

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 67**

[Docket ID FEMA-2011-0002]

**Final Flood Elevation Determinations***Correction*

In rule document 2011-15507, beginning on page 36373, in the issue of Wednesday June 22, 2011, make the following corrections:

**§ 67.11 [Corrected]**

1. On page 36379, in the first column of the table for Clinton County, Iowa, “Unincorporated Areas of Clinton County” should not have appeared.

2. On the same page, in the first column of the table for Muscatine County, Iowa, “Unincorporated Areas of Muscatine County, Iowa” should not have appeared.

[FR Doc. C1-2011-15507 Filed 10-3-11; 8:45 am]

BILLING CODE 1505-01-D

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 32, 52, 61, 64, and 69****Communications Common Carriers, Reporting and Recordkeeping Requirements, Telephone, Telecommunications, Uniform System of Accounts**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document announces the approval of the Office of Management and Budget (OMB) for information collection requirements in the sections outlined in the **DATES** section.

**DATES:** Effective October 4, 2011, the following regulations have been approved by OMB:

32.2000—64 FR 50007, September 15, 1999.

52.33—63 FR 35161, June 29, 1998.

52.33(a)(3)—67 FR 40620, June 13, 2002.

61.38(b)(4)—69 FR 25336, May 6, 2004.

61.41(c), (d) and (e)—69 FR 25336, May 6, 2004.

64.5001—71 FR 43673, August 2, 2006.

69.123—69 FR 25336, May 6, 2004.

**FOR FURTHER INFORMATION CONTACT:** Lynne Hewitt Engledow, Pricing Policy

Division, Wireline Competition Bureau, at [Lynne.engledow@fcc.gov](mailto:Lynne.engledow@fcc.gov).

**SUPPLEMENTARY INFORMATION:** On June 23 2000, OMB approved the information collection requirements contained in § 32.2000 of title 47 of the United States Code as a revision to OMB Control Number 3060-0370.

On September 12, 2000, OMB approved the information collection requirements contained in § 52.33 of title 47 of the United States Code as a revision to OMB Control Number 3060-0370.

On October 22, 2002 OMB approved the information collection requirements contained in § 52.33(a)(3) of title 47 of the United States Code as a revision to OMB Control Number 3060-0742.

On May 25, 2005, OMB approved the information collection requirements contained in §§ 61.38(b)(4), 61.41(c), (d) and (e) and 69.123 of title 47 of the United States Code as a revision to OMB Control Number 3060-0298.

On February 5, 2007, OMB approved the information collection requirements contained in § 64.5001 of title 47 of the United States Code as a new collection, OMB Control Number 3060-1096. These information collection requirements required OMB approval to become effective. The Commission publishes this document as an announcement of those approvals. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Thomas Butler, Federal Communications Commission, Room 5-C458, 445 12th Street, SW., Washington, DC 20554. Please include the OMB Control Numbers, 3060-0370, 3060-0742, 3060-0298, and 3060-1096 in your correspondence. The Commission will also accept your comments via the Internet if you send them to [PRA@fcc.gov](mailto:PRA@fcc.gov).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 419-0432 (TTY).

**Synopsis:** As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval for the information collection requirements described above. The OMB Control Numbers are 3060-0370, 3060-0742, 3060-0298 and 3060-1096. The total annual reporting burden for respondents for these collections of information, including the time for gathering and maintaining the collection of

information, has been most recently approved to be:

*For 3060-0370:* 859 responses, for a total of 859 hours, and no annual costs.

*For 3060-0742:* 10,001,890 responses, for a total of 672,516 hours and \$13,423,321 in annual costs.

*For 3060-0298:* 1,160 responses, for a total annual burden of 58,000 hours, and \$945,400 in annual costs.

*For 3060-1096:* 1,896 responses, for a total of 15,800 hours, and no annual costs.

An agency may not conduct or sponsor a collection of information unless it displays a current valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act, which does not display a current, valid OMB Control Number. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

**List of Subjects in 47 CFR Parts 32, 52, 61, 64, and 69**

Communications common carriers, reporting and Recordkeeping requirements, Telephone, Telecommunications, Uniform system of accounts.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2011-25586 Filed 10-3-11; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Parts 212, 247, and 252**

RIN 0750-AG25

**Defense Federal Acquisition Regulation Supplement; Defense Cargo Riding Gang Member (DFARS Case 2007-D002)**

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

**ACTION:** Final rule.

**SUMMARY:** DoD is adopting as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 3504 of the National Defense

Authorization Act for Fiscal Year 2009. Section 3504 addresses requirements that apply to riding gang members and DoD-exempted individuals who perform work on U.S.-flag vessels under DoD contracts for transportation services. The final rule also makes an administrative change to a cross-reference.

