



July 6, 2010

Defense Acquisition Regulations System
Attn: Ms. Mary Overstreet
OUSD (AT&L) DPAP (DARS)
3060 Defense Pentagon, Room 3B855
Washington, D.C. 20301-3060

Subject: DFARS Case 2008-D042, Preservation of Tooling for Major Defense Acquisition Programs

Dear Ms. Overstreet:

The Aerospace Industries Association (AIA), on behalf of its over 300 member companies, is pleased to respond to the request for comments published in the May 7, 2010, Federal Register, regarding this case. AIA companies embody every high-technology manufacturing segment of the U.S. aerospace and defense industry from commercial aviation and avionics, to manned and unmanned defense systems, to space technologies and satellite communications. The proposed rule implements Section 815 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 requiring planning for the preservation of tooling for major defense acquisition programs.

AIA supports the intent of the proposed rule and believes that the rule would clarify the disposition of tooling at the end of a production run. We offer one comment to further improve this proposed rule. We recommend that the final rule be expanded requiring the plan to include all property (e.g., special test equipment, machine tools, ground support equipment, and other intangibles) associated with the production of hardware. We believe this addition is necessary because the preservation of tooling only would be insufficient to re-start production.

We also believe that the final rule must allow contractors to re-price on-going programs should the plans for preserving tooling for major defense acquisition programs add additional requirements on to existing contracts.

We appreciate your consideration of these comments. If you have any questions or need additional information, please do not hesitate to contact me. I may be reached by phone at (703) 358-1087 or by e-mail at susan.tonner@aia-aerospace.org.

Sincerely,

A handwritten signature in cursive script that reads 'Susan K. Tonner'.

Susan Tonner
Assistant Vice President, Acquisition Policy

Attachment

Preservation of Tooling for Major Defense Acquisition Programs

Line #	Preservation of Tooling for Major Defense Acquisition Programs		
Line #	FEDERAL REGISTER	SUGGESTED CHANGE	REASON
	<p>[Federal Register: May 7, 2010 (Volume 75, Number 88)] [Proposed Rules] [Page 25159-25160] From the Federal Register Online via GPO Access [wais.access.gpo.gov] [DOCID:fr07my10-24]</p> <p><i>Comments Submitted by:</i> Name: Council of Defense and Space Industry Associations</p>		Proposed revisions and comments are offered in the spirit of clarifying and improving the proposed rule.
1.	<p>Therefore, DoD proposes to amend 48 CFR part 207 as follows:</p> <p>1. The authority citation for 48 CFR part 207 continues to read as follows:</p> <p>Authority: 41 U.S.C. 421 and 48 CFR chapter 1</p>		
2	<p>PART 207--ACQUISITION PLANNING</p> <p>Subpart 207.1 Acquisition Plans</p>		
3	<p>(S-73) In accordance with section 815 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417) and DoD policy requirements, acquisition plans for major weapons systems shall include a plan for the preservation and storage of special tooling associated with the production of hardware for major defense acquisition programs through the end</p>	<p>(S-73) In accordance with section 815 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417) and DoD policy requirements, acquisition plans for major weapons systems shall include a plan for the preservation and storage of special tooling, special test equipment, and equipment including ground</p>	<p>Industry agrees with the concept to sustain capability and supportability to the extent needed under major weapon systems. To that end, we believe this should not be limited to just special tooling, but should include all property, i.e. special test</p>

<p>of the service life of the related weapons system. The plan shall include the identification of any contract clauses, facilities, and funding required for the preservation and storage of such tooling. Section 815 also allows USD(AT&L) to waive this requirement if USD(AT&L) determines that it is in the best interest of DoD.</p> <p>[FR Doc. 2010-10769 Filed 5-6-10; 8:45 am] BILLING CODE 5001-08-P</p>	<p><u>support equipment, machines, machine tools, and other intangibles</u>, associated with the production of hardware for major defense acquisition programs through the end of the service life of the related weapons system. The plan shall include the identification of any contract clauses, facilities, and funding required for the preservation and storage of such tooling. Section 815 also allows USD(AT&L) to waive this requirement if USD(AT&L) determines that it is in the best interest of DoD.</p> <p>[FR Doc. 2010-10769 Filed 5-6-10; 8:45 am] BILLING CODE 5001-08-P</p>	<p>equipment, ground support equipment, machine tools and machines and other intangibles to maintain capability.</p> <p>We recognize that this rule was precipitated to implement section 815 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009.</p>
<p>1.</p> <p>DEPARTMENT OF DEFENSE</p> <p>Defense Acquisition Regulations System</p> <p>48 CFR Part 207</p> <p>RIN 0750-AG45</p> <p>Defense Federal Acquisition Regulation Supplement; Preservation of Tooling for Major Defense Acquisition Programs (DFARS Case 2008-D042)</p> <p>AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).</p> <p>ACTION: Proposed rule with request for comments.</p>		
<p>2.</p>		<p>SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 815 of the Duncan Hunter National Defense Authorization Act for Fiscal</p>

Year 2009. Section 815 requires acquisition plans for major weapons systems to include a plan for the preservation and storage of special tooling associated with the production of hardware for major defense acquisition programs through the end of the service life of the related weapons system.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before *July 6, 2010*, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2008-D042, using any of the following methods:

Federal eRulemaking Portal:

<http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.

Follow the instructions for submitting comments.

E-mail: dfars@osd.mil. Include DFARS Case 2008-D042 in the subject line of the message.

Fax: 703-602-0350.

Mail: Defense Acquisition Regulations System, Attn: Ms. Mary Overstreet, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>, including any personal information provided.

1.

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

<p>48 CFR Part 207 RIN 0750-AG45</p> <p>Defense Federal Acquisition Regulation Supplement; Preservation of Tooling for Major Defense Acquisition Programs (DFARS Case 2008-D042)</p> <p>AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).</p> <p>ACTION: Proposed rule with request for comments.</p>		
		<p>FOR FURTHER INFORMATION CONTACT: Ms. Mary Overstreet, 703-602-0311.</p>
<p>3.</p>		<p>SUPPLEMENTARY INFORMATION:</p> <p>A. Background</p> <p>This proposed rule affects all contracts for major weapons that will require special tooling associated with the production of hardware for major defense acquisition programs. The DFARS language requires acquisition plans for major weapons systems to include a plan for the preservation and storage of special tooling associated with the production of hardware for major defense acquisition programs through the end of the service life of the related weapons system. The plan shall include the identification of any contract clauses, facilities, and funding required for the preservation and storage of such tooling unless the Under Secretary of Defense (Acquisition, Technology, and Logistics) waives this requirement in the best interest of DoD.</p>

[Page 25160]

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

4. B. Regulatory Flexibility Act

DoD does not expect this 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 this rule affects the internal operating procedures of the Government. Therefore, DoD has not performed an initial regulatory flexibility analysis. 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 2008-D042) in correspondence.

5. C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not contain new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.