

followed by a colon and the name of the food source from which each major food allergen is derived (for example, "Contains: egg").

(c) *Cross reference.* For labeling requirements applicable to malt beverage products containing FD&C Yellow No. 5, sulfites, and aspartame, see §§ 7.22(b)(4), (b)(6), and (b)(7).

4. Section 7.22b is revised to read as follows:

§ 7.22b Petitions for exemption from major food allergen labeling.

(a) *Submission of petition.* Any person may petition the appropriate TTB officer to exempt a particular product or class of products from the labeling requirements of § 7.22a. The burden is on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that the finished product or class of products, as derived by the method specified in the petition, either:

(1) Does not cause an allergic response that poses a risk to human health; or

(2) Does not contain allergenic protein derived from one of the foods identified in § 7.22a(a)(1)(i), even though a major food allergen was used in production.

(b) *Decision on petition.* TTB will approve or deny a petition for exemption submitted under paragraph (a) of this section in writing within 180 days of receipt of the petition. If TTB does not provide a written response to the petitioner within that 180-day period, the petition will be deemed denied, unless an extension of time for decision is mutually agreed upon by the appropriate TTB officer and the petitioner. TTB may confer with the Food and Drug Administration (FDA) on petitions for exemption, as appropriate and as FDA resources permit. TTB may require the submission of product samples and other additional information in support of the petition; however, unless required by TTB, the submission of samples or additional information by the petitioner after submission of the petition will be treated as the withdrawal of the initial petition and the submission of a new petition. An approval or denial under this section will constitute a final agency action.

(c) *Resubmission of a petition.* After a petition for exemption is denied under this section, the petitioner may resubmit the petition along with supporting materials for reconsideration at any time. TTB will treat this submission as a new petition for purposes of the time frames for decision set forth in paragraph (b) of this section.

(d) *Availability of information.* (1) *General.* TTB will promptly post to its public Web site, <http://www.ttb.gov>, all petitions received under this section as well as TTB's responses to those petitions. Any information submitted in support of the petition that is not posted to the TTB Web site will be available to the public pursuant to 5. U.S.C. 552, except where a request for confidential treatment is granted under paragraph (d)(2) of this section.

(2) *Requests for confidential treatment of business information.* A person who provides trade secrets or other commercial or financial information in connection with a petition for exemption under this section may request that TTB give confidential treatment to that information. A failure to request confidential treatment at the time the information in question is submitted to TTB will constitute a waiver of confidential treatment. A request for confidential treatment of information under this section must conform to the following standards:

(i) The request must be in writing;

(ii) The request must clearly identify the information to be kept confidential;

(iii) The request must relate to information that constitutes trade secrets or other confidential commercial or financial information regarding the business transactions of an interested person, the disclosure of which would cause substantial harm to the competitive position of that person;

(iv) The request must set forth the reasons why the information should not be disclosed, including the reasons the disclosure of the information would prejudice the competitive position of the interested person; and

(v) The request must be supported by a signed statement by the interested person, or by an authorized officer or employee of that person, certifying that the information in question is a trade secret or other confidential commercial or financial information and that the information is not already in the public domain.

Signed: February 16, 2006.

John J. Manfreda,

Administrator.

Approved: March 16, 2006.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Part 52

[FAR Case 2006-012; Docket 2006-0020; Sequence 4]

RIN: 9000-AK51

**Federal Acquisition Regulation; FAR
Case 2006-012; Contract Terms and
Conditions Required to Implement
Statute or Executive Orders—
Commercial Items**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to update the required contract clauses that implement provisions of law or executive orders for acquisitions of commercial items.

DATES: Interested parties should submit written comments to the FAR Secretariat on or before September 25, 2006 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2006-012 by any of the following methods:

• Federal eRulemaking Portal: <http://acquisition.gov>. Follow the instructions for submitting comments.

• Agency Web site: <http://acquisition.gov/far/ProposedRules/proposed.htm>. Click on the FAR case number to submit comments.

• E-mail: farcase.2006-012@gsa.gov. Include FAR case 2006-012 in the subject line of the message.

• Fax: 202-501-4067.

• Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2006-012 in all correspondence related to this case. All comments received will be posted without change to <http://acquisition.gov/far/ProposedRules/proposed.htm>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson, Procurement Analyst, at (202) 208-4949. Please cite FAR case 2006-012. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

SUPPLEMENTARY INFORMATION:

A. Background

In accordance with Section 8002 of Public Law 103-355 (41 U.S.C. 264, note), contract clauses applicable to acquisitions of commercial items are limited, to the maximum extent practicable, to clauses that are—

- (1) Required to implement provisions of law or executive orders applicable to the acquisition of commercial items; or
- (2) Determined to be consistent with customary commercial practice.

The clause at FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, incorporates, by reference, the contract clauses that the contracting officer may select to implement provisions of law or executive orders for acquisitions of commercial items. The clause at FAR 52.219-16, Liquidated Damages—Subcontracting Plan, is a contract clause that is required to implement 15 U.S.C. 637(d)(4)(F)(i). However, the clause at FAR 52.219-16 is not included in the list of clauses for commercial contracts in FAR 52.212-5. This proposed rule

will incorporate the clause at FAR 52.219-16 in the list of clauses for commercial contracts that the contracting officer may select.

This is not a significant regulatory action and, therefore, 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

The Councils 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 merely clarifies existing language and does not change existing policy. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR clause at 52.212-5 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite FAR case 2006-012.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose 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 Part 52

Government procurement.

Dated: July 19, 2006.

Ralph De Stefano

Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR Part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 52.212-5 by redesignating paragraphs (b)(10) through (b)(35) as (b)(11) through (b)(36), respectively, and adding a new (b)(10) to read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

(b) * * *

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(10) 52.219-16, Liquidated Damages—Subcontracting Plan [Date](15 U.S.C. 637(d)(4)(F)(i)).

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