**DATES:** *Effective Date:* October 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** Meredith Murphy, telephone 703-602-1302.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD published an interim rule at 75 FR 65437 on October 25, 2010, to implement section 3504 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009 (Pub. L. 110-417). Section 3504 amended section 1018 of the NDAA for FY 2007 (Pub. L. 109-364).

Section 3504 addresses requirements that apply to riding gang members and DoD-exempted individuals who perform work on U.S.-flag vessels under DoD contracts for transportation services documented under chapter 121, title 46 U.S.C. Section 3504 also applies to commercial contracts for carriage of cargo by a U.S.-flag vessel documented under chapter 121 of title 46 U.S.C. Such riding gang members must hold a U.S. Merchant Mariner's Document issued under 46 U.S.C., chapter 73, or a transportation security card issued under section 70105 of such title. Section 3504 also permits exemptions for certain individuals, provided a background check of the individual is conducted.

U.S. law requires crews of predominantly U.S. citizens aboard U.S.-flag vessels. For many years, foreign nationals have been utilized on U.S.-flag vessels as members of "riding gangs" who perform work beyond standard vessel maintenance and repair while ships are underway. In 2006, Congress prohibited the use of such foreign riding personnel on board vessels that are under contract with DoD unless DoD complied with certain limitations (The Coast Guard and Maritime Transportation Act of 2006, Pub. L. 109-241). The exceptions provided to DoD in 2006 did not match those applicable to other U.S.-flag vessels. The NDAA for FY 2009 made it clear that the exceptions available to DoD are complete exemptions both from the DoD-specific riding gang limitations and those generally applicable to U.S.-flag vessels.

Contracting officers are encouraged to apply this rule to the maximum extent

practicable to existing contracts, consistent with FAR 1.108(d).

**II. Discussion and Analysis**

Two respondents submitted a total of three comments on the interim rule. A discussion of the comments received and the resulting changes made to the rule follows.

**A. Background Checks**

These comments relate to the clause at 252.247-7027(c)(2) as promulgated, which requires that any individual who is exempted by paragraph (c)(1) of the clause from the requirements imposed on riding gang members by 46 U.S.C. 8106 must pass a DoD background check before going aboard a vessel. With regard to these exempt individuals, the contractor shall submit the name and "other necessary information" for a background check to the Government official specified in the contract.

*Comment:* One respondent recommended that, in order to ensure consistency of information required across DoD contracting agencies, the final rule include guidelines as to what is considered "additional necessary information" in the case of an alien to be employed on a vessel under subparagraphs (i)-(iv) of paragraph (c)(1). Such guidelines could, for example, be constructed to be limited/consistent with the types of personal identifying and employment-related information required to obtain a U.S. nonimmigrant visa for an individual to enter the U.S. temporarily for business as required for an alien to be eligible for issuance of a transportation security card under 46 U.S.C. 70105, including inter alia, a C-1/D Crewman Visa.

*DoD Response:* The clause at 252.247-7027 has been revised to state that the contractor will submit the name and other "biographical" information necessary to the Government official specified in the contract for the purposes of conducting a background check. The term biographical encompasses the following examples of information required, such as last (previous and current), first, and middle name, date of birth, social security account number, passport number, and nationality listed on the passport, as applicable.

*Comment:* A respondent commented on the "approving official specified in the contract." The underlying rationale for the exemptions provided by section 3504 of the FY 2009 NDAA, was to grant DoD greater flexibility to allow individuals to perform functions unrelated to the operation or maintenance of the vessel transporting DoD cargoes, outside the parameters

applied to riding gang members on U.S.-flag freight vessels generally under 46 U.S.C. 8106. It is, therefore, recommended that the language of the proposed clause be amended to read as follows to reinforce DoD's role in the approval process:

"The Contractor shall submit the name and other necessary information for a background check to the DoD Contracting Officer or his designee for approval."

*DoD response:* The contracting officer or designee is not the approving official for the background check. The clause has been revised to state that "the Contractor is required to submit the name and other biographical information necessary to the Government official specified in the contract for the purposes of conducting a background check." The Government official specified in the contract could be the program manager, contracting officer, or other designee depending upon the contract and agency. Contact information for the specific DoD law enforcement agency approving the background check, COMSC N34 (Director of Force Protection for Military Sealift Command), and specific procedural guidance for DoD personnel obtaining the background check is contained in the DFARS companion resource, Procedures, Guidance, and Information (PGI), at PGI 247.5.

