

emissions source categories, and compare the updated emissions inventory data with actual 2005 and 2008, and projected 2011, 2014, 2017 and 2020 attainment emissions inventories to verify continued attainment of the 1997 8-hour ozone standard.

### III. Proposed Action

Pursuant to section 110(a)(1) of the CAA, EPA is proposing to approve the maintenance plan addressing the 1997 8-hour ozone standard for the Owensboro Area, which was submitted by Kentucky on May 27, 2008, as updated in a July 15, 2009, submission, and which ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2020. EPA has evaluated the Commonwealth's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 4, 2010.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2010-971 Filed 1-19-10; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**48 CFR Parts 205, 207, 208, 209, 211, 215, 216, 217, 219, 225, 228, 232, 237, 246, 250, 252**

### Defense Federal Acquisition Regulation Supplement: Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2009-D003)

**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 implement Section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. Section 807 provides for adjustment every 5 years of statutory acquisition-related thresholds, except for Davis-Bacon Act, Service

Contract Act, and trade agreements thresholds. This case also reviews nonstatutory acquisition-related thresholds for adjustment in 2010.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before March 22, 2010, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2009-D003, 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 2009-D003 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), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060.

*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:** Ms. Amy Williams, (703) 602-0328.

### SUPPLEMENTARY INFORMATION:

#### A. Background

This rule proposes to amend multiple DFARS parts to implement Section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). Section 807 provides for adjustment every 5 years (in years evenly divisible by 5) of statutory acquisition-related thresholds, except for Davis-Bacon Act, Service Contract Act, and trade agreements thresholds. This case also reviews nonstatutory DFARS acquisition-related thresholds for adjustment in 2010. FAR case 2008-024 proposes comparable changes to acquisition-related thresholds in the FAR.

This is the second review of DFARS acquisition-related thresholds. The last review was conducted under DFARS case 2004-D022. The final rule was published in the **Federal Register** on December 19, 2006 (71 FR 75891).

#### B. Analysis

##### 1. What is an acquisition-related threshold?

This case builds on the review of DFARS thresholds in 2005 and uses the same interpretation of the statutory definition of acquisition-related threshold. The statute defines an

acquisition-related dollar 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.

There are other thresholds in the DFARS that, while not meeting this statutory definition of “acquisition-related,” nevertheless meet all the other criteria. These thresholds may have their origin in Executive order or regulation.

Therefore, as used in this case, an acquisition-related threshold is a threshold that is specified in law, Executive order, or regulation as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law, Executive order, or regulation to the procurement of property or services by an Executive agency, as determined by the FAR Council. 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” as defined in this case are thresholds relating to claims, penalties, withholding, payments, required levels of insurance, small business size standards, liquidated damages, *etc.* This report does not address thresholds that are not acquisition-related.

## 2. What acquisition-related thresholds are not subject to escalation adjustment under this case?

The statute does not permit escalation of acquisition-related thresholds established by the Davis Bacon Act, the Service Contract Act, or trade agreements.

The statute does not authorize DoD to escalate thresholds originating in Executive order or the implementing agency (such as the Department of Labor or the Small Business Administration), unless the Executive order or agency regulations are first amended.

## 3. How did DoD analyze a statutory acquisition-related threshold?

If an acquisition-related threshold is based on statute, the matrix at {*to be provided in final rule*} identifies the statute, and the statutory threshold, both the original threshold and any revision to it in 2006.

With the exception of thresholds set by the Davis-Bacon Act, Service Contract Act, and trade agreements, the statute requires that the FAR Council adjust the acquisition-related thresholds for inflation using the Consumer Price

Index (CPI) for all-urban consumers. Acquisition-related thresholds in statutes that were in effect on October 1, 2000, are only subject to escalation from that date forward. For purposes of this proposed rule, the matrix includes calculation of escalation based on the CPI from October 2000 to April 2010. Inflation from the average CPI value for 2007 to the average value for 2008 was 3.8 percent. DoD has currently estimated the inflation for the next year at 4.2 percent, but will subsequently adjust as necessary before issuance of the final rule. Acquisition-related thresholds in statutes that took effect after October 1, 2000, are escalated from the date that they took effect. Once the escalation factor is applied to the acquisition-related threshold, then the threshold must be rounded as follows:

<\$10,000 .....	Nearest \$500
\$10,000–<\$100,000 ..	Nearest \$5,000
\$100,000–	Nearest \$50,000
<\$1,000,000.	
\$1,000,000 or more ..	Nearest \$500,000

The calculations in this proposed rule are all based on the base year amount, because escalated amounts in the 2005 rule were subject to rounding and using them as the base would distort future calculations.

In 2005, thresholds of \$1,000, \$10,000, \$100,000, and \$1,000,000, although subject to inflation calculation, did not actually change, because the inflation in 2005 was insufficient to overcome the rounding requirements. These thresholds will now escalate because of 5 additional years of inflation.

Section 807(c) of the statute states that this statute supersedes the applicability of any other provision of law that provides for the adjustment of any acquisition-related threshold that is adjustable under this statute. The thresholds for defining a major system were previously stated in Fiscal Year 1990 constant dollars for DoD and in Fiscal Year 1980 constant dollars for civilian agencies. The 2005 rule converted these major system thresholds to current year dollars, as of the date that the statute was enacted, that will now be adjusted every 5 years.

This proposed rule has been coordinated with the Small Business Administration in areas of the regulation for which they are the lead agency.

## 4. How does DoD analyze a nonstatutory acquisition-related threshold?

No statutory authorization is required to escalate thresholds that were set as policy within the DFARS. Escalation of the DFARS policy acquisition-related thresholds is generally recommended

using the same formula applied to the statutory thresholds, unless a reason has been provided for not doing so. Escalation is calculated using the same procedures as were explained for the statutory thresholds, to provide consistency.

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

## C. Regulatory Flexibility Act

DoD does not anticipate that this rule will have a substantial economic impact on small business, because the adjustment of acquisition-related thresholds for inflation is intended to maintain the status quo. DoD invites comments from small businesses and other interested parties. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2009–D003) in correspondence.

## D. Paperwork Reduction Act

The Paperwork Reduction Act does apply. The proposed changes to the DFARS do not impose new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* They maintain the current information collection requirements at the status quo by adjusting the thresholds for inflation. Government procurement.

Amy G. Williams,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 205, 207, 208, 209, 211, 215, 216, 217, 219, 225, 228, 232, 237, 246, 250, and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR parts 205, 207, 208, 209, 211, 215, 216, 217, 219, 225, 228, 232, 237, 246, 250, and 252 continues to read as follows:

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

## PART 205—PUBLICIZING CONTRACT ACTIONS

### 205.303 [Amended]

2. Section 205.303 is amended by removing “\$5.5 million” and adding in its place “\$6.5 million” in the following places:

- a. In paragraph (a)(i) introductory text, in the first and second sentences;
- b. In paragraph (a)(i)(A), in the second sentence; and
- c. In paragraph (a)(i)(B), in the first and second sentences.

## **PART 207—ACQUISITION PLANNING**

### **207.170–3 [Amended]**

3. Section 207.170–3 is amended in paragraph (a) introductory text by removing “\$5.5 million” and adding in its place “\$6 million”.

## **PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

### **208.405–70 [Amended]**

4. Section 208.405–70 is amended by removing “\$100,000” and adding in its place “\$150,000” in the following places:

- a. Paragraph (b) introductory text; and
- b. Paragraph (c) introductory text.

## **PART 209—CONTRACTOR QUALIFICATIONS**

### **209.104–1 [Amended]**

5. Section 209.104–1 is amended in paragraph (g)(i)(A) introductory text by removing “\$100,000” and adding in its place “\$150,000”.

6. Section 209.104–70 is amended in paragraph (a) by removing “\$100,000” and adding in its place “\$150,000”.

### **209.409 [Amended]**

7. Section 209.409 is amended in paragraph (b) by removing “\$100,000” and adding in its place “\$150,000”.

## **PART 211—DESCRIBING AGENCY NEEDS**

### **211.503 [Amended]**

8. Section 211.503 is amended in paragraph (b), in the first and second sentences, by removing “\$550,000” and adding in its place “\$650,000”.

## **PART 215—CONTRACTING BY NEGOTIATION**

### **215.407–2 [Amended]**

9. Section 215.407–2 is amended in paragraph (e)(1) by removing “\$1 million” and adding in its place “\$1.5 million”.

## **PART 216—TYPES OF CONTRACTS**

### **216.505–70 [Amended]**

10. Section 216.505–70 is amended by removing “\$100,000” and adding in its place “\$150,000” in the following places:

- a. In paragraph (a)(2);
- b. In paragraph (b) introductory text; and

- c. In paragraph (c) introductory text.

## **PART 217—SPECIAL CONTRACTING METHODS**

### **217.170 [Amended]**

11. Section 217.170 is amended in paragraph (d)(1)(i) by removing “\$572.5 million” and adding in its place “\$637.5 million”.

### **217.171 [Amended]**

12. Section 217.171 is amended in paragraph (a)(6) by removing “\$572.5 million” and adding in its place “\$637.5 million”.

## **PART 219—SMALL BUSINESS PROGRAMS**

13. Section 219.201 is amended by revising paragraph (d)(10)(A) to read as follows:

### **219.201 General policy.**

- (d) \* \* \*
- (10) \* \* \*

(A) Reviewing and making recommendations for all acquisitions (including orders placed against Federal Supply Schedule contracts) over \$10,000, except those under the simplified acquisition threshold that are totally set aside for small business concerns in accordance with FAR 19.502–2. Follow the procedures at PGI 219.201(d)(10) regarding such reviews.

\* \* \* \* \*

### **219.502–1 [Amended]**

14. Section 219.502–1 is amended in paragraph (2) by removing “\$300,000” and adding in its place “\$350,000”.

### **219.502–2 [Amended]**

15. Section 219.502–2 is amended by:

- a. Removing “\$1 million” from paragraph (a)(ii) and adding in its place “\$1.5 million”; and
- b. Removing “\$300,000” from paragraph (a)(iii) and adding in its place “\$350,000”.

### **219.1005 [Amended]**

16. Section 219.1005 is amended in paragraphs (a)(i)(B), (a)(i)(C), and (a)(i)(D) by removing “\$300,000” and adding in its place “\$350,000”.

## **PART 225—FOREIGN ACQUISITION**

### **225.103 [Amended]**

17. Section 225.103 is amended in paragraphs (a)(ii)(B)(2), (a)(ii)(B)(3), (b)(ii)(B), and (b)(ii)(C) by removing “\$1,000,000” and adding in its place “\$1.5 million”.

### **225.7204 [Amended]**

18. Section 225.7204 is amended as follows:

- a. In paragraphs (a) and (b) by removing “\$11.5 million” and adding in its place “\$13 million”.

- b. In paragraph (c) by removing “\$550,000” and adding in its place “\$650,000”.

### **225.7703–2 [Amended]**

19. Section 225.7703–2 is amended in paragraphs (b)(2)(i) and (b)(2)(ii) by removing “\$78.5 million” and adding in its place “\$87 million”.

## **PART 228—BONDS AND INSURANCE**

### **228.102–1 [Amended]**

20. Section 228.102–1 is amended in paragraph (1) by removing “\$100,000” and adding in its place “\$150,000”.

## **PART 232—CONTRACT FINANCING**

### **232.404 [Amended]**

21. Section 232.404 is amended in paragraph (a)(9) by removing “\$3,000” and adding in its place “the micro-purchase threshold”.

### **232.502–1 [Amended]**

22. Section 232.502–1 is amended in paragraph (b)(1) by removing “\$55,000” and adding in its place “\$65,000”.

### **237.170–2 [Amended]**

23. Section 237.170–2 is amended in paragraphs (a)(1) and (2) by removing “\$78.5 million” and adding in its place “\$87 million”.

## **PART 246—QUALITY ASSURANCE**

### **246.402 [Amended]**

24. Section 246.402 is amended in the introductory text by removing “\$250,000” and adding in its place “\$300,000”.

## **PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT**

### **250.102–1 [Amended]**

25. Section 250.102–1 is amended in paragraph (b) by removing “\$55,000” and adding in its place “\$65,000”.

### **250.102–1–70 [Amended]**

26. Section 250.102–1–70 is amended in paragraph (b)(1) by removing “\$55,000” and adding in its place “\$65,000”.

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

### **252.211–7000 [Amended]**

27. Section 252.211–7000 is amended as follows:

- a. By revising the clause date to read “(DATE)”; and

b. In paragraph (d) by removing “\$1 million” and adding in its place “\$1.5 million”.

#### 252.225–7003 [Amended]

28. Section 252.225–7003 is amended as follows:

a. By revising the clause date to read “(DATE)”;

b. In paragraph (b)(1) by removing “\$11.5 million” and adding in its place “\$13 million”; and

c. In paragraph (b)(2)(i) by removing “\$550,000” and adding in its place “\$650,000”.

#### 252.225–7004 [Amended]

29. Section 252.225–7004 is amended as follows:

a. By revising the clause date to read “(DATE)”;

b. In paragraph (b)(1) by removing “\$550,000” and adding in its place “\$650,000”.

#### 252.225–7006 [Amended]

30. Section 252.225–7006 is amended as follows:

a. By revising the clause date to read “(DATE)”;

b. In paragraph (f)(1) by removing “\$550,000” and adding in its place “\$650,000”.

#### 252.249–7002 [Amended]

31. Section 252.249–7002 is amended as follows:

a. By revising the clause date to read “(DATE)”;

b. In paragraph (d)(1) by removing “\$550,000” and adding in its place “\$650,000”; and

c. In paragraphs (d)(2)(i) and (ii) by removing “\$100,000” and adding in its place “\$150,000”.

[FR Doc. 2010–892 Filed 1–19–10; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R4-ES-2009-0090; 92210-1111-0000 B2]

#### Endangered and Threatened Wildlife and Plants; Initiation of Status Review for *Agave eggersiana* and *Solanum conocarpum*

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Initiation of status review and solicitation of new information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), under the

authority of the Endangered Species Act of 1973, as amended (Act), announce the initiation of a status review for *Agave eggersiana* (no common name) and *Solanum conocarpum* (no common name). We conduct status reviews to determine whether the entities should be listed as endangered or threatened under the Act. Through this action, we encourage all interested parties to provide us information regarding the status of, and any potential threat to, these plant species.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information no later than February 19, 2010. After this date you must submit information directly to the Field Office (see FOR FURTHER INFORMATION CONTACT section below). Please note that we may not be able to address or incorporate information that we receive after the above requested date.

**ADDRESSES:** You may submit information by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for docket FWS-R4-ES-2009-0090 and then follow the instructions for submitting comments.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R4-ES-2009-0090; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

#### FOR FURTHER INFORMATION CONTACT:

Edwin Muniz, Field Supervisor, Caribbean Ecological Services Field Office, P.O. Box 491, Boqueró, Puerto Rico 00622, by telephone (787) 851-7297, or by facsimile (787) 851-7440. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Information Solicited

To ensure that the status review is complete and based on the best available scientific and commercial information, we request information on *Agave eggersiana* (no common name) and *Solanum conocarpum* (no common name). We request any additional information from governmental agencies, Native American Tribes, the scientific community, industry, or any

other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

- (a) Habitat requirements;
- (b) Genetics and taxonomy;
- (c) Historical and current range including distribution patterns;
- (d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species and/or its habitat.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act (16 U.S.C. 1531 *et seq.*)), which are:

- (a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;
- (b) Overutilization for commercial, recreational, scientific, or educational purposes;
- (c) Disease or predation;
- (d) The inadequacy of existing regulatory mechanisms; or
- (e) Other natural or manmade factors affecting its continued existence.

(3) Propagation and planting efforts conducted for these species in the U.S. Virgin Islands.

Please include sufficient information with your submission to allow us to verify any scientific or commercial information you include.

If, after the status review, we determine that listing *A. eggersiana* and *S. conocarpum* is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), as per section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also request specific comments and information as to what, if any, critical habitat you think should be proposed for designation if the species are proposed for listing, and why such habitat meets the requirements of the Act. Specifically, for areas within the geographical range currently occupied by these species, we request data on:

- (1) The amount and distribution of *A. eggersiana* and *S. conocarpum* habitat;
- (2) The physical and biological features of *A. eggersiana* and *S. conocarpum* habitat that are essential to the conservation of the species;

(3) Special management considerations or protections that the features essential to the conservation of *A. eggersiana* and *S. conocarpum* may require, including managing for the potential effects of climate change;