

II. The following provisions: Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he/she handled during the month of September 2005, \_\_\_\_ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Deputy Administrator, or Acting Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Department in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature By (Name) \_\_\_\_\_

(Title) \_\_\_\_\_

(Address) \_\_\_\_\_

(Seal) Attest \_\_\_\_\_

[FR Doc. E6-684 Filed 1-20-06; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1496

RIN 0560-AH39

#### Procurement of Commodities for Foreign Donation

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** The Commodity Credit Corporation (CCC) is reopening and extending the comment period for the proposed rule, Procurement of Commodities for Foreign Donation. The original comment period for the proposed rule closed January 17, 2006, and CCC is reopening and extending it for 45 days from the date of this notice. CCC also will consider any comments received from January 17, 2006, to the date of this notice. This action responds to requests from the public to provide

more time to comment on the proposed rule.

**DATES:** Comments on the proposed rule published at 70 FR 74717, December 16, 2005, must be submitted by March 9, 2006, to be assured consideration. Comments received after that date will be considered to the extent practical. The deadline for comments on the information collections in the proposed rule remains February 14, 2006, as specified in the proposed rule.

**ADDRESSES:** CCC invites interested persons to submit comments. Comments may be submitted by any of the following methods:

- E-Mail: Send comments to [Richard.Chavez@USDA.gov](mailto:Richard.Chavez@USDA.gov).
- Fax: Submit comments by facsimile transmission to: (202) 690-2221.
- Mail: Send comments to: Director, Commodity Procurement Policy & Analysis Division, Farm Service Agency, United States Department of Agriculture (USDA), Rm. 5755-S, 1400 Independence Avenue, SW., Washington, DC 20250-0512.
- Hand Delivery or Courier: Deliver comments to the above address.
- Federal Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**SUPPLEMENTARY INFORMATION:** On December 16, 2005, CCC published a proposed rule, Procurement of Commodities for Foreign Donation, in the **Federal Register** (70 FR 74717). The proposed rule would adopt new procedures to be used by CCC in the evaluation of bids in connection with the procurement of commodities for donation overseas. In general, CCC proposes to amend the existing regulations to provide for the simultaneous review of commodity and ocean freight offers when evaluating lowest-landed cost options in connection with the procurement of commodities. This proposed rule would enhance bidding opportunities for potential vendors while allowing CCC to more efficiently acquire commodities.

The Agency believes the request for additional time to comment on the proposed rule is reasonable and will allow the rulemaking to proceed in a timely manner. As a result of the reopening and extension, the comment period for the proposed rule will close on March 9, 2006.

Signed in Washington, DC, January 13, 2006.

**Teresa C. Lasseter,**

*Executive Vice-President, Commodity Credit Corporation.*

[FR Doc. E6-683 Filed 1-20-06; 8:45 am]

BILLING CODE 3410-05-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD07-05-138]

RIN 1625-AA11

#### Regulated Navigation Area: Savannah River, Savannah, GA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the Regulated Navigation Areas for Savannah River, Georgia. Two new berths have been created at the Liquefied Natural Gas (LNG) facility on the Savannah River and the current regulation only addresses facility and vessel requirements when an LNG vessel is underway, or is moored parallel to the navigational channel outside of the slip. The current regulation is no longer adequate and the proposed changes address the addition of the new berths and requirements for three different mooring situations.

**DATES:** Comments and related material must reach the Coast Guard on or before March 24, 2006.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Unit Savannah, Juliette Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia 31401. Coast Guard Marine Safety Unit Savannah maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07-05-138], will become part of this docket and will be available for inspection or copying at Marine Safety Unit Savannah, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Lawrence Greene, Chief of Response, Marine Safety Unit Savannah; (912) 652-4353 extension 205.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07-05-138], indicate the specific section of this document to which each comment applies, and give the reason for each

comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Unit Savannah (see **ADDRESSES** above) explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at the time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

In May of 2002, Southern LNG Inc. submitted a letter of intent to expand the LNG facility on Elba Island that would nearly double LNG storage capacity and substantially increase the number of LNG tankship arrivals. The Coast Guard's endorsement was based upon the relocation of the primary LNG mooring facility in order to reduce the risk of allision and subsequent breaching of an LNG tankship's cargo tank. In order to address the Coast Guard's concerns, Southern LNG Inc. initiated a project to create a protected docking slip that allows for simultaneous LNG transfers from vessels. This expansion, scheduled for completion in late 2005, significantly reduces the level of risk associated with LNG tankship operations and vessels transiting near the LNG facility. This rule updates the current RNA and accounts for future LNG operations involving all tankship mooring configurations.