**B. Language Inconsistency**

*Comment:* DFARS 252.247-7027(a) defines "riding gang member" as it is defined at 46 U.S.C. 8106. That statutory definition of "riding gang member" describes an individual who does not perform certain duties and "has not been issued a Merchant Mariner's Document \* \* \*." One respondent noted that DFARS 252.247-7027(b) states "Notwithstanding 46 U.S.C. 8106, the Contractor shall ensure each riding gang member holds a valid U.S. Merchant Mariner's Document issued under 46 U.S.C. chapter 73, or a transportation security card \* \* \*."

*DoD response:* The implementing language of the interim rule is consistent with the statutory language. Section 3504 of the NDAA for FY 2009, Public Law 110-417, required the Secretary of Defense to include clauses in certain contracts implementing the riding gang member provisions of 46 U.S.C. 8106 and requiring that riding gang members be issued a Merchant Mariner's Document or a transportation security card. As such, the interim rule merely implements the requirement of the statute.

The initial legislative proposal that resulted in section 3504 contained a

section-by-section analysis that specifically identified the apparent inconsistency noted by the respondent. DoD determined that Congress intended for the language in 46 U.S.C. 8106 in the definition of “riding gang member” pertaining to the Merchant Mariner’s Document to be modified, as applicable, to DoD in 10 U.S.C. 1018 by requiring that each riding gang member have either a Merchant Mariner’s Document or a transportation security card. Accordingly, the “Notwithstanding 46 U.S.C. 8106” language of DFARS 252.247–7027 accurately implements section 3504 and is consistent with Congressional intent.

### C. Other Changes

The final rule adds clause 252.247–7027, Riding Gang Member Requirements, to the list of clauses at 252.212–7001 that are required to implement statutes or executive orders applicable to defense acquisitions of commercial items because section 3504 also applies to commercial contracts for carriage of cargo by a U.S.-flag vessel documented under chapter 121 of title 46 U.S.C. and, in a related change, removes it from the list at 212.301(f).

Additionally, the final rule revises the cross-reference to 252.211–7006 at 212.301(f)(iv)(D) to reflect the correct title of the clause.

### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### IV. Regulatory Flexibility Act

DoD does not expect this final 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.* DoD has prepared a final regulatory flexibility analysis (FRFA), which is summarized as follows:

The objective of the rule is to provide authorization, restrictions, and

exemptions for the use of riding gang members on U.S.-flag vessels under charter or contract to DoD for the carriage of DoD cargo. The requirements of the rule will apply to entities interested in receiving DoD contracts for carriage of DoD cargo.

The rule requires the contractor to ensure that each riding gang member holds a valid U.S. Merchant Mariner’s Document issued under 46 U.S.C. chapter 73, or a transportation security card issued under section 70105 of such title. Any individual who is exempt from these requirements must pass a DoD background check before going aboard the vessel. With regard to these exempt individuals, the contractor shall submit the name and other necessary identifying information for a background check to the approving official specified in the contract.

There is no reporting or recordkeeping requirement established by this rule. This rule does not duplicate, overlap, or conflict with any other Federal rules. DoD anticipates that there will be limited, if any, additional costs imposed on small businesses. No comments were received in response to the initial regulatory flexibility analysis as published in the interim rule.

Interested parties may obtain a copy of the FRFA from the point of contact named herein. A copy of the FRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration.

### V. Paperwork Reduction Act

The rule does not impose 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, 247, and 252

Government procurement.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

Accordingly, the interim rule amending 48 CFR parts 212, 247, and 252, which was published at 75 FR 65437 on October 25, 2010, is adopted as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 212, 247, and 252 continues to read as follows:

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

### PART 212—ACQUISITION OF COMMERCIAL ITEMS

#### 212.301 [Amended]

■ 2. Amend section 212.301 in paragraph (f)(iv)(D) by removing the title of the clause “Radio Frequency Identification” and adding in its place “Passive Radio Frequency Identification” and by removing paragraph (f)(iv)(M).

### PART 247—TRANSPORTATION

■ 3. Amend section 247.574 by revising paragraph (f) to read as follows:

#### 247.574 Solicitation provisions and contract clauses.

\* \* \* \* \*

(f) Use the clause at 252.247–7027, Riding Gang Member Requirements, in solicitations and contracts for the charter of, or contract for carriage of cargo by, a U.S.-flag vessel documented under chapter 121 of title 46 U.S.C. Follow the procedures at PGI 247.574.

### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 252.212–7001 by removing the clause date “(SEP 2011)” and adding in its place “(OCT 2011)” and adding paragraph (b)(30) to read as follows:

#### 252.212–7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

\* \* \* \* \*

(b) \* \* \*  
(30) \_\_\_ 252.247–7027, Riding Gang Member Requirements (OCT 2011) (Section 3504 of Pub. L. 110–417).

