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, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

DoD, GSA, and NASA do 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, per data from the Federal Procurement Data System for fiscal year 2013, most contracts awarded to small entities are awarded on a competitive, fixed-price basis, and do not require application of the cost principle contained in this rule. With extremely few exceptions, compensation to small business employees remains below the compensation caps.

The rule imposes no reporting, recordkeeping, or other information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules, and there are no known significant alternatives to the rule.

No comments were filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the rule and no changes were made to the rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain 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 31 and 52

Government procurement.

Dated: May 22, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted As Final Without Change

Accordingly, the interim rule amending 48 CFR parts 31 and 52 which was published in the **Federal Register** at 78 FR 38535 on June 26, 2013 is adopted as a final rule without change.

[FR Doc. 2014–12408 Filed 5–29–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 42

[FAC 2005–74; FAR Case 2012–028; Item IV; Docket No. 2012–0028, Sequence No. 1]

RIN 9000–AM40

Federal Acquisition Regulation; Contractor Comment Period, Past Performance Evaluations

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement provisions of law that change the period allowed for contractor comments on past performance evaluations and require that past performance evaluations be made available to source selection officials sooner.

DATES: *Effective:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–74, FAR Case 2012–028.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 78 FR 48123 on August 7, 2013, under FAR Case 2012–028, to implement section 853 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013) and section 806 of the NDAA for FY 2012 (Pub. L. 112–81, enacted December 31, 2011; 10 U.S.C. 2302 Note). Section 853, entitled ''Inclusion of Data on Contractor Performance in Past Performance Databases for Executive Agency Source Selection Decisions,'' and section 806, entitled ''Inclusion of Data on Contractor Performance in Past Performance Databases for Source Selection Decisions,'' require revisions to the acquisition regulations on past performance evaluations at FAR subpart 42.15 so that contractors are provided ''up to 14 calendar days . . . from the date of delivery'' of past performance evaluations ''to submit comments, rebuttals, or additional information pertaining to past performance'' for inclusion in the database. In addition, paragraph (c) of both sections 853 and 806 requires that agency evaluations of contractor performance, including any information submitted by contractors, be ''included in the relevant past performance database not later than the date that is 14 days after the date of delivery of the information'' to the contractor.

Ten respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided in the following sections.

A. Analysis of Changes

No changes were made from the proposed rule as a result of the public comments.

B. Analysis of Public Comments

1. Contractor Response Time of Fourteen Days

Comments: Almost all respondents commented on the burden imposed on contractors to submit comments in a maximum of 14 days, especially given that FAR 42.1503 provides ''a minimum of 30 days'' for contractors to provide comments, rebuttals, or additional information. One respondent cited statistics from the Contractor Performance Assessment Rating System (CPARS) Program Office for DoD past performance evaluations completed in FY 2010–2012:

Percentage	Contractor response times
19	No comments provided.
43	Comments provided within 14 days.
30	Comments provided between 14–30 days.
9	Comments provided after 30 days.

Two other respondents noted that, when the contractor disagrees with any given Government evaluation or comment, it takes time for the contractor

to gather input from multiple employees and subcontractors and draft an objective response, *i.e.,* more than 14 days in their opinion. A respondent noted that DoD had more than doubled the number of contracting officials trained on contract past performance from FY 2010 to 2012, but that, as of April 2013, more than half of Federal agencies had no required contractor assessments in Past Performance Information Retrieval System (PPIRS). Given that, the respondent suggested that the focus should remain on improving agency performance rather than curtailing the time allotted for contractor review and comment.

Another respondent stated that, after receipt of the past performance evaluation, the contractor ''has the opportunity to request a meeting with the assessment official to discuss differences and possible modifications to the ratings and the comments.'' These meetings, according to the respondent, often result in a better assessment for the Government.

One respondent noted that the statutory action of providing up to 14 days from the date of delivery is beneficial in that it sets a generally applicable fixed period.

One respondent requested that the current 30-day period be retained and not reduced because the shortened time may lead many contractors to seek additional business opportunities in the private-rather than Federal-market.

One respondent stated that, because the 14-day time period is statutory, the Councils should consider guidelines to ensure that requirements for the content of past performance evaluations are clear, concise, and contain sufficient detail to allow a contractor to promptly begin its assessment of any negative findings.

Last, a respondent quoted paragraph (d) of section 853, which reads as follows:

> Nothing in this section shall be construed to prohibit a contractor from submitting comments, rebuttals, or additional information pertaining to past performance after the period described in subsection (c)(2) has elapsed or to prohibit a contractor from challenging a past performance evaluation in accordance with applicable laws, regulations, or procedures.

