

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

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

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in

compliance with Executive Order 12866, "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government's rulemaking Web site at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, Division Director, Regulatory Secretariat Director, Room 783E, 1275 First Street, NE., Washington, DC 20417, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR Web site at <http://www.acquisition.gov/far>.

Dated: March 8, 2011.

Joseph A. Neurauter,
Director, Office of Acquisition Policy and Senior Procurement Executive.

DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
318	FAR Case 2010-004, Biobased Procurements	9000-AM03
319	FAR Case 2010-011, Standard Form 330 for Architect-Engineer Services	9000-AM04

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
320	FAR Case 2009-009, American Recovery and Reinvestment Act of 2009 (the Recovery Act)—Reporting Requirements.	9000-AL21
321	FAR Case 2010-008, Recovery Act Subcontract Reporting Procedures	9000-AL63
322	FAR Case 2008-039, Reporting Executive Compensation and First-Tier Subcontract Awards	9000-AL66
323	FAR Case 2011-004, Socio-Economic Parity	9000-AL88
324	FAR Case 2010-015, Woman-Owned Small Business Federal Contract Assistance Program	9000-AL97
325	FAR Case 2009-016, Constitutionality of Federal Contracting Programs for Minority-Owned and Other Small Businesses.	9000-AM05

DOD/GSA/NASA (FAR)—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
326	FAR Case 2011-015, Extension of Sunset Date for Protests of Task and Delivery Orders	9000-AM08

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
327	FAR Case 2006-005, HUBZone Program Revisions	9000-AL18

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Proposed Rule Stage

318. FAR Case 2010–004, Biobased Procurements

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

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement changes to 7 U.S.C. 8102, as amended by Public Law 110–246. The rule proposes to change the definition of “biobased product” and require contractors to report annually the product types and dollar value of any biobased products purchased during the preceding fiscal year on service and construct contracts where such products may be purchased.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 219–1813, E-mail: william.clark@gsa.gov.

RIN: 9000–AM03

319. FAR Case 2010–011, Standard Form 330 for Architect-Engineer Services

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

Abstract: This rule deletes part 2 of the SF 330, which collects general qualifications data not related to a particular planned contract action. The Online Representations and Certifications Application (ORCA) now collects this data centrally from interested A&E vendors at the time they complete the other representations and certifications in ORCA. This rule is being routed for review and comments.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis Glover, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 501–1448, E-mail: curtis.glover@gsa.gov.

RIN: 9000–AM04

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Final Rule Stage

320. FAR Case 2009–009, American Recovery and Reinvestment Act of 2009 (The Recovery Act)—Reporting Requirements

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

Abstract: DoD, GSA, and NASA will adopt as final, the interim rule that amended the Federal Acquisition Regulation (FAR) to implement section 1512 of Division A of the American Recovery and Reinvestment Act of 2009, which requires contractors to report on their use of Recovery Act funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/09	74 FR 14639
Interim Final Rule Comment Period End.	06/01/09	
Final Rule	09/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 219–1813, E-mail: william.clark@gsa.gov.

RIN: 9000–AL21

321. FAR Case 2010–008, Recovery Act Subcontract Reporting Procedures

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

Abstract: DoD, GSA and NASA will adopt as a final rule amending the FAR to revise three subparagraphs and add one subparagraph to the clause at FAR 52.204–11. This rule does not require renegotiation of existing Recovery Act contracts that include the clause dated March 2009 (published at 74 FR 14639). This change will require first-tier subcontractors with Recovery Act funded awards of \$25,000 or more, to report jobs information to the prime contractor for reporting into FederalReporting.gov. It also will require the prime contractor to submit its first report on or before the 10th day after the end of the calendar quarter in which the prime contractor received the award, and quarterly thereafter.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/02/10	75 FR 38684
Interim Final Rule Comment Period End.	08/31/10	
Final Rule	09/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 501–2364, E-mail: karlos.morgan@gsa.gov.