\* \* \* \* \*

■ 5. Amend section 252.247–7027 by removing the clause date “(OCT 2010)” and adding in its place “(OCT 2011)” and revising paragraph (c)(2) to read as follows:

#### 252.247–7027 Riding Gang Member Requirements.

\* \* \* \* \*

(c) \* \* \*  
(2) Any individual who is exempt under paragraph (c)(1) of this clause must pass a DoD background check before going aboard the vessel.

(i) The Contractor shall—

(A) Render all necessary assistance to U.S. Armed Forces personnel with respect to the identification and screening of exempted individuals. This will require, at a minimum, the Contractor to submit the name and other biographical information necessary to

the Government official specified in the contract for the purposes of conducting a background check; and

(B) Deny access or immediately remove any individual(s) from the vessel deemed unsuitable for any reason by Military Sealift Command Force Protection personnel. The Contractor agrees to replace any such individual promptly and require such replacements to fully comply with all screening requirements.

(ii) The head of the contracting activity may waive this requirement if the individual possesses a valid U.S. Merchant Mariner's Document issued under 46 U.S.C. chapter 73, or a transportation security card issued under section 70105 of such title.

\* \* \* \* \*

[FR Doc. 2011-25233 Filed 10-3-11; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 252

RIN 0750-AH21

#### Defense Federal Acquisition Regulation Supplement; Definition of "Qualifying Country End Product" (DFARS Case 2011-D028)

**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 revise the definition of "qualifying country end product." This final rule eliminates the component test for qualifying country end products that are commercially available off-the-shelf items.

**DATES:** *Effective date:* October 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** Amy G. Williams, telephone 703-602-0328.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD published a proposed rule in the *Federal Register* at 76 FR 32845 on June 6, 2011, to amend the definition of qualifying country end product. One comment was received in response to the proposed rule.

##### II. Discussion and Analysis of Public Comment

*Comment:* The respondent stated that we need to define "commercially

available off-the-shelf item" or reference the definition in the FAR, because there is nothing that says that the definitions in the FAR necessarily apply to the DFARS.

*Response:* The DFARS implements and supplements the FAR (see FAR subpart 1.3). Unless the DFARS specifically makes a statement to the contrary, everything in the FAR is the basis upon which the DFARS is built. No change to the rule is necessary on the basis of this comment.

##### III. Other Changes

As a technical update, the more recent definition of "qualifying country" in 225.003 is incorporated in two of the clauses changed by the final rule, rather than citing to the list of qualifying countries at 225.872-1. This has no practical impact, because the two lists contain the same countries. The definition was added to DFARS 225.003 to reduce confusion, because the list at DFARS 225.872-1 is split into two paragraphs, (a) and (b), which sometimes leads to misinterpretation of the status of countries that are listed in paragraph (b).

##### 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

DoD certifies that this rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only affects manufacturers of COTS items in qualifying countries, removing an administrative burden for the qualifying country manufacturer and the Government personnel acquiring the items. No domestic entities will be impacted by this rule. For the definition of "small business," the Regulatory Flexibility Act refers to the Small

Business Act, which in turn allows the U.S. Small Business Administration (SBA) Administrator to specify detailed definitions or standards (5 U.S.C. 601(3) and 15 U.S.C. 632(a)). The SBA regulations at 13 CFR 121.105 discuss who is a small business: "(a)(1) Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor."

The comparable change has already been enacted for the benefit of U.S. manufacturers of COTS items.

##### VI. Paperwork Reduction Act

The rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. (chapter 35).

##### List of Subjects in 48 CFR Part 252

Government procurement.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 252 is amended as follows:

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

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

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

##### 252.212-7001 [Amended]

■ 2. Amend section 252.212-7001 as follows:

■ a. Remove the clause date "(SEP 2011)" and add in its place "(OCT 2011)";

■ b. In paragraph (b)(6)(i), remove the clause date "(JAN 2009)" and add in its place "(OCT 2011)" and in paragraph (b)(6)(ii), remove the clause date "(DEC 2010)" and add in its place "(OCT 2011)";

■ c. In paragraph (b)(12)(i), remove the clause date "(JUN 2011)" and add in its place "(OCT 2011)", in paragraph (b)(12)(ii), remove the clause date "(SEP 2008)" and add in its place "(OCT 2011)", and in paragraph (b)(12)(iii), remove the clause date "(DEC 2010)" and add in its place "(OCT 2011)"; and

■ d. In paragraph (b)(15)(i), remove the clause date "(DEC 2010)" and add in its