

[www.epa.gov/ozonepollution/SIPToolkit/ctgs.html](http://www.epa.gov/ozonepollution/SIPToolkit/ctgs.html))

#### B. Does the rule meet the evaluation criteria?

This rule is consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. The TSD has more information on our evaluation.

#### C. EPA's Recommendations to Further Improve the Rule

The TSD also includes recommendations for the next time the SDAPCD modifies the rule.

#### D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until November 20, 2019. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally-enforceable SIP.

### III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SDAPCD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 4, 2019.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

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**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 22 and 52

[FAR Case 2019-002; Docket No. FAR-2019-0004, Sequence No. 1]

RIN 9000-AN85

#### Federal Acquisition Regulation: Recreational Services on Federal Lands

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a Department of Labor (DOL) rule, which exempts certain contracts for seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands from an Executive Order minimum wage.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before December 20, 2019 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2019-002 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2019-002". Select the link "Comment Now" that corresponds with "FAR Case 2019-002". Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2019-002" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Lois Mandell, 1800 F Street NW, 2nd Floor, Washington, DC 20405.

*Instructions:* Please submit comments only and cite "FAR Case 2019-002" in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential 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. Kevin Funk, Procurement Analyst, at 202-357-5805 or [kevin.funk@gsa.gov](mailto:kevin.funk@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite "FAR Case 2019-002."

#### **SUPPLEMENTARY INFORMATION:**

### **I. Background**

DoD, GSA, and NASA are proposing to amend the FAR to implement a DOL rule published in the **Federal Register** at 83 FR 48537 on September 26, 2018. The DOL rule implemented Executive Order (E.O.) 13838, Exemption From Executive Order 13658 for Recreational Services on Federal Lands (May 25, 2018, published June 1, 2018, 83 FR 25341), which exempted certain contracts and contract-like instruments from the requirements of E.O. 13658, Establishing a Minimum Wage for Contractors. E.O. 13658 raised the hourly minimum wage paid to workers performing on or in connection with covered Federal contracts to: (i) \$10.10 per hour, beginning January 1, 2015; and (ii) beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary of Labor in accordance with the E.O. As of January 1, 2019, E.O. 13658 raised minimum wage to \$10.60 per hour (83 FR 44906).

E.O. 13838 exempts contracts or contract-like instruments entered into with the Federal Government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands from the requirements of E.O. 13658; lodging and food services are not exempted.

The purpose of this rule is to make a conforming change in the FAR. This proposed rule implements E.O. 13838 by amending FAR 22.1903(b)(2) and FAR clause 52.222-55(c)(2) to conform to the DOL rule by adding seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands to the list of exemptions.

### **II. Discussion and Analysis**

This rule proposes to amend the FAR to be consistent with the DOL final rule as follows:

- Adds a definition of "seasonal recreational services" at FAR 22.1901 and 52.222-55, Minimum Wages Under Executive Order 13658.

- Adds seasonal recreational services or seasonal equipment rental for the general public on Federal lands to the list of exceptions from the policies and procedures to implement E.O. 13658 and DOL's implementing regulations at FAR 22.1903 and 52.222-55. Lodging and food services are not exempted.

- Makes conforming changes at 52.212-5, 52.213-4, and 52.244-6.

### **III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercially Available Off-the-Shelf (COTS) Items**

This proposed rule does not add any new provisions or clauses. The rule does not change the applicability of existing provisions or clauses to contracts at or below the SAT and contracts for the acquisition of commercial items, including COTS items. The FAR clause at 52.222-55, Minimum Wages Under Executive Order 13658, is prescribed for use in contracts valued at or below the SAT and for the acquisition of commercial items. Under this rule, acquisitions below the SAT or for commercial items involving seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands would be exempt from FAR clause 52.222-55. Lodging and food services are not exempted.

### **IV. Executive Orders 12866 and 13563**

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 rule 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.

### **V. Executive Order 13771**

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because the rule is not a significant regulatory action under E.O. 12866.

### **VI. Regulatory Flexibility Act**

DoD, GSA, and NASA do not expect this 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.* However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

This action is necessary to implement a DOL rule dated September 26, 2018, which implemented E.O. 13838, Exemption from Executive Order 13658 for Recreational Services on Federal Lands (May 25, 2018, published June 1, 2018, 83 FR 25341). E.O. 13658 made contracts or contract-like instruments entered into with the Federal Government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands exempt from the minimum wage requirements under E.O. 13658, dated February 12, 2014; lodging and food services are not exempted.

The objective of this rule is to make a conforming change in the FAR to conform to the DOL rule to implement E.O. 13838, dated September 26, 2018. This rule simply provides a conforming amendment to FAR 22.1903(b)(2)(iii) and FAR clause 52.222-55(c)(2)(ii) to conform to the DOL rule by adding seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands to the list of exemptions. Lodging and food services are not exempted. This action is limited to implementing E.O. 13838 by inserting into the FAR the language that E.O. 13838 inserted into E.O. 13658. The legal basis for these changes is E.O. 13838.

