

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP—Continued

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR § 52.2565
Section 45–39–42	CAIR NO _x Annual Allowance Allocations	5/1/06	9/13/07 [Insert page number where the document begins].	Only for Phase I (2009–2014).
[45 CSR] Series 40 Control of Ozone Season Nitrogen Oxide Emissions to Mitigate Interstate Transport of Ozone and Nitrogen Oxides				
Section 45–40–40	CAIR NO _x Ozone Season Trading Budget ...	5/1/06	9/13/07 [Insert page number where the document begins].	1. Except for subsection 40.3, and non-EGUs in subsection 40.1 table 2. Only Phase I (2009–2014).
Section 45–40–41	Timing Requirements for CAIR NO _x Ozone Season Allowance Allocations.	5/1/06	9/13/07 [Insert page number where the document begins].	Only Phase I (2009–2014).
Section 45–40–42	CAIR NO _x Ozone Season Allowance Alloca- tions.	5/1/06	9/13/07 [Insert page number where the document begins].	1. Except for subsections 42.2.d, 42.2.e, 42.3.a.2, and 42.4.b. 2. Only Phase I (2009–2014).

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Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
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Article 3, Chapter 64 of the Code of West Virginia, 1931.	Statewide	5/1/06	9/13/07 [Insert page num- ber where the document begins].	Effective date of March 11, 2006.

PART 97—[AMENDED]

■ 3. The authority citation for 40 CFR part 97 continues to read as follows:

Authority: 42 U.S.C. 7401, 7403, 7410, 7426, 7601, and 7651, *et seq.*

■ 4. Appendix A to Subpart EE is amended by adding the entry for “West Virginia” in alphabetical order under paragraph 1 to read as follows:

Appendix A to Subpart EE of Part 97—States With Approved State Implementation Plan Revisions Concerning Allocations

1. * * *

West Virginia (for control periods 2009–2014)

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■ 5. Appendix A to Subpart EEEE is amended by adding the entry for West Virginia in alphabetical order under paragraph 1 to read as follows:

Appendix A to Subpart EEEE of Part 97—States With Approved State Implementation Plan Revisions Concerning Allocations

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West Virginia (for control periods 2009–2014)

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[FR Doc. E7–17874 Filed 9–12–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 245, and 252

RIN 0750–AF24

Defense Federal Acquisition Regulation Supplement; Reports of Government Property (DFARS Case 2005–D015)

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

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise requirements for reporting of Government property in the possession of DoD contractors. The rule replaces existing DD Form 1662 reporting requirements with requirements for DoD contractors to electronically submit, to the Item Unique Identification (IUID) Registry, the IUID data applicable to the Government property in the contractor’s possession. This will result in more efficient and accurate reporting of

Government property in the possession of contractors.

DATES: *Effective date:* September 13, 2007.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before November 13, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2005–D015, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *E-mail:* dfars@osd.mil. Include DFARS Case 2005–D015 in the subject line of the message.

○ *Fax:* (703) 602–7887.

○ *Mail:* Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, (703) 602-1302.

SUPPLEMENTARY INFORMATION:

A. Background

The clause at DFARS 252.245-7001 requires contractors to submit an annual report for all DoD property for which the contractor is accountable. The report must be prepared in accordance with the requirements of DD Form 1662 or an approved substitute. DD Form 1662 provides for reporting of only summary level totals for each of the various types of Government property (e.g., special test equipment, industrial plant equipment), and does not consider capitalization requirements or useful lives, nor can it be used for existence, completeness, or valuation purposes. The limited data produced through use of DD Form 1662 is considered to be insufficient for complete visibility and control of DoD property.

This interim rule replaces DD Form 1662 reporting with requirements for contractors to electronically submit, to the Item Unique Identification (IUID) Registry, the IUID data for DoD tangible personal property in the possession of the contractor. Policy is added at DFARS 211.274-4, with a corresponding contract clause at 252.211-7007, to specify IUID requirements for reporting of Government property. This data will be used to populate DoD information systems for more effective and efficient accountability and control of DoD property.

In accordance with the convention at FAR 1.108(d), the IUID reporting requirements will apply to contracts resulting from solicitations issued on or after the effective date of this interim rule. However, DoD contractors with existing contracts containing DD Form 1662 reporting requirements are encouraged to request contract modifications to designate use of the procedures specified in this interim rule as the approved substitute for DD Form 1662, as permitted by the clause at DFARS 252.245-7001. The rule does not apply to: Property under any statutory leasing authority; property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance-based payments; software and intellectual property; or real property.