Response: The FAR is incorporating section 853 of the NDAA for FY 2013. Paragraph (c) of section 853 provides, at (c)(2) and (3), that ''contractors are afforded up to 14 calendar days, from the date of delivery of the information provided in accordance with paragraph (1), to submit comments, rebuttals, or additional information pertaining to past performance for inclusion in such databases;'' and that ''agency evaluations of contractor past performance, including any comments, rebuttals, or additional information submitted under paragraph (2), are included in the relevant past performance database not later than the date that is 14 days after the date of delivery of the information provided in accordance with paragraph (1).'' The information provided in accordance with paragraph (c)(1) is the notice that a past performance evaluation has been submitted to CPARS. CPARS will generate a notice to the contractor automatically, so the 14 calendar day period for contractor comments begins at that point in time. The law specifically states that the 14 days allotted for contractor comments are calendar days, not business days or any other method of counting days. The Councils are aware of the effort and coordination involved in gathering, summarizing, and vetting possible responses but were provided no latitude under the terms of the law.

There is no requirement in the law for the Government assessing official to meet with the contractor. However, if the contractor requests such a meeting, the assessing official may accept the request. In this case, the statute is clear and does not allow for alterations to the 14 calendar day time frame and requires that the past performance evaluation must be made available for the use of source selection officials 14 days after its initial submission, and it will be made available at that time with any contractor comments that have been received. Delaying the availability of the contractor's comments until after a meeting with the assessing official would only result in the past performance evaluation being seen by source selection officials without them having the benefit of any contractor comments. The CPARS and PPIRS systems have been revised so that transfers between CPARS and PPIRS occur automatically, thus eliminating delays in availability. The assessing official, who may also be the contracting officer, has a responsibility to review the contractor's comments when, and if, they are submitted by the contractor, but that review should not be allowed to delay or prevent source selection officials from seeing the contractor's comments as soon as they are provided.

The Councils are mindful of the terms of section 853, including paragraph (d), and have structured this rule so that contractor comments, rebuttals, or additional information can be submitted at any point in time between the initial notification of availability of a past performance evaluation until the evaluation is removed from PPIRS and archived (see FAR 42.1503(g)). The other element of section 853(d), the ability for a contractor to appeal a past performance evaluation and have a review at a level above the contracting officer, is retained, without change, in the FAR at 42.1503(d).

The intent of the statute is to make timely, relevant past performance information available to source selection officials without delay. The statute ensures that past performance information moves forward without allowing for delays caused by agencies or contractors. Any information or changes from such meetings or reviews will be added to the past performance information as it becomes available, but its absence will no longer lengthen the process.

2. Accuracy of Information Available to Source Selection Officials

Comments: Nine respondents submitted comments concerning the proposed rule requirement that past performance evaluations be available to source selection officials not later than 14 days after the evaluation was provided to the contractor, whether or not the contractor comments have been received. Four respondents stated this requirement may result in agencies relying upon potentially inaccurate or erroneous information in source selection decisions and may increase the number of disputes. One respondent stated past performance evaluations which do not have the benefit of either the contractor's comments or the more senior official's review could be obtained by source selection officials but would impact these source selections officials since they would have to take the time to address contractor reactions to the evaluations. One respondent stated that the reductions in the contractor comment period places the integrity of the past performance system at significant risk due to the likelihood that it will result in incorrect information passing through the system and on to procurement offices. Another respondent strongly objects to halving the time allotted for contractor comment because it would ''sacrifice the quality (of past performance evaluations) for quantity.'' One respondent commented on the mechanism to make changes to incomplete or inaccurate reports after they have been provided to PPIRS. The respondent is concerned that, although the mechanism is in place to correct mistakes, the inaccurate information would be available for release before the information is corrected.

Response: The FAR is incorporating section 853 of the NDAA for FY 2013 and section 806 of the NDAA for FY 2012. These laws require that past performance evaluations be made available to source selection officials not later than 14 days after the evaluation was provided to the contractor, whether or not contractor comments have been received. The purpose of the 14 calendar day deadline is to make timely, relevant past performance information available to source selection officials without delay so that award decisions can be better informed and made in a more timely manner. Having a past performance evaluation, with the contractor's comments and explanations included, available to source selection officials in 14-days will be advantageous, not detrimental, to most contractors. These timely evaluations will allow contractors that are meeting their contractual obligations to be more competitive for future awards. Therefore, it is anticipated that the deadline for comments will serve as a greater impetus to contractors to meet the new 14 calendar day deadline for comments. When a contractor is unable to provide comments within 14 days, however, the changes to CPARS and PPIRS will enable the contractor's comments to be added to the past performance evaluation after the evaluation has been moved into PPIRS. Currently, if a contractor does not submit comments, rebuttals, or additional information with regard to a past performance evaluation, the evaluation remains in CPARS indefinitely and will not move to PPIRS so as to become available to source selection officials.

In addition, the system changes to CPARS and PPIRS will allow the Government to revise the evaluation after it has moved to PPIRS, if the Government determines that such revisions are appropriate. OFPP issued guidance in its memoranda dated March 6, 2013, January 21, 2011, and July 29, 2009, encouraging agencies to improve the quality and timeliness of reporting past performance information. The FAR was also recently updated at FAR 42.1501(b) and 42.1503(b)(1) to require the Government to provide past performance evaluations that are clear, concise, and contain sufficient detail to allow a contractor to begin its assessment promptly.

3. Posting of the Evaluation

Comment: One respondent found FAR 42.1503(f) of the proposed rule ambiguous ''as to whether the rule permits the agency to post its evaluation before receiving the contractor comments within this 14-day period.'' This respondent requested a clarification in the final rule to the effect that ''the agency will not post the evaluation until it affords the contractor the opportunity to submit its comments with in this 14-day period, or if no contractor comments are forthcoming, at the end of the 14-day period.''

Response: If a contractor has submitted comments to the Government and the Government has not closed the evaluation (*i.e.,* reconciled the comments), the evaluation as well as any contractor comment will be posted to the database automatically 14 days after the evaluations are provided to the contractor. In this case, the database will apply a ''Contractor Comment Pending Government Review'' notification to the evaluation. Once the Government completes the evaluation, the database will be updated the following day and remove this notification. Also, CPARS and PPIRS software will not allow a past performance evaluation to be released into PPIRS until the end of the 14th day, unless the evaluation has been completed by the Government (*i.e.,* the contractor has commented and the Government has reconciled the comments).

4. Further Updates to a Past Performance Evaluation

Comments: Three respondents stated the proposed rule does not require the Government to timely revise a past performance evaluation in PPIRS if the Government determines, after the 14-day period expired, that it was in error, and these respondents recommend that the final rule include a deadline by which the Government shall update PPIRS to include any contractor comments provided after the initial comment period as well as any subsequent agency review of comments received, within 14 days of receipt of such additional comments. The respondents suggest a 14-day deadline be established for agency updates to PPIRS or require the Government to update PPIRS to include the current status of the evaluation review process and include the submissions and final evaluations ''promptly'' or ''within a reasonable time''. Another respondent recommended that the agency senior reviewer be given a deadline of 5 working days to resolve any differences. One respondent commented that one of its member companies had a CPARS assessment done with which it did not concur, and that the company submitted its response in a timely manner; however, the respondent stated that the assessing officer did not respond in a reasonable amount of time to the response.

Response: Agencies are required to have internal management and technical controls for past performance evaluations. Agency compliance delays should be addressed with the office that issued the assessment and its management. A specific past performance evaluation should be discussed with the assessing official responsible for the past performance evaluation.

5. Contractors' Interim Response

Comment: The respondent proposed allowing contractors to submit an interim response; the interim response would be to the effect that the contractor is in the process of reviewing the evaluation and will provide final comments.

Response: Contractors can submit an interim response but any interim response received will be posted and may be evaluated as if it were the final response.

6. System Changes

Comments: A respondent stated that the Government should provide a timeline when CPARS and PPIRS system changes/updates will be started, completed, tested, and verified. Another respondent stated that the rule should not be made effective until these critical systems (software) changes have been put into effect.

Response: The effective date for the FAR change is aligned with the effective date for the system changes. The systems changes are expected to be fully operational on July 1, 2014.

7. Other

Comment: One respondent commented that, given the severely truncated timeline, more than one contractor focal point per contract should be allowed to receive draft CPARS reports.

Response: The FAR does not prevent contractors from assigning more than one contractor focal point per contract. Although each contractor has one primary focal point, the CPARS Program Office recommends that the same contractor could have multiple back-up focal points, all of whom would receive an email notification that a past performance evaluation had been submitted to CPARS.

Comment: One respondent commented that automatic notification to the contractor when a past performance evaluation is available should be specified with a standardized cover sheet and a label warning the contractor about the 14-day deadline;

the respondent suggested that FAR 53.302–17 (Offer Label) provides a useful model.

Response: A standardized PPIRS notification email will be sent to the contractor's stated contact point via email once a past performance evaluation is available for review by the contractor.

Comment: One respondent urged public access to contractor performance information relating to late or nonpayment of subcontractors.

Response: The public access to contractor performance information is currently prohibited per FAR 9.105–2(b)(2)(iii) as required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111–212).

Comment: One respondent requested the creation of a new FAR clause mandating timely submission of past performance evaluations and stating the contractor's right to dispute untimely past performance evaluations.

Response: The FAR requires the Government to submit timely past performance evaluations. FAR 42.1503(d) requires agencies to evaluate a contractor's performance after the end of the period of performance as soon as practicable. Once the evaluation is completed and submitted to CPARS, CPARS will automatically send it to the contractor. After the 14-day period, the Government's evaluation and the contractor's response, if any, will be posted in PPIRS. A FAR clause is not necessary because contractors have the right to dispute past performance evaluations, regardless of when the evaluations are submitted for the contractor's review.

Comment: One respondent suggested assigning a regional ''overseer'' or ''ombudsman'' for the evaluation process.

Response: FAR 42.1503, Agency procedures, requires agencies to establish roles and responsibilities for ensuring past performance information is timely reported in CPARS and PPIRS. OFPP's January 21, 2011, memorandum required agencies to assign an agency point of contact accountable for updating agency guidance, workforce training, oversight mechanisms, and identification of improvements to CPARS and PPIRS. OFPP's March 6, 2012, memorandum required agencies to report the designated agency point of contact to OMB.

Comment: One respondent commented that some agencies overuse past performance questionnaires, and this should be considered for correction in the FAR, to streamline the past performance evaluation process.

Response: Per FAR 15.305(a)(2)(ii), offerors are provided an opportunity to identify past or current contracts (including Federal, State, and local government and private) for efforts similar to the Government requirement. However, this rule is not intended to set standards for use of past performance questionnaires across the Federal Government.

Comment: One respondent commented that the Government should consider assessing the actual impact of the rule 12 to 18 months after implementation.

Response: FAR regulations are periodically reviewed for continuous improvement and industry is always invited to submit regulatory change proposals. For the past several years, OFPP has issued memoranda to improve agencies use and reporting of past performance information and is also exploring ways to enhance the evaluation process and systems. Further, the law, at paragraph (e) of section 853 of the NDAA for FY 2013, requires a review and report by the Comptroller General on the actions taken by the FAR Council pursuant to the law.

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 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.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a final regulatory flexibility analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

Section 806 of the National Defense Authorization Act (NDAA) for Fiscal Year 2012 (Public Law 112–81, enacted December 31, 2011) is entitled ''Inclusion of Data on Contractor Performance in Past Performance Databases for Source Selection Decisions.'' Paragraph (c) of section 806 mandates DFARS revisions so that contractors are provided ''up to 14 calendar days from the date of delivery'' to them of past performance evaluations ''to submit comments, rebuttals, or additional information pertaining to past performance'' for inclusion in the database. In addition, section 806(c) requires that DoD agency evaluations of contractor performance, including any information submitted by contractors, be ''included in the relevant past performance database not later than 14 days after the date of delivery of the information'' to the contractor. Section 853 of the NDAA for FY 2013 (Public Law 112–239, enacted January 2, 2013) is entitled ''Inclusion of Data on Contractor Performance in Past Performance Databases for Executive Agency Source Selection Decisions,'' and it extends the requirements of section 806 to all Executive agencies.

Two respondents expressed concern about the reduced comment period and the hardship it would create for small businesses. The respondents said that the 14-day comment period would negatively impact the limited human resources of small businesses, affect the accuracy of evaluations, and have an overall negative effect on small entities. One erroneous evaluation affects a small business more than a large business. However, the 14-day comment period is mandated by law, and it will be advantageous to the Government and all its contractors to standardize past performance evaluation practices. Further, the statute does not prohibit, and the CPARS and PPIRS systems allow, submission by businesses of their comments, rebuttals, and additional information after the 14-day comment period has expired. The Chief Counsel for Advocacy of the Small Business Administration did not submit comments in response to the initial regulatory flexibility analysis.

The final rule applies to all small businesses for which past performance evaluations are completed. The information collection for past performance evaluations, OMB Control Number 9000–0142, published in the **Federal Register** at 77 FR 6799, on February 9, 2012, is the source for the data used in the FRFA. It indicates that an estimated 150,000 respondents submit an average four responses annually, for a total of 600,000 responses. Data from the Federal Procurement Data System (FPDS) for FY 2011 show that approximately 32 percent of the relevant actions of the responses are from small businesses; the rule applies to approximately 48,000 small entities.

There are no new reporting, recordkeeping, or other compliance requirements created by the rule. The difference between the current FAR past performance evaluation requirements (see FAR subpart 42.15) and this final rule is that sections 806 and 853 reduce the time allowed for a contractor to submit comments, rebuttals, or additional information pertaining to past performance for inclusion in the past performance database from ''a minimum of 30 days'' (FAR 42.1503(b)) to ''up to 14 calendar days'' and the law now requires that past performance evaluations be available to source selection officials not later than 14 days after the evaluation was provided to the contractor, whether or not contractor comments have been received.

The specifics of the statutory requirement do not allow for alternative implementation strategies.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

This rule affects the information collection requirements in the provisions at FAR subpart 42.15, currently approved under OMB Control Number 9000–0142, entitled ''Past Performance Information,'' in the amount of 1,200,000 hours, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). This rule would shorten the contractors' response time, but it would not expand the reporting requirement. Therefore, the impact is considered negligible because contractors are already allowed to submit comments, rebutting statements, or additional information regarding agency evaluations of their performance. The number of contractors providing comments will be unaffected by this rule. Further, the type of information provided is not impacted by this proposed rule.

List of Subjects in 48 CFR Part 42

Government procurement.

Dated: May 22, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 42 as set forth below:

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 1. The authority citation for 48 CFR part 42 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 42.1503 by revising the third sentence in paragraph (d); and paragraph (f) to read as follows:

42.1503 Procedures.

* * * * *

(d) * * * Contractors shall be afforded up to 14 calendar days from the date of notification of availability of the past performance evaluation to submit comments, rebutting statements, or additional information. * * *

* * * * *

(f) Agencies shall prepare and submit all past performance evaluations electronically in the CPARS at *http://www.cpars.gov.* These evaluations, including any contractor-submitted information (with indication whether agency review is pending), are automatically transmitted to PPIRS at *http://www.ppirs.gov* not later than 14 days after the date on which the contractor is notified of the evaluation's availability for comment. The Government shall update PPIRS with any contractor comments provided after 14 days, as well as any subsequent agency review of comments received. Past performance evaluations for classified contracts and special access programs shall not be reported in CPARS, but will be reported as stated in this subpart and in accordance with agency procedures. Agencies shall ensure that appropriate management and technical controls are in place to ensure that only authorized personnel have access to the data and the information safeguarded in accordance with 42.1503(d).

* * * * *

[FR Doc. 2014–12407 Filed 5–29–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2005–74; FAR Case 2012–016; Item V; Docket No. 2012–0016, Sequence No. 1]

RIN 9000–AM50

Federal Acquisition Regulation; Defense Base Act

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act (LHWCA) as extended by the Defense Base Act (DBA).

DATES: *Effective:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at 202–501–3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–74, FAR Case 2012–016.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 78 FR 17176 on March 20, 2013, to make the necessary regulatory revisions to revise the FAR to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the LHWCA, 33 U.S.C. 901, *et seq.,* as extended by the DBA, 42 U.S.C. 1651, *et seq.* Three respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

This final rule includes one change to align the FAR with Department of Labor's (DOL) regulations and implementation of section 30(a) of the LHWCA. This change involves deleting proposed paragraph (b) of FAR clause 52.228–3, which stated that the actions set forth under paragraphs (a)(2) through (a)(8) may be performed by the contractor's agent or insurance carrier. The DOL's regulations place the responsibility for reporting injuries on the employer, see 20 CFR 703.115. The removal of proposed FAR 52.228–3 paragraph (b) also promotes consistency with the statutory requirements.

B. Analysis of Public Comments

1. Support of the Proposed Rule

Comment: Two respondents expressed support for the rule.

Response: The public's support for this rule is acknowledged.

2. Clarify Term ''Days''

Comment: One respondent recommends that the ten-day reporting period within the report of injury requirements set forth in proposed FAR 52.228–3 paragraph (a)(2) should be revised to read ''ten business days.'' The respondent asserts this modification will clarify the reporting period.

Response: The intent of this rule is to alert contractors to their obligations