This 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 the rule only applies to contracts for seasonal recreational services or seasonal recreational equipment rental. Lodging and food services are not exempted. On average for fiscal years 2016-2018, there were 229 awards reported on an annual basis in the Federal Procurement Data System (FPDS) for seasonal recreational services and seasonal recreational equipment rental, of which 153 were awarded to small business entities. The FPDS data could not isolate which of the awards were for services or rentals on Federal lands, so the average number of awards for seasonal recreational services or seasonal recreational equipment rental to the general public on Federal lands could be even lower. Furthermore, this rule is expected to have a beneficial impact on small businesses as it relaxes the burden on small businesses.

There are no reporting, recordkeeping, or other compliance requirements in this rule.

The rule does not duplicate, overlap, or conflict with any other Federal rules. DoD, GSA, and NASA were unable to identify any alternatives to the rule that would reduce the impact on small entities and still meet the requirements of the DOL rule.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the

Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (FAR Case 2019–002), in correspondence.

VII. 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 22 and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR parts 22, and 52 as set forth below:

- 1. The authority citation for 48 CFR parts 22, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

- 2. Amend section 22.1901 by revising the heading and adding in alphabetical order the definition “Seasonal recreational services” to read as follows:

22.1901 Definitions.

Seasonal recreational services, as used in this subpart, means services that include river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.

\* \* \* \* \*

- 3. Amend section 22.1903 by—
a. In paragraph (b)(2)(ii)(C), removing the period and adding “; or” in its place; and
b. Adding paragraph (b)(2)(iii).
The addition reads as follows:

22.1903 Applicability.

\* \* \* \* \*

- (b) \* \* \*
(2) \* \* \*

(iii) Seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands, except for lodging and food services associated with seasonal recreational services, in accordance with Executive Order 13838, Exemption from Executive Order 13658 for Recreational Services on Federal Lands (83 FR 25341, June 1, 2018), as implemented by the U.S. Department of Labor regulations at 29 CFR 10.4(g).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 4. Amend section 52.212–5 by—
a. Revising the date of the clause;
b. Removing from paragraph (c)(8) “(DEC 2015)” and adding “([DATE])” in its place;
c. Removing from paragraph (e)(1)(xviii) “(DEC 2015)” and adding “([DATE])” in its place;
d. Revising the date of Alternate II; and
e. Removing from paragraph (e)(1)(ii)(P) of Alternate II “(DEC 2015)” and adding “([DATE])” in its place.

The revisions read as follows:

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

\* \* \* \* \*

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items ([DATE])

\* \* \* \* \*
Alternate II ([DATE]). \* \* \*

- 5. Amend section 52.213–4 by—
a. Revising the date of the clause;
b. Removing from paragraph (a)(2)(viii) “(AUG 2019)” and adding “([DATE])” in its place; and
c. Removing from paragraph (b)(1)(ix) “(DEC 2015)” and adding “([DATE])” in its place;

The revision reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

\* \* \* \* \*

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) ([DATE])

\* \* \* \* \*

- 6. Amend section 52.222–55 by—
a. Revising the date of the clause;

- b. Adding to paragraph (a), in alphabetical order, the definition “Seasonal recreational services”;
c. In paragraph (c)(2)(ii)(A), removing the period at the end of the sentence and adding “;” in its place;
d. In paragraph (c)(2)(ii)(B), removing the period at the end of the sentence and adding “; and” in its place;
e. In paragraph (c)(2)(ii)(C), removing the period at the end of the sentence and adding “; or” in its place; and
f. Adding paragraph (c)(2)(iii).

The revision and additions read as follows:

52.222–55 Minimum Wages Under Executive Order 13658.

\* \* \* \* \*

Minimum Wages Under Executive Order 13658 ([DATE])

\* \* \* \* \*

(a) Definitions. \* \* \*

“Seasonal recreational services”, as used in this clause, means services that include: river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.

\* \* \* \* \*

(c)(2) \* \* \*

\* \* \* \* \*

(iii) Seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands, except for lodging and food services associated with seasonal recreational services, in accordance with Executive Order 13838, Exemption from Executive Order 13658 for Recreational Services on Federal Lands (83 FR 25341, June 1, 2018), as implemented by the U.S. Department of Labor regulations at 29 CFR 10.4(g).

\* \* \* \* \*

- 7. Amend section 52.244–6 by—
a. Revising the date of the clause; and
b. Removing from paragraph (c)(1)(xv) “(DEC 2015)” and adding “([DATE])” in its place;

The revision reads as follows:

52.244–6 Subcontracts for Commercial Items.

\* \* \* \* \*

Subcontracts for Commercial Items ([DATE])

\* \* \* \* \*

[FR Doc. 2019–22781 Filed 10–18–19; 8:45 am]

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