DoD published a proposed rule at 71 FR 14151 on March 21, 2006. Seventeen sources submitted comments on the proposed rule. As a result of these comments, the interim rule contains additional changes that: Clarify the definition of "equipment" and the types of property that must be reported in the

IUID Registry; exclude items under \$5,000 from reporting unless otherwise specified in the contract; and provide more specific procedures regarding data submission. In addition, the clause prescription has been moved to DFARS Part 211, to permit collocation of item identification and valuation requirements applicable to Government property and delivered items. A discussion of the public comments is provided below.

1. *Comment:* Five respondents requested that issuance of this rule be postponed until publication of the final rule amending the Government property requirements of FAR Part 45 (FAR Case 2004-0025), to ensure the definitions in both rules are consistent (e.g., equipment, personal property, material).

DoD Response: The final rule revising FAR Part 45 was published on May 15, 2007 (72 FR 27364). The definitions in this DFARS rule have been revised, where appropriate, to align with the FAR Part 45 definitions.

2. *Comment:* One respondent requested definition of "reasonable inventory adjustments" as the term is used in 252.245-7001(c)(2).

DoD Response: This interim rule does not use the term "reasonable inventory adjustments." Therefore, the term is not defined in the rule. However, "inventory adjustments" are changes made to the official accountability record when physical counts and official records do not agree. All such changes require specific approval and documentation to support the adjustment, normally to include results of reconciliation efforts to determine and resolve the cause of such disagreement.

3. *Comment:* One respondent requested that the rule include definitions of "real property" and "reportable property" with regard to property in the possession of the contractor (PIPC).

DoD Response: PIPC does not include real property, and real property is excluded from IUID reporting requirements. PIPC includes only tangible "personal" property in the custody of the contractor. Further, the level of reporting varies for different classes of PIPC and, therefore, a single definition for "reportable property" might be misleading. PIPC is meant to distinguish tangible personal property in the custody of contractors from all Government property that is owned or leased by the Government.

4. *Comment:* One respondent commented that, under various FAR 52.245 clauses, contractors are the custodians of Government property in their possession and fiduciary owners of

the associated property records, and that requiring contractors to transmit detailed back-up data on the Government property in their possession changes this relationship and imposes new financial reporting requirements on organizational groups better suited to maintaining the accountability of property.

DoD Response: The Government-furnished property IUID requirements do not alter the underlying principle of the FAR clauses, that the contractor remains the custodian or "steward" of the Government's property. Also, the IUID reporting requirements do not impose any financial reporting or accounting activities of Government assets on contractors. Fiduciary responsibility is always with the Government.

5. *Comment:* Three respondents expressed concern that the rule places a financial burden on both Government agencies and contractors without providing a plan for funding to agencies to implement the rule, including implementation costs for Government property already in the possession of contractors. In addition, it was stated that the provisions do not address the engineering and technical aspects of marking the items, yet there may be substantial inventories of items at certain contractors' facilities, and changing the technical data for all the items may take more time and money.

DoD Response: The provisions of this rule are not retroactive and, therefore, will not be applicable to property already in the possession of contractors. Existing contracts containing DD Form 1662 reporting requirements are not subject to the requirements of this rule unless the contractor voluntarily elects to transition to IUID reporting requirements.

6. *Comment:* Two respondents recommended that the prescription for the clause acknowledge that contracts in place prior to this clause revision are not subject to the reporting change.

DoD Response: In accordance with the convention at FAR 1.108(d), FAR and DFARS changes apply to solicitations issued on or after the effective date of the change unless otherwise specified. Therefore, no additional language regarding applicability is needed for this rule to address existing contracts.

7. *Comment:* One respondent commented that the rule has some serious deficiencies in content and clarity that need to be resolved to allow DoD to achieve a new level of fiduciary accounting accuracy, and recommended postponing the issuance of this rule until the FAR Part 45 rewrite is issued,

as this rule is a subset of the larger and more comprehensive Part 45 rewrite.

DoD Response: DoD cannot achieve greater fiscal accountability unless it implements a solution that captures additional data for Government property in the possession of contractors. As stated in the DoD response to Comment 1 above, the FAR Part 45 final rule was published on May 15, 2007 (72 FR 27364).

