• 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);

• 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 CAA; and

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it merely makes a determination based on air quality data.

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 action 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 February 29, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 15, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 2. Section 52.2275 is amended by adding paragraph (k) to read as follows:

§ 52.2275 Control strategy and regulations: Ozone.

* * * * *

(k) *Determination of Attainment.* Effective January 29, 2016 the EPA has determined that the Houston-Galveston-Brazoria 8-hour ozone nonattainment area has attained the 1997 ozone standard. Under the provisions of the EPA's Clean Data Policy, this determination suspends the requirements for this area to submit an attainment demonstration and other State Implementation Plans related to attainment of the 1997 ozone NAAQS for so long as the area continues to attain the 1997 ozone NAAQS.

[FR Doc. 2015–32752 Filed 12–29–15; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 229, and 252

[Docket DARS–2014–0046]

RIN 0750–AI26

Defense Federal Acquisition Regulation Supplement: Taxes—Foreign Contracts in Afghanistan (DFARS Case 2014–D003)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to notify contractors of requirements relating to Afghanistan taxes for contracts performed in Afghanistan.

DATES: Effective December 30, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Hammond, telephone 571–372–6174.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 35715 on June 24, 2014, to revise the DFARS to add two new clauses that notify contractors of requirements relating to Afghanistan taxes when contracts are being performed in Afghanistan. Three respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments is provided below:

A. Summary of Significant Changes From the Proposed Rule

The final rule amends DFARS clause 252.229–7014, Taxes—Foreign Contracts in Afghanistan, to reference the bilateral security agreement entitled ''The Security and Defense Cooperation Agreement between the Islamic Republic of Afghanistan and the United States of America'' signed on September 30, 2014. The reference to the bilateral security agreement replaces the reference to the prior Agreement entered into between the United States and Afghanistan on May 28, 2003, regarding the ''Status of United States Military and Civilian Personnel of the U.S. Department of Defense Present in

Afghanistan,'' which was concluded by an exchange of diplomatic notes (U.S. Embassy Kabul note No. 202, dated September 26, 2002; Afghanistan Ministry of Foreign Affairs notes 791 and 93, dated December 12, 2002, and May 28, 2003, respectively). The clause is also amended to change ''Government of the United States of America'' to the ''Department of Defense'' to more accurately represent the new agreement.

The final rule also amends DFARS clause 252.229–7015, Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement), to reference the North Atlantic Treaty Organization (NATO) Status of Forces Agreement (SOFA) signed on September 30, 2014, instead of the Military Technical Agreement (MTA) entered into between the NATO International Security Assistance Force (ISAF) and Interim Administration of Afghanistan in April 2002. As a result of the new SOFA, the reference to the 2011 NATO ISAF Letter of Interpretation that modified the MTA's tax exemption is also removed, including the language allowing contractors to include taxes on profits earned by local contractors in the contract price.

The final rule also clarifies at DFARS 212.301 that the clauses apply to solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.

B. Analysis of Public Comments

1. Taxes in Afghanistan

Comment: A respondent commented that the Afghan Ministry of Forces interprets Diplomatic Note (DN) 202 to apply only to prime contractors, while industry practice is to treat subcontractors in Afghanistan as subject to taxation. The respondent asked how DoD will enforce paragraph (b) of DFARS clause 252.225–7014, which exempts subcontractors from any taxes assessed in Afghanistan in accordance with DN 202.

Response: The final rule has been updated to reference the new bilateral security agreement between the United States and Afghanistan signed on September 30, 2014. Article 17.3 of the new agreement states that United States subcontractors shall not be liable to pay any tax assessed by the government of Afghanistan within the territory of Afghanistan on their activities under a contract or subcontract with, or in support of, United States Forces.

Comment: A respondent recommended Afghan contractors not be allowed to include Afghan tax on profits earned from NATO ISAF contracts in accordance with DFARS clause 252.225–7015(d). Another respondent asked about DoD's expectations regarding documentation of the price markup for Afghan income taxes as part of the contract price and whether United States Government contractors will be required to refund the United States Government if the Afghan contractors do not owe income taxes due to losses.

Response: The language that allowed contractors to include Afghan taxes on profits earned by local contractors in the contract price is removed from the final rule.

2. Bilateral Security Agreement

Comment: A respondent commented that clarifying language is needed in the pending bilateral security agreement between the United States and Afghanistan to affirm that all non-Afghan national employees working on DoD contracts are tax exempt and will not be treated as Afghan residents.

Response: This comment concerns the content of the bilateral security agreement, which is outside the scope of this rule.

Comment: Two respondents requested that implementation of the proposed rule be delayed until resolution is reached between the United States and the Afghanistan government in a bilateral security agreement. If implementation of the rule is not delayed, one respondent requested that the proposed rule be revised to allow contracting officers to relieve defense contractors and subcontractors of the risks and responsibilities when denied a tax exemption by the Afghan Ministry of Finance.

Response: A resolution has been reached between the United States and the Afghanistan government in a bilateral security agreement. The final rule has been updated to reference the new bilateral security agreement.

3. General

Comment: A respondent stated that the new tax law may limit the amount of contractors willing to work for the United States Government and may hurt future business relations between Afghanistan and the United States.

Response: This comment concerns Afghanistan tax law and is outside the scope of this rule.

Comment: A respondent recommended that the United States Government reduce costs by minimizing the use of military personnel and employing more Afghans.

Response: The comment is outside the scope of this rule.

Comment: One respondent suggested that clauses, similar to those included in the proposed rule, be added to specifically address and make the rule equally applicable to local Afghan contractors, vendors, and landlords.

Response: The final rule has been updated to reference the new bilateral security agreement. Article 17.3 of the new agreement states that United States contractors that are Afghan entities shall not be exempt from corporate profits tax that may be assessed by the Afghanistan government within the territory of Afghanistan on income received due to their status as United States contractors.

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

This rule creates two new clauses: (1) DFARS 252.229–7014, Taxes—Foreign Contracts in Afghanistan, and (2) DFARS 252.229–7015, Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement). The objective of the rule is to exempt DoD contracts performed in Afghanistan from payment liability for Afghan taxes pursuant to the bilateral security agreement entitled ''The Security and Defense Cooperation Agreement between the Islamic Republic of Afghanistan and the United States of America'' signed on September 30, 2014, and the North Atlantic Treaty Organization (NATO) Status of Forces Agreement (SOFA) signed on September 30, 2014.

DoD is applying these two clauses to solicitations and contracts below the SAT and to the acquisition of commercial items, including COTS items, as defined at FAR 2.101. This rule clarifies the application of requirements relating to treatment of taxes for contracts performed in Afghanistan. Not applying this guidance to contracts below the SAT and for the acquisition of commercial items, including COTS items, would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule. Consequently, DoD is applying the rule to contracts below the SAT and for the acquisition of commercial items, including COTS items.

IV. 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.

V. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add two new clauses in order to notify DoD contractors of requirements relating to Afghanistan taxes when DoD contracts are being performed in Afghanistan. The clause at DFARS 252.229–7014, Taxes-Foreign Contracts in Afghanistan, will be required to be included in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, with performance in Afghanistan, unless the clause at 252.229–7015 is used. The clause at DFARS 252.229–7015, Taxes-Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement), will be required to be included in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, with performance in Afghanistan awarded on behalf of NATO, which are governed by the NATO Status of Forces Agreement, if approval from the Director, Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense for Acquisitions, Technology, and Logistics, is obtained prior to each use.

No comments were received from the public relative to the initial regulatory flexibility analysis.

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 merely provides notice of the tax exemption for DoD contracts where performance is in Afghanistan. According to data in the Federal Procurement Data System, a total of thirty-five small business vendors received contract awards where performance was in Afghanistan during fiscal year 2015.

There are no new projected reporting, recordkeeping, or other compliance requirements projected for this rule.

There are no known significant alternatives to the rule. The impact of this rule on small business is not expected to be significant.

VI. 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 212, 229, and 252

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 229, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 229, and 252 continue to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 212.301 by—

■ a. Redesignating paragraphs (f)(xiii) through (xix) as (f)(xiv) through (xx); and

■ b. Adding a new paragraph (f)(xiii).

The addition reads as follows:

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

* * * * *

(f) * * *

(xiii) *Part 229—Taxes.*

(A) Use the clause at 252.229–7014, Taxes—Foreign Contracts in Afghanistan, as prescribed at 229.402–70(k).

(B) Use the clause at 252.229–7015, Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement), as prescribed at 229.402–70(l).

* * * * *

PART 229—TAXES

■ 3. In section 229.402–70, revise the section heading and add new paragraphs (k) and (l) to read as follows:

229.402–70 Additional provisions and clauses.

* * * * *

(k) Use the clause at 252.229–7014, Taxes—Foreign Contracts in Afghanistan, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, with performance in Afghanistan, unless the clause at 252.229–7015 is used.

(l) Use the clause at 252.229–7015, Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement), instead of the clause at 252.229–7014, Taxes—Foreign Contracts in Afghanistan, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, with performance in Afghanistan awarded on behalf of the North Atlantic Treaty Organization (NATO), which are governed by the NATO Status of Forces Agreement (SOFA), if approval from the Director, Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, has been obtained prior to each use.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add sections 252.229–7014 and 252.229–7015 to read as follows:

252.229–7014 Taxes—Foreign Contracts in Afghanistan.

As prescribed in 229.402–70(k), use the following clause:

Taxes—Foreign Contracts in Afghanistan (DEC 2015)

(a) This acquisition is covered by the Security and Defense Cooperation Agreement (the Agreement) between the Islamic Republic of Afghanistan and the United States of America signed on September 30, 2014, and entered into force on January 1, 2015.

(b) The Agreement exempts the Department of Defense (DoD), and its contractors and subcontractors (other than those that are Afghan legal entities or residents), from paying any tax or similar charge assessed on activities associated with this contract within Afghanistan. The Agreement also exempts the acquisition, importation, exportation, reexportation, transportation, and use of supplies and services in Afghanistan, by or on behalf of DoD, from any taxes, customs, duties, fees, or similar charges in Afghanistan.

(c) The Contractor shall exclude any Afghan taxes, customs, duties, fees, or similar charges from the contract price, other than those charged to Afghan legal entities or residents.

(d) The Agreement does not exempt Afghan employees of DoD contractors and subcontractors from Afghan tax laws. To the extent required by Afghan law, the Contractor shall withhold tax from the wages

of these employees and remit those payments to the appropriate Afghanistan taxing authority. These withholdings are an individual's liability, not a tax against the Contractor.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts, including subcontracts for commercial items.

(End of clause)

252.229–7015 Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement).

As prescribed in 229.402–70(l), use the following clause:

Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement) (DEC 2015)

(a) This acquisition is covered by the Status of Forces Agreement (SOFA) entered into between the North Atlantic Treaty Organization (NATO) and the Islamic Republic of Afghanistan issued on September 30, 2014, and entered into force on January 1, 2015.

(b) The SOFA exempts NATO Forces and its contractors and subcontractors (other than those that are Afghan legal entities or residents) from paying any tax or similar charge assessed within Afghanistan. The SOFA also exempts the acquisition, importation, exportation, reexportation, transportation and use of supplies and services in Afghanistan from all Afghan taxes, customs, duties, fees, or similar charges.

(c) The Contractor shall exclude any Afghan taxes, customs, duties, fees or similar charges from the contract price, other than those that are Afghan legal entities or residents.

(d) Afghan citizens employed by NATO contractors and subcontractors are subject to Afghan tax laws. To the extent required by Afghan law, the Contractor shall withhold tax from the wages of these employees and remit those withholdings to the Afghanistan Revenue Department. These withholdings are an individual's liability, not a tax against the Contractor.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts including subcontracts for commercial items.

(End of clause)

[FR Doc. 2015–32870 Filed 12–29–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS–2015–0066]

RIN 0750–AI79

Defense Federal Acquisition Regulation Supplement: Trade Agreements Thresholds (DFARS Case 2016–D003)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate increased thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative.

DATES: *Effective:* January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

Every two years, the trade agreements thresholds are escalated according to a predetermined formula set forth in the agreements. The United States Trade Representative has specified the following new thresholds in the **Federal Register** (80 FR 77694, December 15, 2015):

Trade agreement	Supply contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA	191,000	7,358,000
FTAs:		
Australia FTA	77,533	7,358,000
Bahrain FTA	191,000	10,079,365
CAFTA–DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	77,533	7,358,000
Chile FTA	77,533	7,358,000
Colombia FTA	77,533	7,358,000
Korea FTA	100,000	7,358,000
Morocco FTA	191,000	7,358,000
NAFTA		
—Canada	25,000	10,079,365
—Mexico	77,533	10,079,365
Panama FTA	191,000	7,358,000
Peru FTA	191,000	7,358,000
Singapore FTA	77,533	7,358,000

II. Discussion and Analysis

This final rule implements the new thresholds in DFARS part 225, Foreign Contracting, for sections that include trade agreements thresholds (*i.e.,* 225.1101, 225.7017–3, 225.7017–4, and 225.7503). Additionally, the rule updates clauses 252.225–7017, Photovoltaic Devices, and 252.225–7018, Photovoltaic Devices—Certificate, with conforming changes. A minor technical amendment corrects cross references at 225.1101(10)(i) and paragraphs (b)(1)(i) and (ii) of the clause at 252.225–7018.

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41. U.S.C. entitled ''Publication of Proposed Regulations.'' Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency