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Federal Communications Commission.

John A. Karousos,
Assistant Chief, Audio Division, Media Bureau.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 2004-031]

RIN 9000-AK24

Federal Acquisition Regulation; Fast Payment Procedures

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) by revising fast payment procedures. The proposed revision permits, but does not require, fast payment when invoices and/or outer shipping containers are not marked "Fast Pay" provided the contract includes the "Fast Payment Procedure" clause. As highlighted in the proposed clause, if the clause is in the contract, the invoices will no longer be rejected, as is the current practice. Instead, they will be paid using either fast payment or normal payment procedures. In addition, the proposed revision deletes the requirement for marking invoices "No Receiving Report Prepared."

DATES: Interested parties should submit comments in writing on or before

September 12, 2005, to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2004-031 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web Site: <http://www.acqnet.gov/far/ProposedRules/proposed.htm>. Click on the FAR case number to submit comments.
- E-mail: farcase.2004-031@gsa.gov. Include FAR case 2004-031 in the subject line of the message.
- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2004-031 in all correspondence related to this case. All comments received will be posted without change to <http://www.acqnet.gov/far/ProposedRules/proposed.htm>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT The FAR Secretariat at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, at (202) 501-3221. Please cite FAR case 2004-031.

SUPPLEMENTARY INFORMATION:

A. Background

This FAR case was initiated at the request of the DoD Acting Deputy Chief Financial Officer (CFO), OUSD (Comptroller), who believes FAR 52.213-1, Fast Payment Procedure, should be revised to correct a deficiency found during an internal review, namely, that many invoices were not prominently marked "FAST PAY." The CFO recommends that the FAR be revised to:

- Address both hard copy invoices and electronic invoices so that they may be accepted by the payment office if the "fast payment" clause is annotated manually or electronically in the contract record; and
- Delete the requirement for marking invoices "NO RECEIVING REPORT PREPARED."

Requirement to mark invoices and outer shipping containers "Fast Pay."

The current requirement to display "Fast Pay" prominently on the invoices and outer shipping containers causes payment problems. This requirement forces payment offices to reject invoices

when the invoices and/or the outer shipping containers are not marked "Fast Pay," even though the contract contains the fast payment clause. The Councils believe that the FAR should be revised to provide the payment office flexibility to make fast payments when invoices and/or outer shipping containers are not marked "Fast Pay." The proposed language permits, but does not require, fast payment when invoices and/or outer shipping containers are not marked "Fast Pay" provided the contract includes the "Fast Payment Procedure" clause. Under the proposed language, when the payment office decides to not process invoices as "Fast Pay" because the proper markings were not present, the payment date will be the payment date that would have applied had the "Fast Pay Procedures" clause not been in the contract. In this manner, an unmarked invoice will not be rejected. It is important to note that this change does not eliminate the requirement for the contractor to annotate an invoice "Fast Pay;" the contractor remains at risk that fast payment procedures will not be applied unless the invoice is annotated accordingly.

Requirement to include the statement "No Receiving Report Prepared." The current requirement to mark invoices "No Receiving Report Prepared" also causes payment problems as discussed above. In addition, the marking is misleading. A receiving report may be prepared for the contract, but if so, under fast pay procedures it is normally still in processing channels when the invoice arrives at the payment office. However, if a receiving report is not prepared, it is still imperative that the invoice includes sufficient information to facilitate follow-up verification that the item was received. The current FAR and the proposed revision both include a requirement for such information on the invoice. The difference is simply that the proposed revision does not require the statement "No Receiving Report Prepared" on the invoice.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it will have a beneficial, but small, impact.

Small businesses which fail to follow the fast payment clause instructions to mark the invoice "FAST PAY", will have their invoices rejected, which means they would not be paid until they send in a corrected invoice. The clause revisions mean the invoices would not have to be automatically rejected. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2004-031), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: July 5, 2005.

Gerald Zaffos,

Deputy Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 52.213-1 by revising the date of the clause and paragraphs (c)(1)(ii), (c)(3), and (e) to read as follows:

52.213-1 Fast Payment Procedure.

* * * * *

FAST PAYMENT PROCEDURE (DATE)

* * * * *

(c) * * *

(1) * * *

(ii) Display prominently on the invoice "FAST PAY." Invoices not prominently marked "Fast Pay" via manual or electronic means may be accepted by the payment office for fast payment. If the payment office declines to make fast payment, the Contractor shall be paid in accordance with procedures applicable to invoices to which the Fast Payment clause does not apply.

* * * * *

(3) If this contract, order, or blanket purchase agreement requires the preparation of a receiving report, the Contractor shall either—

(i) Submit the receiving report on the prescribed form with the invoice; or

(ii) Include the following information on the invoice:

(A) Shipment number.

(B) Mode of shipment.

(C) At line item level—

(1) National stock number and/or manufacturer's part number;

(2) Unit of measure;

(3) Ship-To Point;

(4) Mark-For Point, if in the contract; and

(5) FEDSTRIP/MILSTRIP document number, if in the contract.

* * * * *

(e) Fast pay container identification. The Contractor shall mark all outer shipping containers "FAST PAY." When outer shipping containers are not marked "Fast Pay," the payment office may make fast payment. If the payment office declines to make fast payment, the Contractor shall be paid in accordance with procedures applicable to invoices to which the Fast Payment clause does not apply.

(End of clause)

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2005-21244]

RIN 2127-AJ59

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Extension of comment period.

SUMMARY: NHTSA received a letter asking us to extend the comment period for the Notice of Proposed Rulemaking (NPRM) to amend the Federal motor vehicle safety standard (FMVSS) for occupant crash protection. The agency has proposed to amend FMVSS No. 208, *Occupant crash protection*, by establishing a test procedure applicable to vehicles equipped with a child restraint anchorage system, commonly referred to as a "LATCH" system, in a front passenger seating position and that comply with advanced air bag requirements through the use of a

suppression system. The proposed procedures specify a repeatable, reproducible, and realistic method of attaching child restraints to the LATCH system for the suppression test.

To provide interested persons additional time to prepare comments, we are extending the end of the comment period from July 18, 2005, to August 17, 2005. This 30-day extension will allow vehicle manufacturers the appropriate opportunity to review a technical report cited in the NPRM in support of the agency's proposal, and provide more meaningful comments.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than August 17, 2005.

ADDRESSES: You may submit comments by any of the following methods:

• Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

• Fax: 1-202-493-2251.

• Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see discussion of the Privacy Act below.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Lou Molino, Office of Crashworthiness Standards, Light Duty Vehicle Division by phone at (202) 366-1740, and by fax at (202) 493-2739.

For legal issues, you may contact Christopher Calamita of the NHTSA Office of Chief Counsel by phone at