8. *Comment:* Several respondents requested that a dollar threshold be established for reporting that does not require recording of low-value items in the IUID Registry. In addition, it was suggested that contractor-acquired property be excluded from the reporting requirement to be consistent with various DoD instructions and guidance previously provided to contractors.

DoD Response: DoD has revised the rule to exclude items valued below \$5,000 from the IUID Registry, unless otherwise specified in the contract clause at 252.211-7007. The rule also clarifies that contractor-acquired property is excluded from reporting requirements.

9. *Comment:* One respondent requested clarification as to whether DD Form 1662 reporting will be required for Government property that has not been marked.

DoD Response: DD Form 1662 reporting will not be required. The reporting (annually via DD Form 1662 or otherwise) of non-UID items and material will no longer be required, unless otherwise specified in the contract.

10. *Comment:* One respondent requested that the reporting requirement be kept the same as the data currently required by the clause at DFARS 252.211-7003, Item Identification and Valuation, to ease the administration for contractors, since that data is the same as the data that is already required for deliverables and other financial reporting.

DoD Response: The master data is the same. However, many of the additional data elements are optional. For example, mark data is an optional data element that was added to accommodate virtual unique item identifiers (UIIs) if the compliant 2D data matrix is not permanently marked with the UII data on the item.

11. *Comment:* Three respondents requested that the requirement to update PIPC records in the IUID Registry when PIPC is "consumed or expended" be deleted, with the rationale being that "consumed" material is not part of PIPC. The comments further suggested that

Government-furnished material would not be uniquely identified.

DoD Response: As items with a UII go through the excess process, the IUID Registry must be updated to record the disposition. These items will include equipment, as well as DoD serially managed, controlled, or mission essential items, whether equipment or material.

12. *Comment:* One respondent requested clarification as to whether the Government or the contractor is responsible for marking Government property furnished under new contracts.

DoD Response: The contractor is responsible for marking any unmarked Government property furnished under a contract. Marking unmarked items is included in the requirement to provide IUID data electronically into the IUID Registry, and must be done prior to the items leaving the contractor's stewardship, possession, or control.

13. *Comment:* One respondent requested that the requirement to report PIPC that has not been marked by the Government be waived, because it will be burdensome for contractors to obtain the information from the requirements office that is needed to register the item, e.g., acquisition cost, contract under which the item was manufactured, purchase date. Further, if the property is a depot rebuilt item, the respondent indicated there may not be a way to determine the original manufacturer, acquisition cost, or contract under which the item was originally delivered to the Government.

DoD Response: The required data to be reported for the items that will require IUID is not significantly different from the detailed data currently maintained in the contractor's stewardship accountability records. There are several optional data fields. For example, the manufacturer and original acquisition contract information for a depot rebuilt item is requested, if known, but it is not mandatory.

14. *Comment:* One respondent stated that the rule should address who is responsible for researching and correcting errors in the IUID Registry, for errors made by a transferring contractor.

DoD Response: The transfer of property from one accountable contractor to another is a transaction that is typically initiated by the program office directing the shipment of the property and validated by the losing and gaining contractors. If the data in the IUID Registry is not consistent with the contract for the accountable contractor of record, an error will be generated and the record cannot be registered until the discrepancy is corrected. The initial

responsibility for correcting errors is with the submitter of the data. It should also be noted that contractors are still required to maintain stewardship accountability records and implement the proper controls for Government property in their custody, and they are still subject to audits and inspections.

15. *Comment:* One respondent asked whether UIIs that include contractor-unique Commercial and Government Entity (CAGE) codes or Data Universal Numbering System (DUNS) numbers should be revised when the property is transferred to another contractor.

DoD Response: UIIs with contractor-unique CAGE codes or DUNS numbers are not revised when the property is transferred to another contractor. The contractor that originally assigns the UII guarantees its uniqueness, and the UII for an item, once assigned, is never changed.

16. *Comment:* One respondent requested that the requirement to update PIPC records in the IUID Registry for PIPC "delivered or shipped from a contractor's plant" be revised to PIPC "physically delivered (shipped from the contractor's plant)," to eliminate non-value marking of ship-in-place items.

DoD Response: While contractor-acquired property is not recorded in the IUID Registry, contractor-acquired property that transitions to a follow-on contract becomes Government-furnished property under the subsequent contract and, therefore, requires that a UII be assigned and recorded in the IUID Registry. This may include ship-in-place items.

17. *Comment:* One respondent noted that the title of the guidebook and the related link referenced in the rule need to be updated.

DoD Response: DoD has included this change in the interim rule.

18. *Comment:* Two respondents requested that the IUID data submission requirements be included in the contract clause, instead of referring to a guide for the data submission requirements, as the Government could change the guide without requesting public comment.

DoD Response: DoD has revised the contract clause as recommended, to include additional IUID data submission requirements. The guidebook link is included in the clause as a reference to the procedures for providing the IUID data electronically into the IUID Registry. Any changes to the IUID data submission requirements in the clause will be vetted through the normal public comment process.

19. *Comment:* One respondent stated that requiring contractors to update the

registry to reconcile contractor and Government records was a violation of the "one record database" concept.

DoD Response: The IUID Registry will be used for reporting of PIPC, and replaces the annual reporting requirement only. It does not replace the contractor's stewardship accountability recordkeeping requirements.

20. *Comment:* Two respondents disagreed with the statement in the preamble that the requirements of the rule are not expected to significantly change the burden hours approved by the Office of Management and Budget (OMB), indicating that the administrative burden and paperwork required to meet the requirements of the rule will greatly expand the burden hours previously approved by OMB. One respondent further requested that only one yearly reconciliation be required, to limit the burden on contractors.

DoD Response: Under this rule, contractors are only required to report a portion of the property presently reported on DD Form 1662. For example, contractors will not report low-value items (under \$5,000) unless otherwise specified in the contract. In addition, contractors will not report contractor-acquired property. The data that will be reported is not significantly different from the detailed data currently maintained in the contractor's stewardship accountability records. Like the contractor's stewardship accountability records, updates are only required when there are significant changes or updates as defined in the rule. If a contractor updates the IUID Registry on a transaction basis, the contractor will not need to again update the IUID Registry semi-annually. If the contractor does not update the IUID Registry on a transaction basis, semi-annual updates will be required only to synchronize the contractor's data with the IUID Registry. Annual summary reporting is no longer required. The decrease in scope and size, from an annual roll-up of 100 percent of the Government property in a contractor's custody, to maintenance of only the portion of PIPC requiring IUID more than offsets the burden hours.

21. *Comment:* One respondent requested elimination of the requirement for contractors to maintain real property records in the owning military department's real property inventory system, and that the owning agency maintain the records, because contractors are normally granted "use rights" and the Government retains accountability.

DoD Response: The requirement for contractors to maintain real property

records in the owning military department's real property inventory system has been excluded from the interim rule.

22. *Comment:* One respondent requested clarification as to whether the prime contractor or the subcontractor is responsible for marking and registering the UII and item level master data for PIPC, if the PIPC is received without an existing UII.

DoD Response: The prime contractor is responsible for ensuring that the requirement is met for all DoD property in the custody of its subcontractors. Registration of items in the IUID Registry should also be controlled by the prime contractor, whose contract is the accountable contract on record in the IUID Registry for PIPC. Prime contractors also have the clause at DFARS 252.211-7003, Item Identification and Valuation, in the contract and are required to flow the IUID requirements down to their subcontractors. This may be done by including the clause at DFARS 252.211-7003 in all subcontracts, so that items received from suppliers meet the requirement, or by establishing alternative marking agreements with subcontractors. When registering an embedded item, a parent item must be registered prior to registering any embedded components, subassemblies, or parts within that parent item.

23. *Comment:* One respondent requested that the phrase "furnished to the contractor by the Government" be deleted from paragraphs III.A.1 and 3 of the guidebook, because Government-furnished property has already been defined, making the terminology redundant.

DoD Response: The content of the guidebook is beyond the scope of this DFARS rule. However, the IUID Program Office agrees the terminology is redundant and is revising the guidebook accordingly.

24. *Comment:* One respondent recommend that "unique item identifier (UII)" be defined, since the term is used in the rule.

DoD Response: The definition of "UII" and other key definitions from the clause at DFARS 252.211-7003, Item Identification and Valuation, have been added to the clause at DFARS 252.211-7007.

25. *Comment:* One respondent suggested that the terminology in the definition of "property in the possession of the contractor" be changed to refer to "organizational property" instead of "personal property," because "personal property" is generally understood to mean all property other than real property.

DoD Response: The definition of "property in the possession of the contractor" is meant to distinguish tangible personal property in the custody of contractors from all Government property that is owned or leased by the Government. It does not include real property.

26. *Comment:* Two respondents requested clarification of the on-line guidebook as to whether "controlled" or "public" access is the correct access level for contractors, and whether "contractor access" is the same as "controlled access."

DoD Response: The content of the guidebook is beyond the scope of this DFARS rule. However, there are two levels of access, "controlled" and "public," and the levels are the same for both contractor and Government users. Controlled access requires validation of authority to access the data, and is limited depending on the role assigned. Controlled access is further distributed to access for Government roles such as Program Manager or Legacy Submitter and Contractor roles. Public access is a limited view that only returns a unique item identifier and is available without pre-registration or a user id and password. The user guide for the IUID Registry available at <https://www.bpn.gov/iuid/> provides greater detail regarding access to the IUID Registry.

27. *Comment:* Two respondents requested clarification as to who pays the cost of "marking" the items, when the Government provides the UII to the contractor but requires the contractor to mark any unmarked items, indicating that contractors who do not manufacture items that require marking would have to contract to "mark" these items.

DoD Response: If a contractor receives PIPC that has not been registered or marked, the contractor is required to assign the UII, register the IUID data, and mark the item, or mark the item and update the IUID Registry, if the UII has been provided but the item has not been marked. The cost for IUID is generally an allowable cost, and contractors submitting offers on requirements that include IUID should include the costs in accordance with Cost Accounting Standard and FAR requirements. In addition, there is a memorandum available on the UID Web site at <http://www.acq.osd.mil/dpap/UID/policy.htm> that discusses pricing and accounting for costs associated with IUID.

28. *Comment:* One respondent indicated that Paragraphs 12 and 13 of the guidebook were repetitive and confusing.

DoD Response: The content of the guidebook is beyond the scope of this DFARS rule. However, the IUID Program Office is revising the format of the guidebook to clarify the referenced requirements. Paragraph 12 addresses the requirement for contractors to assign a UUI to an embedded item that does not have an existing UUI, whenever the embedded item is removed from its parent while in the contractor's custody. Paragraph 13 addresses the requirement to maintain the data in the IUID Registry for embedded items that have an existing UUI assigned prior to it being provided to the contractor as PIPC.

29. *Comment:* Two respondents recommended that the rule be revised to make the Government, not the contractor, responsible for establishing the UUI.

DoD Response: The Government will provide the UUI if it already exists, or if it is created and the item is marked under a legacy IUID implementation strategy before providing the item to the contractor as PIPC. In addition, all contracts awarded under solicitations issued after January 1, 2004, should have the clause at DFARS 252.211–7003, Item Identification and Valuation, and any items delivered that are subsequently provided to contractors as PIPC will already have a UUI established. However, if a contractor receives PIPC that has not been registered or marked, the contractor is required to assign the UUI, register the IUID data, and mark the item.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

This interim rule amends the DFARS to require DoD contractors to electronically submit, to the IUID Registry, the IUID data for DoD property in the contractor's possession. The existing requirements for contractor reporting of Government property rely on a paper-based administrative infrastructure, and do not provide DoD with sufficient information to validate the existence, completeness, or valuation of Government property in the possession of contractors. This rule will facilitate DoD compliance with the Chief Financial Officers Act of 1990 (Pub. L. 101–576) and the financial reporting requirements imposed by the

Federal Accounting Standards Advisory Board.

The rule generally will apply to DoD contractors with Government-furnished property valued at \$5,000 or more. The objective of the rule is to improve the accountability and control of DoD assets. Use of the IUID Registry will enable DoD to maintain accurate records of its property inventories. The Chief Financial Officers Act of 1990 requires the production of complete, reliable, timely, and consistent financial information with regard to Federal programs.

The clause at DFARS 252.245–7001 requires contractors to maintain records of DoD property in their possession and to submit an annual report using DD Form 1662 or an approved substitute. The interim rule replaces DD Form 1662 reporting with requirements for use of the IUID Registry as an electronic means of recording and reporting DoD property in the contractor's possession. This will improve the accuracy and efficiency of the existing reporting and recordkeeping requirements.

DoD considers the approach described in the interim rule to be the most practical and beneficial for both Government and industry. Continued reliance on the current reporting process would not permit the level of accountability that DoD needs to comply with statutory and regulatory requirements related to the management of Government property. DoD already has adopted the use of IUID technology as the standard marking approach for all items in DoD's inventory system. Therefore, it logically follows that DoD property in the possession of contractors should also be recorded and reported using IUID technology.

DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2005–D015.

C. Paperwork Reduction Act

The information collection requirements associated with contractor reporting of Government property have been approved by the Office of Management and Budget, under Clearance Number 0704–0246, for use through April 30, 2009. The requirements of this interim rule are not expected to significantly change the burden hours approved under Clearance Number 0704–0246.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. DoD published a proposed rule on March 21, 2006, addressing requirements for use of the IUID Registry for reporting of Government property in the possession of contractors, to replace the DD Form 1662 reporting system. The vast majority of comments received on the proposed rule were accepted and incorporated into this interim rule. Because of the additional changes in this rule, DoD believes it is necessary to solicit further public comments. Numerous DoD contractors have already voluntarily transitioned to the use of the IUID Registry for reporting of Government property. Immediate implementation of this DFARS rule is needed to clearly establish policy for IUID reporting of Government property, in recognition of the burdens associated with supporting dual reporting systems. DoD considers the IUID Registry to be the most practical and beneficial reporting method for both Government and industry. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 211, 245, and 252

Government procurement.

Michele P. Peterson,
Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 211, 245, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211, 245, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 211—DESCRIBING AGENCY NEEDS

■ 2. Section 211.274 is revised to read as follows:

211.274 Item identification and valuation requirements.

■ 3. Section 211.274–4 is revised to read as follows:

211.274–4 Policy for item unique identification of Government property.

(a) It is DoD policy that DoD item unique identification, or a DoD-recognized unique identification equivalent, is required for tangible

personal property in accordance with 211.274–2, for items—

(1) In the possession of the Government and furnished to a contractor for the performance of a contract; or

(2) Directly acquired by the Government and subsequently furnished to a contractor for the performance of a contract.

(b) The policy in paragraph (a) of this subsection does not apply to—

(1) Property under any statutory leasing authority;

(2) Property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance-based payments;

(3) Software and intellectual property; or

(4) Real property.

■ 4. Section 211.274–5 is added to read as follows:

211.274–5 Contract clauses.

(a)(1) Use the clause at 252.211–7003, Item Identification and Valuation, in solicitations and contracts that—

(i) Require item identification or valuation, or both, in accordance with 211.274–2 and 211.274–3; or

(ii) Contain the clause at 252.211–7007.

(2) Complete paragraph (c)(1)(ii) of the clause with the contract line, subtitle, or exhibit line item number and description of any item(s) below \$5,000 in unit acquisition cost for which DoD unique item identification or a DoD recognized unique identification equivalent is required in accordance with 211.274–2(a)(2) or (3).

(3) Complete paragraph (c)(1)(iii) of the clause with the applicable attachment number, when DoD unique item identification or a DoD recognized unique identification equivalent is required in accordance with 211.274–2(a)(4) for DoD serially managed subassemblies, components, or parts embedded within deliverable items.

(4) Use the clause with its Alternate I if—

(i) An exception in 211.274–2(b) applies; or

(ii) Items are to be delivered to the Government and none of the criteria for placing a unique item identification mark applies.

(b)(1) Use the clause at 252.211–7007, Item Unique Identification of Government Property, in solicitations and contracts that contain the clause at—

(i) FAR 52.245–1, Government Property; or

(ii) FAR 52.245–2, Government Property Installation Operation Services.

(2) Complete paragraph (b)(2)(ii) of the clause as applicable.

PART 245—GOVERNMENT PROPERTY

245.505–14 [Removed]

■ 5. Section 245.505–14 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211–7003 [Amended]

■ 6. Section 252.211–7003 is amended in the introductory text by removing “211.274–4” and adding in its place “211.274–5(a)”.

■ 7. Section 252.211–7007 is added to read as follows:

252.211–7007 Item unique identification of Government property.

As prescribed in 211.274–5(b), use the following clause:

ITEM UNIQUE IDENTIFICATION OF GOVERNMENT PROPERTY (SEP 2007)

(a) *Definitions.* As used in this clause—

2D data matrix symbol means the 2-dimensional Data Matrix ECC 200 as specified by International Standards Organization/International Electrotechnical Commission (ISO/IEC) Standard 16022: Information Technology—International Symbology Specification—Data Matrix.

Acquisition cost, for Government-furnished property in the possession of the Contractor (PIPC), means the amount identified in the contract, or in the absence of such identification, the fair market value. For property acquired or fabricated by the Contractor as Contractor-acquired PIPC, and subsequently transferred or delivered as Government-furnished PIPC, it is the original acquisition cost.

Concatenated unique item identifier means—

(1) For items that are serialized within the enterprise identifier, the linking together of the unique identifier data elements in order of the issuing agency code, enterprise identifier, and unique serial number within the enterprise identifier; or

(2) For items that are serialized within the original part, lot, or batch number, the linking together of the unique identifier data elements in order of the issuing agency code; enterprise identifier; original part, lot, or batch number; and serial number within the original part, lot, or batch number.

DoD recognized unique identification equivalent means a unique identification method that is in commercial use and has been recognized by DoD. All DoD recognized unique identification equivalents are listed at <http://www.acq.osd.mil/dpap/UID/equivalents.html>.

Equipment means a tangible item that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use.

Item unique identification (IUID) means a system of assigning, reporting, and marking DoD property in the possession of the Contractor with unique item identifiers that have machine-readable data elements to distinguish an item from all other like and unlike items.

IUID Registry means the DoD data repository that receives input from both industry and Government sources and provides storage of, and access to, data that identifies and describes tangible Government personal property, including property in the possession of the Contractor.

Material means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end item. Material does not include equipment, special tooling, or special test equipment.

Parent item means the item assembly, intermediate component, or subassembly that has an embedded item with a unique item identifier or DoD recognized unique identification equivalent.

Property in the possession of the Contractor (PIPC) means tangible personal property, to which the Government has title, that is in the stewardship or possession of, or is controlled by, the Contractor for the performance of a contract. PIPC consists of both tangible Government-furnished property and Contractor-acquired property and includes equipment and material.

Unique item identifier (UII) means a set of data elements marked on items that is globally unique and unambiguous.

Virtual UII means the data elements for an item that have been captured in the IUID Registry, but have not yet been physically marked on an item with a DoD compliant 2D data matrix symbol.

(b) *Procedures for assigning and registering.*

(1) The Contractor shall provide IUID data for the IUID Registry for all Government-furnished PIPC requiring DoD unique identification under this contract, including Government-furnished PIPC located at subcontractor and alternate locations.

(2) Unless the Government provides the UII, the Contractor shall establish a concatenated UII or a DoD recognized unique identification equivalent for—

(i) Government-furnished PIPC with a unit acquisition cost of \$5,000 or more; and

(ii) The following items of Government-furnished PIPC for which the unit acquisition cost is less than \$5,000:

Contract line, subtitle, or exhibit line item number (if applicable)	Item description

(3) Virtual UIIs may be assigned by the Contractor for existing Government-furnished PIPC requiring item unique identification, if the property can be accurately and uniquely

identified using existing innate serialized identity until an event occurs requiring physical marking with the DoD compliant 2D data matrix.

(4) The Contractor shall assign and register a UII and the master item data for any subassembly, component, or part that does not have an existing UII when it is removed from a parent item and remains with the Contractor as a stand-alone item.

(5) Contractor-acquired PIPC is excluded from the IUID Registry. The Contractor shall report to the IUID Registry as Government-furnished PIPC any Contractor-acquired PIPC that—

(i) Is delivered to the Government; or
(ii) Is transferred by contract modification or other contract provision/requirement to another contract (including items that are transferred in place).

(6) If the initial transfer of Contractor-acquired PIPC is a delivery to DoD, the requirements of the Item Identification and Valuation clause of this contract (DFARS 252.211–7003) shall be applied when determining the requirement for item unique identification.

(7) The Contractor shall submit the UII and the master item data into the IUID Registry in accordance with the data submission procedures in the Item Unique Identification of Government Property Guidebook at <http://www.acq.osd.mil/dpap/IUID/guides.htm>.

(i) The following data is required for Government-furnished PIPC items received without a UII:

- (A) UII type.
- (B) Concatenated UII.
- (C) Item description.
- (D) Foreign currency code.
- (E) Unit of measure.
- (F) Acquisition cost.
- (G) Mark information.
- (1) Bagged or tagged code.
- (2) Contents.
- (3) Effective date.
- (4) Added or removed flag.
- (5) Marker code.
- (6) Marker identifier.
- (7) Medium code.
- (8) Value.
- (H) Custody information.

- (1) Prime contractor identifier.
- (2) Accountable contract number.
- (3) Category code.
- (4) Received date.
- (5) Status code.

(ii) The following data is required only for Government-furnished PIPC items received without a UII for specific “UII types,” as specified in the Item Unique Identification of Government Property Guidebook:

- (A) Issuing agency code.
- (B) Enterprise identifier.
- (C) Original part number.
- (D) Batch/lot number.
- (E) Serial number.

(iii) The following data is optional for Government-furnished PIPC items received without a UII:

- (A) Acquisition contract number.
- (B) Contract line item number/subline item number/exhibit line item number.
- (C) Commercial and Government Entity (CAGE) code or Data Universal Numbering

System (DUNS) number in the acquisition contract.

- (D) Current part number.
- (E) Current part number effective date (required if current part number is provided).
- (F) Acceptance location.
- (G) Acceptance date.
- (H) Ship-to code.
- (I) Sent date.
- (J) Manufacturer identifier.
- (K) Manufacturer code (required if manufacturer identifier is provided).
- (L) Parent UII (for embedded items).

(c) *Procedures for updating.* (1) The Contractor shall update the IUID Registry for changes in status, mark, custody, or disposition of Government-furnished PIPC under this contract, for PIPC—

(i) Delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor;

(ii) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract as determined by the Government property administrator, including reasonable inventory adjustments;

(iii) Disposed of; or
(iv) Transferred to a follow-on or other contract.

(2) The Contractor shall update the IUID Registry for changes to the mark information to add or remove other serialized identification marks and to update a virtual UII to a fully compliant UII when the 2D data matrix symbol is added to the item.

(3) The Contractor shall update the IUID Registry for any changes to the current part number or the current part number effective date.

(4) The Contractor shall update the IUID Registry for any changes to the parent item of a DoD serially managed embedded subassembly, component, or part.

(5) The Contractor shall update the IUID Registry for all Government-furnished PIPC under this contract, so that the IUID Registry reflects the same information that is recorded in the Contractor's property records for Government-furnished PIPC as transactions occur, or at least semi-annually by March 31 and September 30 of each year.

(d) *Procedures for marking.* (1) When an event occurs that requires the physical marking of the item with the 2D data matrix symbol, the Contractor shall use the previously assigned virtual UII as the permanent UII.

(2) The Contractor shall use MIL–STD–130M (or later version) when physically marking existing PIPC with the compliant 2D data matrix symbol. The Contractor that has possession of the PIPC shall use due diligence to maintain the integrity of the UII and shall replace a damaged, destroyed, or lost mark with a replacement mark that contains the same UII data elements, as necessary. The Contractor shall apply the required 2D data matrix symbol to an identification plate, band, tag, or label securely fastened to the item, or directly to the surface of the item to be compliant.

(3) When an item cannot be physically marked or tagged due to a lack of available space to mark identifying information or

because marking or tagging would have a deleterious effect, the Contractor shall—

(i) Attach to the item a tag that has the identifying information marked on the tag;
(ii) Place the item in a supplemental bag or other package that encloses the item and has a tag attached to the bag or package that has the identifying information marked on the tag; or

(iii) Apply the identifying information to the unit pack in addition to, or in combination with, the identification marking information specified in MIL–STD–129. When combining marking requirements for a unit pack, the Contractor shall follow the manner, method, form, and format of MIL–STD–129 and shall fulfill the informational requirements of that standard.

(4) When the item has the tag removed or the item is removed from the bag to be installed as an embedded item in a parent item, the Contractor shall—

(i) Assign a UII or a virtual UII to the parent item if a UII does not already exist;
(ii) Mark the parent item with the DoD compliant 2D data matrix symbol, if feasible; and

(iii) Update the IUID Registry to indicate that the tagged or bagged UII item has become an embedded item within the parent item.

(5) In the event a previously tagged or bagged embedded item is subsequently removed from use, the Contractor shall tag or bag and mark the item again with the original UII.

(End of clause)

252.245–7001 [Removed]

■ 8. Section 252.245–7001 is removed.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XC46

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the 2007 total allowable catch (TAC) of pollock for Statistical Area 620 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 10, 2007,