#### Discussion of Proposed Rule

The proposed RNA accounts for three potential mooring arrangements during operations at the new berths. All of these requirements are intended to reduce the risk associated with marine LNG transfer operations. On-scene towing vessels will be able to respond immediately during an emergency involving an LNG tankship or vessel transiting near a moored LNG tankship conducting transfer operations.

Certain security operations will be exempt from the proposed rule. This will allow facility owned or operated security vessels as well as state and local law enforcement vessels to operate freely within the RNA.

The LNG facility will be required to station and provide a minimum of two

escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode, to escort transiting vessels 1600 gross tons or greater past LNG tankships that are moored outside of the LNG facility. Additionally, the LNG facility will be required to provide at least one standby towing vessel with a minimum of 90,000 pounds of bollard pull to take appropriate actions in an emergency as directed by the LNG vessel bridge watch.

When a LNG tankship is moored only inside the new slip, the LNG facility will be required to station two standby towing vessels each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, to take appropriate actions in an emergency. These towing vessels will be on scene to respond to any emergency situation for the LNG tankship moored within the slip or for vessels transiting the Savannah River past the LNG facility.

To limit delays to other vessels operating within the RNA, we propose to allow vessels of 1600 gross tons or greater to pass the facility while the LNG tankships are maneuvering and mooring outside of the Savannah River shipping channel and within the facility confines (i.e., inside of the slip).

We propose to add a requirement for emergency towing wires (fire wires) to follow standard industry practice and ensure the vessels are immediately available for emergency towing.

We propose to add vessel operating restrictions to ensure safe LNG transfer operations due to anticipated hydrodynamic effects on the water within the LNG slip.

We propose to add safety and security requirements in 33 CFR 165.756(d)(6)(v) to prevent unnecessary vessels from entering the LNG slip.

In the interest of port security, this proposed rule also eliminates the requirement to issue a Broadcast Notice to Mariners on scheduled LNG tankship activities while the restrictions imposed by this section are in effect. The level of safety introduced by broadcasting LNG tankship schedules to the general public via marine radio does not outweigh the potential security impacts. Additionally, river pilots, who operate all vessels over 200 gross tons in the Savannah River, are aware of the LNG tankship transit times. While transiting within the RNA, the LNG tankships will generally be escorted by two towing vessels and security vessels that can affect notice of this rule to any vessels not requiring a river pilot.

To ensure the timeliness of response operations and maximize safety and security, the waiver authority in this rule has been modified to allow verbal or written waivers by the Captain of the Port.

#### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security.

Because this proposed rule will minimize delays for inbound and outbound traffic during LNG vessel transits, we expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. Delays for inbound and outbound traffic due to LNG transits will be minimized through this change and through pre-transit conferences between the pilots and the Coast Guard Captain of the Port. The amended RNA requirements are less burdensome for smaller vessels, which are more likely to be small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposal so that they could better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Commandant Instruction

M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation as this regulation is a special local regulation. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Safety measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 reads as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.756 to read as follows:

#### § 165.756 Regulated Navigation Area; Savannah River, Georgia.

(a) *Regulated Navigation Area (RNA)*. The Savannah River between Fort Jackson (32°04.93' N, 081°02.19' W) and the Savannah River Channel Entrance Sea Buoy is a regulated navigation area. All coordinates are North American Datum 1983.

(b) *Definitions*. The following definitions are used in this section:

*Bollard pull* is an industry standard used for rating tug capabilities and is the pulling force imparted by the tug to the towline. It means the power that an escort tug can apply to its working line(s) when operating in a direct mode.

*Direct Mode* is a towing technique, which is defined as a method of operation by which a towing vessel generates towline forces by thrust alone at an angle equal to or nearly equal to the towline, or thrust forces applied directly to the escorted vessel's hull.

*Indirect Mode* is a towing technique that, for the purpose of this section, is defined as a method of operation by which an escorting towing vessel generates towline forces by a combination of thrust and hydrodynamic forces resulting from a presentation of the underwater body of the towing vessel at an oblique angle to the towline. This method increases the resultant bollard pull, thereby arresting and controlling the motion of an escorted vessel.

*LNG tankship* means a vessel as described in 46 CFR 154.

*Made-up* means physically attached by cable, towline, or other secure means in such a way as to be immediately ready to exert force on a vessel being escorted.

*Make-up* means the act of, or preparations for becoming made-up.

*Operator* means the person who owns, operates, or is responsible for the operation of a facility or vessel.

*Savannah River Channel Entrance Sea Buoy* means the aid to navigation labeled R W "T" Mo (A) WHIS on the National Oceanic and Atmospheric Administration's (NOAA) Nautical Chart 11512.

*Standby* means immediately available, ready, and equipped to conduct operations.

*Underway* means that a vessel is not at anchor, not made fast to the shore, or not aground.

(c) *Applicability.* This section applies to all vessels operating within the RNA, including naval and other public vessels, except vessels that are engaged in the following operations:

- (1) Law enforcement, security, or search and rescue;
- (2) Servicing aids to navigation;
- (3) Surveying, maintenance, or improvement of waters in the RNA; or
- (4) Actively engaged in escort, maneuvering, or support duties for an LNG tankship.

(d) *Regulations.* (1) *Requirements for the LNG facility while a LNG tankship is moored outside of the LNG facility slip or while LNG tankships are moored both inside the LNG facility slip and outside the LNG facility slip.* (i) The operator of the facility where an LNG tankship is moored outside of the LNG facility slip shall station and provide a minimum of two escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode, to escort transiting vessels 1600 gross tons or greater past the moored LNG tankship. (ii) In addition to the two towing vessels required by paragraph (d)(3)(i) of this section, the operator of the facility

where the LNG tankship is moored outside of the slip shall provide at least one standby towing vessel with a minimum of 90,000 pounds of bollard pull to take appropriate actions in an emergency as directed by the LNG vessel bridge watch required in (d)(7) of this section.

(2) *Requirements for the LNG facility while an LNG tankship is moored only inside the LNG facility slip.* The operator of the facility where one or more LNG tankships are moored in the LNG facility slip and no LNG tankship is present at the pier outside the slip, shall station two standby towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, to take appropriate actions in an emergency as directed by the LNG vessel bridge watch required in (d)(7) of this section.

(3) *Requirements for vessel operations while a LNG tankship is underway within the Savannah River Shipping Channel within the RNA.* (i) Except for a vessel that is moored at a marina, wharf, or pier, and remains moored, no vessel 1600 gross tons or greater may approach within two nautical miles of a LNG tankship that is underway within the Savannah River shipping channel without the permission of the Captain of the Port (COTP).

(ii) All vessels under 1600 gross tons shall keep clear of transiting LNG tankships.

(iii) The owner, master, or operator of a vessel carrying liquefied natural gas (LNG) shall:

(A) Comply with the notice requirements of 33 CFR 160 and updates are encouraged at least 12 hours before arrival at the RNA boundaries. The COTP may delay the vessel's entry into the RNA to accommodate other commercial traffic.

(B) Obtain permission from the COTP before commencing the transit into the RNA.

(C) Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel, and/or wind speed is, or is expected to be, greater than 25 knots.

(D) While transiting the RNA, the LNG tankship shall have sufficient towing vessel escorts.

(4) *Requirements for vessel operations while a LNG tankship is within the LNG Facility and outside the Savannah River Shipping Channel within the RNA.* Vessels of 1600 gross tons or greater may pass the facility while the LNG tankships are maneuvering and mooring outside of the Savannah River shipping channel and within the facility confines (i.e., inside of the slip).

(5) *Requirements for vessels 1600 gross tons or greater and within the RNA when passing a LNG Tankship moored outside of the LNG Facility slip.* (i) Transiting vessels 1600 gross tons or greater, when passing a LNG tankship moored outside of the LNG facility slip, shall have a minimum of two towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, made-up in such a way as to be immediately available to arrest and control the motion of an escorted vessel in the event of steering, propulsion or other casualty. While it is anticipated that vessels will utilize the facility provided towing vessel services required in paragraph (d)(1) of this section, this regulation does not preclude escorted vessel operators from providing their own towing vessel escorts, provided they meet the requirements of this part.

(A) Outbound vessels shall be made-up and escorted from Bight Channel Light 46 until the vessel is safely past the LNG dock.

(B) Inbound vessels shall be made-up and escorted from Elba Island Light 37 until the vessel is safely past the LNG dock.

(ii) Vessels 1600 gross tons or greater shall not meet nor overtake within an area 1,000 yards on either side of the LNG facility slip and shall transit that area at minimum safe speed when an LNG tankship is present within the slip.

(6) *Requirements for all other vessels within the RNA.* All vessels less than 1600 gross tons shall not approach within 70 yards of an LNG tankship nor shall any vessel enter the LNG Facility slip without the permission of the Captain of the Port.

(7) *Requirements for moored LNG tankships.* (i) While moored within the RNA, LNG tankships shall maintain a bridge watch consisting of a docking pilot or licensed deck officer to monitor vessels passing and to coordinate the actions of the towing vessel(s) required in this section and in the event of emergency.