RIN: 9000–AL63

322. FAR Case 2008–039, Reporting Executive Compensation and First-Tier Subcontract Awards

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

Abstract: DoD, GSA, and NASA will adopt as final, with changes, the interim rule that amended the Federal Acquisition Regulation (FAR) to implement section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of Public Law 110–252, which requires the Office of Management and Budget (OMB) to establish a free, public, website containing full disclosure of all Federal contract award information. This rule requires contractors to report executive compensation and first-tier subcontractor awards on contracts expected to be \$25,000 or more, except classified contracts, and contracts with individuals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/08/10	75 FR 39414
Interim Final Rule Comment Period End.	09/07/10	
Final Rule	06/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 219–1813, E-mail: william.clark@gsa.gov.

RIN: 9000–AL66

323. FAR Case 2011–004, Socio-Economic Parity

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

Abstract: DoD, GSA, and NASA issued an interim rule amending the Federal Acquisition Regulation (FAR) to implement section 1347 of the “Small Business Jobs Act of 2010.” Section 1347 clarifies the contracting officer’s

ability to use discretion when determining whether an acquisition will be restricted to small businesses participating in the 8(a), HUBZone, or Service-disabled veteran-owned programs. There is no order of priority among small businesses in the 8(a) Business Development program, the HUBZone program, or the SDVOSB program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/11	76 FR 14566
Interim Final Rule Effective.	03/16/11	
Interim Final Rule Comment Period End.	05/16/11	
Final Action	09/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 501-2364, E-mail: karlos.morgan@gsa.gov.
RIN: 9000-AL88

324. FAR Case 2010-015, Woman-Owned Small Business Federal Contract Assistance Program

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

Abstract: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Small Business Administration's regulations establishing the Women-Owned Small Business Program.

The Small Business Act assists in leveling the procurement playing field to enable small business concerns, including women-owned small business (WOSB) concerns and economically disadvantaged women-owned small business (EDWOSB) concerns, to compete for Federal contracting opportunities.

On December 21, 2000, Congress enacted the Small Business Reauthorization Act of 2000 ("Act") (Pub. L. 106-554). Section 811 of Appendix I of the Act amended the Small Business Act to include section 8(m), which authorized the restriction of competition for Federal contracts in certain industries to EDWOSB concerns or WOSB concerns eligible under the WOSB Program.

This interim rule provides the contracting community additional resources to meet the Government's procurement needs. The addition of FAR subpart 19.15 incorporates coverage of the Women-Owned Small Business Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/11	76 FR 18304
Interim Final Rule Effective.	04/01/11	
Interim Final Rule Comment Period End.	05/31/11	
Final Action	09/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 501-2364, E-mail: karlos.morgan@gsa.gov.

RIN: 9000-AL97

325. FAR Case 2009-016, Constitutionality of Federal Contracting Programs for Minority-Owned and Other Small Businesses

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

Abstract: This rule implements the decision of the Rothe case. The Rothe case concerns the constitutionality of 10 U.S.C. 2323, section 1207 as enacted in 2006, that sets a 5 percent goal of DOD contracting dollars to small businesses, incorporating minorities and the award of contracts to SDBs at prices up to 10 percent above the fair market price. The Rothe case found that section 1207 is "facially unconstitutional" and impacts not only SDBs but certain institutions of higher learning (i.e., HBCUs/MIs). 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.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 501-2364, E-mail: karlos.morgan@gsa.gov.

RIN: 9000-AM05

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

326. • FAR Case 2011-015, Extension of Sunset Date for Protests of Task and Delivery Orders

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

Abstract: This interim rule amends the Federal Acquisition Regulation (FAR) to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. The statute extends the sunset date for protests against the award of task or delivery orders by DoD, NASA, and the Coast Guard from May 27, 2011 to September 30, 2016.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Deborah Lague, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Phone: 202 694-8149, E-mail: deborah.lague@gsa.gov.

RIN: 9000-AM08

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

327. FAR Case 2006-005, Hubzone Program Revisions

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

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement revisions to the Small Business Administration's HUBZone Program as a result of revisions to the Small Business Administration's regulations.

Completed:

Reason	Date	FR Cite
Final Action	12/13/10	75 FR 77727
Final Action Effective.	01/12/11	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: Karlos Morgan,
Phone: 202 501-2364, E-mail:
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RIN: 9000-AL18
[FR Doc. 2011-15499 Filed 7-6-11; 8:45 am]
BILLING CODE 6820-27-P



FEDERAL REGISTER

Vol. 76

Thursday,

No. 130

July 7, 2011

Part XVIII

Consumer Product Safety Commission

Semiannual Regulatory Agenda