

applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than \$38.5 million in annual receipts. As of September 30, 2014, there are approximately 430 licensed Class A stations and 2,115 licensed LPTV stations. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA's definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

55. There may be changes to reporting or recordkeeping requirements if the Commission adopts the RUFNRN proposal for Form 323 and/or Form 323-E. In the event that the RUFNRN proposal is adopted for the Form 323 and/or Form 323-E, filers will have the option to obtain and report a unique identifier for individual attributable interest holders that does not require submission of a full SSN to the Commission. Adoption of this proposal will allow an individual to obtain an RUFNRN from CORES by submitting an alternate set of identifying information. Individuals would not be required to obtain or report an RUFNRN on the Form 323 and/or Form 323-E—instead, individuals could obtain and report a CORES FRN. An individual who has provided a CORES FRN on one or more previous ownership filings may continue to use that CORES FRN going forward. There also may be changes to reporting or recordkeeping requirements if the Commission limits or eliminates that availability of SUFRNs for broadcast ownership reports. Filers may be obligated to instruct individuals about their obligation to supply the filer with a CORES FRN or RUFNRN or to provide the filer with the information sufficient to obtain one of these identifiers on the individual's behalf. A filer may also be required to inform individuals about potential enforcement action for failure to obtain or report a CORES FRN or RUFNRN. Moreover, if a filer reports an SUFRN for an individual interest holder, the filer may be required to show that the filer made reasonable good faith efforts to obtain a CORES FRN or RUFNRN, or the information

necessary to obtain a CORES FRN or RUFNRN, on the individual's behalf.

#### *E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered*

56. The RFA requires an agency to describe any significant alternatives that might minimize any significant economic impact on small entities. Such alternatives may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

57. As noted, we are directed under law to describe any such alternatives we consider, including alternatives not explicitly listed above. The Notice proposes to allow individuals reported on Form 323 to obtain and provide an RUFNRN in lieu of a traditional CORES FRN. Similarly, the Notice proposes making RUFNRNs available to Form 323-E filers in the event that Form 323-E is modified as proposed in the Fourth Diversity Further Notice. The Notice also proposes eliminating the availability of SUFRNs for Form 323 and Form 323-E filings. In the alternative, the Commission could decide not to enact the RUFNRN proposal contained in the Notice and not to modify the availability of SUFRNs. The Commission also could defer these actions until a later time. Additionally, the Commission could decide to treat noncommercial broadcasters differently from commercial broadcast stations for purposes of uniquely identifying and tracking individual attributable interest holders reported on the 323-E. While decisions to adopt the RUFNRN proposal and eliminate the Special Use FRN might result in increased burdens on reporting parties, the Notice tentatively concludes that any such burdens would be minimal and that the benefits of having a unique identifier for data quality, searchability, cross-referencing and aggregation purposes in order to further the Commission's goal of advancing diversity of ownership in the broadcast industry would outweigh those burdens. A unique identifier is necessary to improve the quality of the data collected on the Form 323. The Commission also seeks comment on whether the Special Use FRN should be available solely in instances where, after

reasonable and good faith efforts, filers are unable to obtain a CORES FRN or RUFNRN from an individual with reportable interests. This alternative could reduce the burden for those filers who are unable to, after reasonable and good faith efforts, to obtain a CORES FRN or RUFNRN from an individual attributable interest holder, while ensuring that the filer will be able to timely submit the Form 323. This will allow the Commission to identify the individual with a reportable interest that has failed to provide a CORES FRN or RUFNRN.

#### *F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

58. None.

#### **VI. Ordering Clauses**

59. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 2(a), 4(i,j), 257, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i)-(j), 257, and 303(r), the *Second FNPRM and Seventh FNPRM is adopted*.

60. *It is further ordered* that, pursuant to the authority contained in sections 1, 2(a), 4(i, j), 257, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i, j), 257, 303(r), *notice is hereby given* of the proposals described in this *Second FNPRM and Seventh FNPRM*.

61. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *Second FNPRM and Seventh FNPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## **DEPARTMENT OF DEFENSE**

### **Defense Acquisition Regulations System**

#### **48 CFR Parts 205, 212, 225, and 252**

**RIN 0750-A151**

#### **Defense Federal Acquisition Regulation Supplement: Acquisition of the American Flag (DFARS Case 2015-D005)**

**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 implement sections of the Department of Defense Appropriations Acts for Fiscal Year (FY) 2014 and FY 2015 that prohibit use of funds made available under the acts for the purchase or manufacture of a flag of the United States, unless such flag is manufactured in the United States.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 27, 2015, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2015–D005, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering “DFARS Case 2015–D005” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2015–D005.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2015–D005” on your attached document.

- *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2015–D005 in the subject line of the message.

- *Fax:* 571–372–6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 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:** Ms. Amy G. Williams, telephone 571–372–6106.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is proposing to amend the DFARS to implement sections 8123 of the Department of Defense Appropriations Act, 2014 (Division C, Title VIII of Pub. L. 113–76) and section 8119 of the Department of Defense Appropriations Act, 2015 (Division C, Title VIII of Pub. L. 113–235). These sections prohibit the use of funds

appropriated under those acts for the purchase or manufacture of a flag of the United States unless such flag is treated as a covered item under 10 U.S.C. 2533a(b) (commonly known as the Berry Amendment). With some exceptions, the Berry Amendment restricts the purchase of certain items of food, clothing, fabrics, and hand or measuring tools (whether as end products or components), unless the items have been grown, reprocessed, reused, or produced in the United States.

**II. Discussion and Analysis**

The Berry Amendment is implemented in DFARS 225.7002 and associated clauses DFARS 252.225–7012 and 252.225–7015.

