

therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 16, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 20, 2010.

James B. Martin,
Regional Administrator, Region 8.

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart BB—Montana

■ 2. Section 52.1370 is amended by adding and reserving paragraphs (c)(69)

and (c)(70), and by adding paragraph (c)(71) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(71) The Governor of Montana submitted revisions, reordering and renumbering to the Libby County Air Pollution Control Program in a letter dated June 26, 2006. The revised Lincoln County regulations focus on woodstove emissions, road dust, and outdoor burning emissions.

(i) Incorporation by reference.

(A) Before the Board of Environmental Review of the State of Montana order issued on March 23, 2006, by the Montana Board of Environmental Review approving amendments to the Libby Air Pollution Control Program.

(B) Libby City Council Resolution No. 1660 signed February 27, 2006 and Lincoln County Board of Commissioners Resolution No. 725 signed February 27, 2006, adopting revisions, reordering and renumbering to the Lincoln County Air Pollution Control Program, Health and Environment Regulations, Chapter 1—Control on Air Pollution, Subchapter 1—General Provisions; Subchapter 2—Solid Fuel Burning Device Regulations; Subchapter 3—Dust Control Regulations; Subchapter 4—Outdoor Burning Regulations; as revised on February 27, 2006.

(ii) Additional material.

(A) Stipulation signed October 7, 1991, between the Montana Department of Health and Environmental Sciences (MDHES), the County of Lincoln and the City of Libby, which delineates responsibilities and authorities between the MDHES, Lincoln County and Libby.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 217 and 241

RIN 0750-AG48

Defense Federal Acquisition Regulation Supplement; Multiyear Contract Authority for Electricity From Renewable Energy Sources (DFARS Case 2008-D006)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, the interim rule

amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 828 of the National Defense Authorization Act for Fiscal Year 2008.

DATES: *Effective Date:* March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, 703-602-0328.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule at 75 FR 34942 on June 21, 2010, to amend DFARS parts 217 and 241 to authorize the Department of Defense to enter into a contract for a period not to exceed 10 years for the purchase of electricity from sources of renewable energy, as that term is defined in section 203(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)). Section 828 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110-181) authorizes DoD to enter into a contract for a period in excess of five years only if the head of the contracting activity determined, on the basis of a business case analysis prepared by DoD, that—

(1) The proposed purchase of electricity under such contract is cost effective; and

(2) It would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of five years.

II. Executive Order 12866

This rule 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.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public, and is consistent with DoD's intent to purchase electricity from sources of renewable energy in the most cost-effective manner.

IV. Regulatory Flexibility Act

This final rule is not expected 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 there are a very limited number of small businesses engaged in the sale of energy-related services, to include the sale of renewable energy. The market for renewable fuels is highly volatile and is

less predictable than other fuel markets. Renewable-energy and alternative-fuel projects are capital-intensive investments and involve the construction of production facilities, which limits small-entity participation.

Although no significant economic impact on small business is anticipated, DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis is summarized below and may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The objective of this rule is to implement section 828 of the NDAA for FY 2008. Section 828 authorized the Department of Defense (DoD) to enter into a contract for a period not to exceed 10 years for the purchase of electricity from sources of renewable energy, as that term is defined in section 203(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)). This final rule establishes the conditions under which the head of the contracting activity may enter into a contract for the purchase of renewable energy not to exceed 10 years. Section 828 allows DoD to award a contract for a period in excess of five years: (1) Only after a determination of the cost effectiveness of the proposed purchase has been made based upon a business case analysis, and (2) if it would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of five years.

This final rule will apply to DoD contractors engaged in the sale of energy-related services to include the sale of renewable energy.

This rule does not duplicate, overlap, or conflict with any other Federal rules. DoD considers the approach described in the interim rule published at 75 FR 34942 on June 21, 2010, to be the most practical and beneficial for both Government and industry.

DoD invited comments from small business concerns and other interested parties on the expected impact of this rule on small entities. No comments were received.

V. Paperwork Reduction Act

This rule does not impose additional 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 Parts 217 and 241

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 217 and 241, which was published at 75 FR 34942 on June 21, 2010, is adopted as a final rule without change.

[FR Doc. 2011-6233 Filed 3-16-11; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750-AH17

Defense Federal Acquisition Regulation Supplement; Nonavailability Exception for Procurement of Hand or Measuring Tools (DFARS Case 2011-D025)

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

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule to implement section 847 of the National Defense Authorization Act for Fiscal Year 2011. Section 847 provides a nonavailability exception to the requirement at 10 U.S.C. 2533a (Berry Amendment) to acquire only domestic hand or measuring tools.

DATES: *Effective date:* March 17, 2011.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 16, 2011, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2011-D025, using any of the following methods:

○ *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting "DFARS Case 2011-D025" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2011-D025." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2011-D025" on your attached document.