(ii) While moored within the RNA, LNG tankships shall have emergency towing wires (fire wires), positioned one meter above the waterline, both on the off-shore bow and quarter of the ship.

(e) *Waivers.* (1) The COTP may waive any requirement in this section, if the COTP finds that it is in the best interest of safety or in the interest of national security. Such waivers may be made verbally or in writing.

(2) An application for a waiver must state the compelling need for the waiver and describe the proposed operation

and methods by which adequate levels of safety and security are to be obtained.

(f) *Enforcement.* In accordance with the general regulations in § 165.13 of this part, no person may cause or authorize the operation of a vessel in the regulated navigation area contrary to the provisions of this section.

Dated: December 27, 2005.

**D.B. Peterman,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. E6-654 Filed 1-20-06; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 207

RIN 0710-AA62

#### Navigation Regulations

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is withdrawing the proposed rule published on May 25, 2005 (70 FR 30042) which proposed to establish a procedure for modifying the scheduled operational hours at the Lake Washington Ship Canal, Hiram M. Chittenden Locks in Seattle, Washington. The proposed rule would have permitted the District Engineer to change the scheduled operational hours of the locks following issuance of a public notice and after providing a 30-day comment period for any proposed change. The Corps has determined that there is no present need to implement changes in the operation of the Hiram M. Chittenden Locks. The Corps intends to initiate rulemaking in the future if circumstances necessitate instituting a change in the schedule or other parameters of Locks operation.

**DATES:** The proposed rule is withdrawn as of January 23, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Post, Operations Manager, Hiram M. Chittenden Locks, at (206) 789-2622; or Ms. Andrea Takash, Public Affairs Office, (206) 764-3760.

Dated: January 12, 2006.

**Gerald W. Barnes,**

*Chief, Operations, Directorate of Civil Works.*

[FR Doc. E6-708 Filed 1-20-06; 8:45 am]

BILLING CODE 3710-92-P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 201, 205, 211, 216, 217, 219, 223, 225, 228, 232, 236, 237, and 252

[DFARS Case 2004-D022]

RIN 0750-AF16

#### Defense Federal Acquisition Regulation Supplement; Inflation Adjustment of Acquisition-Related Thresholds

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to adjust acquisition-related thresholds for inflation. Section 807 of the National Defense Authorization Act for Fiscal Year 2005 requires periodic adjustment of statutory acquisition-related dollar thresholds for inflation, except those established by the Davis-Bacon Act, the Service Contract Act, or trade agreements. This proposed rule also amends other acquisition-related thresholds that are based on policy rather than statute.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before March 24, 2006, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2004-D022, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2004-D022 in the subject line of the message.
- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), IMD 3C132, 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 will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0328.

**SUPPLEMENTARY INFORMATION:**

### A. Background

This proposed rule implements Section 807 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). Section 807 provides for adjustment of statutory acquisition-related dollar thresholds every 5 years, except for those established by the Davis-Bacon Act, the Service Contract Act, or trade agreements. This case presented an opportunity to review all acquisition-related dollar thresholds, including those that are non-statutory. The proposed rule published at 70 FR 73415 on December 12, 2005 (FAR Case 2004-033), contained comparable changes to acquisition-related dollar thresholds in the FAR.

#### *Definition of Acquisition-Related Threshold*

The statute defines an acquisition-related threshold as a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as determined by the FAR Council. The statute also impacts acquisition-related thresholds in the DFARS, since the DFARS is part of the FAR System. Acquisition-related thresholds are generally tied to the value of a contract, subcontract, or modification. Examples of thresholds that are not viewed as "acquisition-related" are thresholds relating to claims, penalties, withholding, payments, required levels of insurance, small business size standards, and liquidated damages.

#### *Acquisition-Related Thresholds Not Subject to Escalation Adjustment Under This Proposed Rule*

The statute does not permit escalation of acquisition-related thresholds established by the Davis Bacon Act, the Service Contract Act, or trade agreements. Additionally, the statute does not authorize the escalation of thresholds set by Executive order or by the implementing agency, unless the Executive order or agency regulations are first amended.

#### *Analysis of Statutory Acquisition-Related Thresholds*

A matrix showing the thresholds reviewed in preparation of this proposed rule is available at <http://www.acq.osd.mil/dpap/dars/dfars/changenotice/index.htm#2004-D022>. The statute requires adjustment of acquisition-related thresholds for inflation using the Consumer Price Index (CPI) for all-urban consumers. Acquisition-related thresholds in