ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602– 0350. Please cite DFARS Case 95–D702 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa D.Rider, DFARS FASTA Implementation Secretariat, at (703) 614–1634. Please cite DFARS case 95– D702.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103–355 ("the Act"), dated October 13, 1994, provides authorities that streamline the acquisition process and minimize burdensome government-unique requirements. Major changes that can be expected in the acquisition process as a result of the Act's implementation include changes in the areas of Commercial Item Acquisition, Simplified Acquisition Procedures, the Truth in Negotiations Act, and introduction of the Federal Acquisition Computer Network (FACNET).

DFARS Case 95–D702 addresses five defense-unique sections of the Act: Section 1505, Restrictions on Undefinitized Contractual Actions; Section 2401, Clarification of Provision Relating to Quality Control of Certain Spare Parts; Section 2402, Contractor Guarantees Regarding Weapons Systems; Section 3061, Regulations on Procurement, Production, Warehousing, and Supply Distribution Functions; and Section 10004, Data Collection Through the Federal Procurement Data System. A discussion of the changes associated with each section follows:

Section 1505, Restrictions on Undefinitized Contractual Actions-Subsection 1505(a) of the Act requires that the limitation on expenditures be changed to reflect limitations on obligations, for underfinitized contractual actions (UCAs). This was done because the Government cannot control when funds are expended by the contractor but can control when funds are obligated on a contract. Subsection 1505(b) of the Act allows the head of agency to waive the UCA restrictions, if necessary to support a contingency operation. DFARS changes resulting from Subsections 1505 (a) and (b) were published as Item IX of Defense Acquisition Circular 91–7 (60 FR 29491) on June 5, 1995. Therefore, this proposed rule contains no DFARS changes to implement Subsections 1505

(a) and (b), Subsection 1505(c) of the Act exempts contracts within the simplified acquisition threshold from UCA restrictions. This proposed rule implements Subsection 1505(c) at DFARS 217.7402(b). The proposed rule also changes other portions of DFARS Parts 216 and 217 to consolidate requirements involving UCAs. A new DFARS clause, modeled on the clause at FAR 52.216–25, Contract Definitization, is proposed to provide a standard clause for DoD use in all UCAs.

Section 2401, Clarification of Provision Relating to Qualify Control of Certain Spare Parts-This Section of the Act requires that the DoD qualification requirements that were used to qualify an original production part be used on all subsequent acquisitions of that part unless the Secretary determines in writing that other sufficiently similar requirements exist that should be used instead, or that the original requirements were unnecessary. The proposed rule amends DFARS Subpart 209.2, Qualification Requirements, to add this requirement, but allows the requiring activity to make the determination. This is consistent with the approval levels cited in other ongoing FAR cases on specifications and standards and qualification requirements (QPL/QSL) and supports, in general, the empowerment of lower echelons of the acquisition workforce, when and where appropriate (in this case the requiring activity).

Section 2402, Contractor Guarantees Regarding Weapons Systems—This Section of the Act requires that acquisition regulations be modified to include guidelines for negotiating reasonable, cost effective contractor guarantees, procedures for administering such guarantees, and guidelines for determining when waivers of requirements for warranties are appropriate. The proposed rule adds language at DFARS 246.770-2(b) that discusses the logical process of constructing a rational warranty for a weapon system. The coverage provides the reader with a good source of detailed information-the DSMC Warranty Guidebook. The proposed rule balances the need for specific guidance with the need to minimize DFARS coverage. This Section of the Act also eliminated Congressional reporting requirements for other than major weapon systems. Therefore, minor changes have been made at DFARS 246.770–8 to delete language pertaining to reporting requirements. The title of the Under Secretary of Defense (Acquisition and Technology) has been corrected at DFARS 246.770-8(a).

Section 3061, Regulations on Procurement, Production, Warehousing, and Supply Distribution Functions-This section of the Act amends 10 U.S.C. 2202 to vest the Secretary of Defense with the authority to prescribe regulations governing the performance within DoD of procurement, production, warehousing, and supply distribution, and related functions. Given that existing FAR coverage of Subpart 1.3 already vests the Secretary of Defense with this authority, especially when one considers that 5 U.S.C. allows agency heads, such as the Secretary of Defense, to structure the internal administrative procedures of his/her agency to support, among other things, the procurement process, no DFARS change has been made to implement this Section of the Act.

Section 10004, Data Collection Through the Federal Procurement Data System. No changes are proposed to implement this Section of the Act in the DFARS. FAR changes associated with this Section were included in FAR Case 94–701, which was published as a proposed rule on January 9, 1995 (60 FR 2472).

B. Regulatory Flexibility Act

The proposed rule is not expected 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: the new section at DFARS 209.206-70 pertains to internal Government procedures for determining qualification requirements; the revisions to DFARS Parts 216 and 217 and the new contract clause merely consolidate and standardize existing requirements pertaining to underfinitized contract actions; and the revisions to DFARS 246.770 pertain to internal Government considerations regarding to use of warranties. An initial regulatory flexibility analysis has therefore not been performed. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95-D702 in correspondence.

C. The Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule will not impose any additional reporting or record keeping requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*