification and data capture technology comprising one or more reader/interrogators and one or more radio frequency transponders in which data transfer is achieved by means of suitably modulated inductive or radiating electromagnetic carriers.

*Shipping container* means a MIL–STD–129 defined exterior container that meets carrier regulations and is of sufficient strength, by reason of material, design, and construction, to be shipped safely without further packing (e.g., wooden boxes or crates, fiber and metal

drums, and corrugated and solid fiberboard boxes).

(b)(1) Except as provided in paragraph (b)(2) of this clause, the Contractor shall affix passive RFID tags, at the case- and palletized-unit-load packaging levels, for shipments of items that—

(i) Are in any of the following classes of supply, as defined in DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, AP1.1.11:

(A) Subclass of Class I—Packaged operational rations.

(B) Class II—Clothing, individual equipment, tentage, organizational tool kits,

hand tools, and administrative and housekeeping supplies and equipment.

(C) Class III—Packaged petroleum, lubricants, oils, preservatives, chemicals, and additives.

(D) Class IV—Construction and barrier materials.

(E) Class VI—Personal demand items (non-military sales items).

(F) Subclass of Class VIII—Medical materials including pharmaceuticals, (excluding biologicals, and reagents—suppliers should limit the mixing of excluded and non-excluded materials).

(G) Class IX—Repair parts and components including kits, assemblies and subassemblies, repairable and consumable items required for maintenance support of all equipment, excluding medical-peculiar repair parts; and

(ii) Are being shipped to one of the locations listed at <http://www.acq.osd.mil/log/rfid/or> to—

(A) A location outside the contiguous United States when the shipment has been assigned Transportation Priority 1 or to—

(B) The following location(s) deemed necessary by the requiring activity:

Contract line, subline, or exhibit line item number	Location name	City	State	DoDAAC

(2) The following are excluded from the requirements of paragraph (b)(1) of this clause:

(i) Shipments of bulk commodities.

(ii) Shipments to locations other than Defense Distribution Depots when the contract includes the clause at FAR 52.213-1, Fast Payment Procedures.

(c) The Contractor shall—

(1) Ensure that the data encoded on each passive RFID tag are globally unique (i.e., the tag ID is never repeated across two or more RFID tags) and conforms to the requirements in paragraph (d) of this clause;

(2) Use passive tags that are readable; and

(3) Ensure that the passive tag is affixed at the appropriate location on the specific level of packaging, in accordance with MIL-STD-129 (Section 4.9.2) tag placement specifications.

(d) *Data syntax and standards.* The Contractor shall encode an approved RFID tag using the instructions provided in the EPC™ Tag Data Standards in effect at the time of contract award. The EPC™ Tag Data Standards are available at <http://www.epcglobalinc.org/standards/>.

(1) If the Contractor is an EPCglobal™ subscriber and possesses a unique EPC™ company prefix, the Contractor may use any of the identifiers and encoding instructions described in the most recent EPC™ Tag Data Standards document to encode tags.

(2) If the Contractor chooses to employ the DoD identifier, the Contractor shall use its previously assigned Commercial and Government Entity (CAGE) code and shall encode the tags in accordance with the tag identifier details located at [http://www.acq.osd.mil/log/rfid/tag\\_data.htm](http://www.acq.osd.mil/log/rfid/tag_data.htm). If the Contractor uses a third-party packaging house to encode its tags, the CAGE code of the third-party packaging house is acceptable.

(3) Regardless of the selected encoding scheme, the Contractor with which the Department holds the contract is responsible for ensuring that the tag ID encoded on each passive RFID tag is globally unique, per the requirements in paragraph (c)(1).

(e) *Advance shipment notice.* The Contractor shall use Wide Area Workflow (WAWF), as prescribed in DFARS 252.232-7003, Electronic Submission of Payment Requests, to electronically submit advance shipment notice(s) with the RFID tag ID(s) (specified in paragraph (d) of this clause) in advance of the shipment in accordance with the procedures at <https://wawf.eb.mil/>.

(End of clause)

[FR Doc. 2011-3759 Filed 2-18-11; 8:45 am]

**BILLING CODE 5001-08-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 393**

**[Docket No. FMCSA-2010-0271]**

**RIN-2126-AB30**

**Parts and Accessories Necessary for Safe Operation; Saddle-Mount Braking Requirements**

**AGENCY:** Federal Motor Carrier Safety Administration, DOT.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) by eliminating the requirement for operational brakes on the last saddle-mounted truck or tractor in a triple saddle-mount combination, except when a full mount is present. This is in response to a petition for rulemaking from the Automobile Carriers Conference (ACC) of the American Trucking Associations. Currently, the

FMCSRs require operational brakes on any wheel of a saddle-mounted vehicle that is in contact with the roadway. ACC contends that this requirement degrades the braking performance of these combinations because the lightly loaded axle of the last vehicle tends to lock up under heavy braking, and submitted test results supporting this position.

**DATES:** Send your comments on or before April 25, 2011.

**ADDRESSES:** You may submit comments identified by Docket ID Number FMCSA-2010-0271 by any of the following methods:

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

*Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

*Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday except Federal holidays. *Fax:* 202-493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brian J. Routhier, Vehicle and Roadside Operations Division, Federal Motor Carrier Safety Administration, 202-366-1225, or [brian.routhier@dot.gov](mailto:brian.routhier@dot.gov), 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays.