

final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For further information regarding the negative declarations for SSI units submitted by DNREC, DDOE, and WVDEP, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: June 11, 2014.

W.C. Early,
Acting.

[FR Doc. 2014-16032 Filed 7-9-14; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[**FAR Case 2013-012; Docket No. 2013-0012; Sequence No. 1**]

RIN 9000-AM57

Federal Acquisition Regulation; Review and Justification of Pass- Through Contracts

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 802 of the National Defense Authorization Act of Fiscal Year 2013. This section provides additional requirements relative to the review and justification of Pass-Through contracts.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees

shown below on or before September 9, 2014 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2013-012 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2013-012". Select the link "Comment Now" that corresponds with "FAR Case 2013-012." Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2013-012" on your attached document.
- *Fax:* 202-501-4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2013-012, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at 202-501-3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAR Case 2013-012.

SUPPLEMENTARY INFORMATION:

I. Background

The National Defense Authorization Act (NDAA) for Fiscal Year 2013 was signed into law and effective on December 31, 2012. Section 802 of the law provides additional requirements relative to the review and justification of Pass-Through contracts. Specifically, this law requires in those instances where an offeror for a contract, task order, or delivery order informs the agency pursuant to FAR 52.215-22 of their intention to award subcontracts for more than 70 percent of the total cost of work to be performed under the contract, task order, or delivery order, the contracting officer is required to (1) consider the availability of alternative contract vehicles and the feasibility of contracting directly with a subcontractor or subcontractors that will perform the bulk of the work; (2) make a written determination that the contracting approach selected is in the best interest of the Government; and (3) document the basis for such determination. Therefore, FAR 15.404-

1(h) is being created by this rule to implement these statutory requirements.

However, Section 1615 of the NDAA for Fiscal Year 2014, which was signed into law and effective on December 26, 2013, provides that for contracts under the provisions of Section 46 of the Small Business Act (15 U.S.C. 657s) the requirements under Section 802 of the NDAA for Fiscal Year 2013 do not apply. Accordingly, the proposed rule exempts FAR Part 19 acquisitions.

While Section 802 only applies to contracts with the Department of Defense, the Department of State, and the United States Agency for International Development, for the purpose of consistency, it was decided to apply the section's requirements to all of the agencies subject to the FAR.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 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, GSA, and NASA do not expect this proposed 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 augments the current responsibilities of contracting officers relative to the review and justification of pass-through contracts and does not initiate or impose any new administrative or performance requirements on contractors.

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. DoD, GSA, and NASA invite comments from small business entities concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule consistent with 5 U.S.C. 610. Interested parties

must submit such comments separately and should cite 5 U.S.C. 610, FAR Case 2013-012, in correspondence.

IV. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35).

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: July 2, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose to amend 48 CFR part 15 as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 15.404-1 by adding paragraph (h) to read as follows.

§ 15.404-1 Proposal analysis techniques.

* * * * *

(h) *Review and justification of pass-through contracts.* (1) The requirements of this paragraph (h) are applicable to all agencies. The requirements apply by law to the Department of Defense, the Department of State, and the United States Agency for International Development, per Section 802 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013. The requirements apply as a matter of policy to other Federal agencies.

(2) Except as provided in paragraph (h)(3) of this section, when an offeror for a contract or a task or delivery order informs the contracting officer pursuant to 52.215-22 that it intends to award subcontracts for more than 70 percent of the total cost of work to be performed under the contract, task or delivery order, the contracting officer shall—

(i) Consider the availability of alternative contract vehicles and the feasibility of contracting directly with a subcontractor or subcontractors that will perform the bulk of the work;

(ii) Make a written determination that the contracting approach selected is in the best interest of the Government; and

(iii) Document the basis for such determination.

(3) Contract actions under FAR Part 19 are exempt from the requirements of this paragraph (h).

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2014-0080]

Federal Motor Vehicle Safety Standards; Rear Impact Guards, Rear Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Grant of petition for rulemaking.

SUMMARY: By initiating rulemaking to consider enhancing related safety standards, this notice grants the part of the petition for rulemaking submitted by Ms. Marianne Karth and the Truck Safety Coalition (Petitioners) requesting that the agency improve the safety of rear impact (underride) guards on trailers and single unit trucks. Based on the petition, available information, and the agency's analysis in progress, NHTSA has decided that the Petitioners' request related to rear impact guards merits further consideration. Therefore, the agency grants the Petitioners' request to initiate rulemaking on rear impact guards. NHTSA is planning on issuing two separate notices—an advanced notice of proposed rulemaking pertaining to rear impact guards and other safety strategies for single unit trucks, and a notice of proposed rulemaking focusing on rear impact guards on trailers and semitrailers. NHTSA is still evaluating the Petitioners' request to improve side guards and front override guards and will issue a separate decision on those aspects of the petition at a later date.

DATES: The Petitioners' request to initiate rulemaking on rear impact guards on trailers and single unit trucks is granted on July 10, 2014.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Robert Mazurowski, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (202-366-1012). Mr. Mazurowski's fax number is: (202) 493-2990.

For legal issues: Mr. Ryan Hagen, Office of the Chief Counsel, National Highway Traffic Safety Administration,

1200 New Jersey Avenue SE., Washington, DC 20590 (202-366-2992). Mr. Hagen's fax number is: (202) 366-3820.

Background and Summary of Petition

On September 12, 2013, Ms. Karth and members of the Truck Safety Coalition (Petitioners) met with the Secretary of Transportation to discuss their petition for rulemaking on truck safety issues. The Petitioners requested a standard requiring improved underride guards be issued, and that the Department of Transportation begin studies and rulemakings for side guards and front override guards.

In additional correspondence from the Petitioners to the Department of Transportation following the meeting, the Petitioners stated that if the Federal motor vehicle safety standards (FMVSSs) for rear underride guards were amended to be equivalent to Canadian motor vehicle safety standards, injuries and fatalities could be avoided. Moreover, the Petitioners stated that all trucks and trailers should be required to be equipped with energy absorbing rear impact guards mounted 16 inches from the ground with vertical supports mounted 18 inches from the side edges.

On May 5, 2014, the Petitioners presented the Secretary of Transportation with more than 11,000 identical petitions from members of the public, again requesting the initiation of a rulemaking on rear impact guards. In particular, the Petitioners requested that the Department adopt a requirement for improved rear impact guards and that the Department begin the process of improving side guards and front override guards.¹

Documents exchanged between the Petitioners and NHTSA in regard to this petition can be found at <http://www.regulations.gov> by entering docket number NHTSA-2014-0063.

Agency Analysis and Decision

The aspects of the petition that fall within NHTSA's authority relate to U.S. rear impact guards, side guards, and front override guards.² NHTSA is

¹ In their petition, the Petitioners also requested that the Department raise the minimum insurance liability limits that truck drivers are required to carry and take certain actions to improve enforcement of hours of service limits and reduce truck driver fatigue, both of which are actions under the jurisdiction of the Federal Motor Carrier Safety Administration (FMCSA), not NHTSA.

Consequently, these two requests are not addressed in this notice, which is not intended to either grant or deny the petitioners request on these two actions.

² We note that the Insurance Institute for Highway Safety and the National Transportation Safety Board requested some of the same amendments to rear impact guards as the Petitioners.