This rule proposes to amend DFARS 225–7002–1, 225–7002–2, and 225.7002–3, and add a new clause at 252.225–70XX, Acquisition of the American Flag. Conforming changes are also required in DFARS 212.301(f) to apply the new clause to the acquisition of commercial items. Since most, if not all, flags are commercial items, this statute would be without affect if not applied to commercial items. Furthermore, this is an appropriations act restriction, which specifically prohibits the expenditure of any funds appropriated under these acts, unless the flags to be acquired are manufactured in the United States (regardless of whether the flags are commercial items.)

**III. 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.

**IV. 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.* based on a review of historical purchasing data. However, an initial

regulatory flexibility analysis has been performed and is summarized as follows:

This rule is necessary to implement sections 8123 and 8119 of the DoD Appropriations Acts for FYs 2014 and 2015, respectively, and the same provision in subsequent DoD appropriations acts.

The objective of the rule is to prohibit acquisition of a flag of the United States (Product or Service Code 8345), unless such flag, including the materials and components thereof, is manufactured in the United States, consistent with the requirements at 10 U.S.C. 2533a. The legal basis for the rule is sections 8123 and 8119 of the DoD Appropriations Acts for FYs 2014 and 2015 (Division C of Pub. Laws 113–76 and 113–235, respectively).

Based on FY 2013 Federal Procurement Data System data, there was only one acquisition of flags from a small business that exceeded the simplified acquisition threshold. There are no projected reporting or recordkeeping requirements. The rule only requires that if a contractor is to provide flags of the United States to DoD under a contract that exceeds the simplified acquisition threshold, the flags must be manufactured in the United States.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no significant alternatives that meet the requirement of the statute.

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 2015–D005), in correspondence.

**V. Paperwork Reduction Act**

The 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 Parts 205, 212, 225, and 252**

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 205, 212, 225, and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 205, 212, 225, and 252 continues to read as follows:

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

**PART 205—PUBLICIZING CONTRACT ACTIONS**

**205.301 [Amended]**

■ 2. Amend section 205.301, in paragraph (a)(S-70)(i) introductory text by removing “225.7002-1(a)(2) through (10)” and adding “225.7002-1(a)(1)(ii) through (x)” in its place.

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

■ 3. Amend section 212.301, by adding paragraph (f)(ix)(CC) to read as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f) \* \* \*  
(ix) \* \* \*

(CC) Use the clause at 252.225-70XX, Acquisition of the American Flag, as prescribed in 225.7002-3(c), to comply with section 8123 of the DoD Appropriations Act, 2014 (Pub. L. 113-76, Division C, Title VIII), and the same provision in subsequent DoD appropriations acts.

\* \* \* \* \*

**PART 225—FOREIGN ACQUISITION**

■ 4. Revise the section 225.7002 heading to read as follows:

**225.7002 Restrictions on food, clothing, fabrics, hand or measuring tools, and flags.**

■ 5. Amend section 225.7002-1 by—  
■ a. Redesignating paragraphs (a) and (b) as (1) and (2), respectively;  
■ b. Redesignating the introductory text as paragraph (a);  
■ c. In the newly redesignated paragraph (1), further redesignating paragraphs (1) through (10) as (1)(i) through (x), respectively;

■ d. In the newly redesignated paragraph (1)(iii), further redesignating paragraphs (i) through (iii) as paragraphs (1)(iii)(A) through (C), respectively;

■ e. In the newly redesignated paragraph (1)(x), removing “(Federal Supply Class 8465)” and adding “(Product or Service Code (PSC) 8465)” in its place, and removing “paragraph (a)” and adding “paragraph (a)(1)” in its place;

■ f. In the newly redesignated paragraph (2), removing “see PGI 225.7002-1(b)” and adding “see PGI 225.7002-1(a)(2)” in its place; and

■ g. Adding a new paragraph (b).  
The addition reads as follows:

**225.7002-1 Restrictions.**

\* \* \* \* \*

(b) In accordance with section 8123 of the Department of Defense Appropriations Act, 2014 (Pub. L. 113-76, Division C, Title VIII), and the same provision in subsequent Defense appropriations acts, except as provided in 225.7002-2, do not acquire a flag of the United States (PSC 8345), unless such flag, including the materials and components thereof, is manufactured in the United States, consistent with the requirements at 10 U.S.C. 2533a.

**225.7002-2 [Amended]**

■ 6. Amend section 225.7002-2 by—

■ a. In paragraph (l), removing “Section 8118” and adding “section 8118” in its place;

■ b. In paragraph (m)(1)(i), removing “Federal Supply Group” and adding “Product or Service Group (PSG)” in its place;

■ c. In paragraph (m)(1)(ii), removing “Federal Supply Group” and adding “PSG” in its place in two places; and

■ d. In paragraph (m)(1)(iv), removing “Federal Supply Class” and adding “PSC” in its place.

■ 7. Amend section 225.7002-3 by adding a new paragraph (c) to read as follows:

**225.7002-3 Contract clauses.**

\* \* \* \* \*

(c) Use the clause at 252.225-70XX, Acquisition of the American Flag, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that are for the acquisition of the American flag, with an estimated value that exceeds the simplified acquisition threshold.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 8. Add section 252.225-70XX to read as follows:

**252.225-70XX Acquisition of the American Flag.**

As prescribed in 225.7002-3(c), use the following clause:

**ACQUISITION OF THE AMERICAN FLAG (DATE)**

(a) *Definition. United States*, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) If the Contractor is required to deliver under this contract one or more American flags (Product or Service Code 8345), such flag(s), including the materials and components thereof, shall be manufactured in the United States, consistent with the requirements at 10 U.S.C. 2533a (commonly known as the “Berry Amendment”).

(c) This clause does not apply to the acquisition of any end items or components related to flying or displaying the flag (e.g., flagpoles and accessories).

(End of clause)

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