

claimed as confidential business information must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as confidential business information only to the following address: Roberto Morales, U.S. EPA, Office of Air Quality Planning and Standards, Mail Code C404-02, Research Triangle Park, NC 27711, telephone (919) 541-0880, email at [morales.roberto@epa.gov](mailto:morales.roberto@epa.gov), Attention Docket ID No. EPA-HQ-OAR-2008-0476.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for the ozone designations rulemaking for the 2008 ozone standards at EPA-HQ-OAR-2008-0476. In addition, the EPA has established a Web site for the ozone designations rulemaking at [www.epa.gov/ozonedesignations](http://www.epa.gov/ozonedesignations). The Web site includes the state and tribal designation recommendations, information supporting the EPA's preliminary designation decisions, as well as the rulemaking actions and other related information that the public may find useful.

Dated: January 12, 2012.

**Mary E. Henigin,**

*Acting Director, Office of Air Quality Planning and Standards.*

[FR Doc. 2012-957 Filed 1-18-12; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 204

[DFARS Case 2012-D002]

RIN 0750-AH56

#### Defense Federal Acquisition Regulation Supplement: Order of Application for Modifications

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to establish an order for application of contract modifications to resolve any potential conflicts that may arise from multiple modifications with the same effective date.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before March 19, 2012, to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments identified by DFARS case 2012-D002, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting "DFARS Case 2012-D002" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2012-D002." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2012-D002" on your attached document.
- *Email:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2012-D002 in the subject line of the message.
- *Fax:* (703) 602-0350.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Julian Thrash, 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(s), please check [www.regulations.gov](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:** Mr. Julian Thrash, (703) 602-0310.

## SUPPLEMENTARY INFORMATION:

### I. Background

The Defense Federal Acquisition Regulation Supplement (DFARS) subpart 204.70, Uniform Procurement Instrument Identification Numbers, prescribes numbering procedures for contract modifications and the Federal Acquisition Regulation (FAR) part 43.1, General, prescribes rules for determining the effective date. There are no rules to describe in what order to apply modifications to determine the actual content of a resulting modified contract. In order to determine the sequence of modifications to a contract or order, a method for determining the order of application for modifications is needed to resolve any conflict arising from multiple modifications with the same effective date. As such, this rule proposes to add DFARS text at 204.7007, Order of Application for Modifications, to resolve any potential inconsistency.

### 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 not a significant regulatory action and, therefore, was not 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 does 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 this rule only affects the internal operating processes of DoD by clarifying an order of application for contract modifications, and it does not have an economic impact on contractors. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The objective for this case is to provide a set of rules to the contracting officer to resolve any potential conflict from multiple modifications with the same effective date. The changes

required to the DFARS by this case only affect the internal operating processes of DoD by establishing an order of application for contract modifications. These changes are not expected to have a significant economic impact on contractors.

This rule does not impose any new reporting or recordkeeping requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules. The alternative to this rule is to continue relying on DFARS subpart 204.70, which prescribes numbering procedures for contract modifications, and FAR subpart 43.1, which provides guidelines for determining the effective date. However, the cited text does not provide a clear structured path to ensure no ambiguity arises when determining what order to apply modifications.

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

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this 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 2012–D002) in the correspondence.

#### IV. Paperwork Reduction Act

This rule does not impose any new 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 204

Government procurement.

#### Mary Overstreet,

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 204 is proposed to be amended as follows:

1. The authority citation for 48 CFR part 204 is revised to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

#### PART 204—ADMINISTRATIVE MATTERS

2. Add section 204.7007 to read as follows:

##### 204.7007 Order of application for modifications.

(a) Circumstances may exist in which the numeric order of the modifications to a contract is not the order in which the changes to the contract actually take effect.

(b) In order to determine the sequence of modifications to a contract or order, the modifications will be applied in the following order:

(1) Modifications will be applied in order of the effective date on the modification.

(2) In the event of two or more modifications with the same effective date, modifications will be applied in signature date order.

(3) In the event of two or more modifications with the same effective date and the same signature date, procuring contracting office modifications will be applied in numeric order, followed by contract administration office modifications in numeric order.

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**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**48 CFR Parts 204, 215, 217, 219, 225, 239, 241, 242, 244, and 252**

**[DFARS Case 2011–D040]**

**RIN 0750–AH49**

### Defense Federal Acquisition Regulation Supplement; Definition of Cost or Pricing Data

**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 text addressing the definition of cost or pricing data. The DFARS changes are necessary to ensure consistency with the Federal Acquisition Regulation (FAR).

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before March 19, 2012, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2011–D040, using any of the following methods:

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

Submit comments via the Federal eRulemaking portal by Inserting “DFARS Case 2011–D040” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2011–D040.” Follow the instructions provided at the “Submit

a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2011–D040” on your attached document. Follow the instructions for submitting comments.

*Email:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2011–D040 in the subject line of the message.

*Fax:* (703) 602–0350.

*Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, 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(s), please check [www.regulations.gov](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:** Mr. Mark Gomersall, (703) 602–0302.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

This rule proposes to update the DFARS for consistency with FAR changes addressing the definition of cost or pricing data, published at 75 FR 53135 on August 30, 2010.

#### 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 not a significant regulatory action and, therefore, was not 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

This rule proposes to update the Defense Federal Acquisition Regulation Supplement (DFARS) for consistency with Federal Acquisition Regulation (FAR) changes addressing the definition of cost or pricing data, published at 75 FR 53135 on August 30, 2010. DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory