

response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 20, 2010.

**Bill Luthans,**

*Acting Director, Multimedia Planning and Permitting Division.*

[FR Doc. 2010-24572 Filed 9-30-10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 216 and 252

#### Defense Federal Acquisition Regulation Supplement (DFARS); Electronic Ordering Procedures (DFARS Case 2009-D037)

**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 to address electronic business procedures for placing orders.

**DATES:** *Comment date:* Comments on this proposed rule should be submitted in writing to the address shown below on or before November 30, 2010, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2009-D037, 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-D037 in the subject line of the message.

*Fax:* 703-602-0350.

*Mail:* Defense Acquisition Regulations System, *Attn:* Mr. Julian E. Thrash, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Mr. Julian E. Thrash, 703-602-0310.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

DoD is proposing to add language to the DFARS to make electronic distribution procedures a routine part of order issuance. This case establishes a standard method for issuance of orders via electronic means. DoD currently has the capability to distribute orders electronically on a routine basis, and can post those orders centrally to a site any contractor can access.

DoD is proposing the following changes:

- Add the prescription at DFARS 216.506(a) to require a new clause 252.216-70XX, Ordering, in lieu of the clause at FAR 52.216-18, Ordering, in solicitations and contracts when a definite-quantity contract, a requirements contract, or an indefinite-quantity contract is contemplated; and
- Add a new clause at DFARS 252.216-70XX, Ordering.

##### **B. Regulatory Flexibility Act**

This change may have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. A copy of the analysis may be obtained from the point of contact specified herein. The objective of this rule is that, as the DoD now has the capability to distribute orders electronically on a routine basis and can post those orders centrally to a Web site that any contractor can access, the DFARS needs to provide language that will make those procedures a routine part of contract issuance. This rule will enable DoD to further the goals of the E-Government Act of 2002.

For Fiscal Year 2009, DoD made awards to 6,097 small business-unique Data Universal Numbering System

(DUNS) numbers using the clause at FAR 52.216-18, Ordering. The benefit of this rule to small business is that it will make electronic distribution procedures a routine part of order issuance. This change will ultimately help improve the management and promotion of electronic Government services and processes, and establish a framework to improve public access to Government information and services. 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-D037) in correspondence.

##### **C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule does not impose any 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 Parts 216 and 252**

Government procurement.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR parts 216 and 252 as follows:

1. The authority citation for 48 CFR parts 216 and 252 continues to read as follows:

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

##### **PART 216—TYPES OF CONTRACTS**

2. Amend section 216.506 by adding paragraph (a) to read as follows:

##### **216.506 Solicitation provisions and contract clauses.**

(a) Insert the clause at 252.216-70XX, Ordering, in lieu of the clause at FAR 52.216-18, in solicitations and contracts when a definite-quantity contract, a requirements contract, or an indefinite-quantity contract is contemplated.

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

3. Add section 252.216-70XX to read as follows:

##### **252.216-70XX Ordering.**

As prescribed in 216.506(a), use the following clause:

**ORDERING (DATE)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued from \_\_\_\_\_ through \_\_\_\_\_. (Insert dates).

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c)(1) If issued electronically, the order is considered "issued" when a copy has been posted to the Electronic Document Access system, and notice has been sent to the Contractor.

(2) If mailed or transmitted by facsimile, a delivery order or task order is considered "issued" when the Government deposits the order in the mail or transmits by facsimile. Mailing includes transmittal by U.S. mail or private delivery services.

(3) Orders may be issued orally only if authorized in the schedule.

(End of clause)

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 21**

[Docket No. FWS-R9-MB-2010-0037]  
[91200-1232-0000]

RIN 1018-AX24

**Migratory Bird Permits; Revisions to the Waterfowl Permit Exceptions and Waterfowl Sale and Disposal Permits Regulations for Muscovy Ducks**

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

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose to revise the regulations regarding permit provisions for waterfowl. Specifically, we propose to revise certain permit provisions for the muscovy duck (*Cairina moschata*) at 50 CFR 21.14, 21.25, and 21.54. We take this action to address public concerns resulting from a final rule we published on March 1, 2010 (75 FR 9316), that revised the regulations for the muscovy duck. We request comments from the public on these proposed changes to the regulations.

**DATES:** Send comments on this proposal on or before December 30, 2010.

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

• **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the

instructions for submitting comments on Docket No. FWS-R9-MB-2010-0037.

• **U.S. Mail or hand delivery:** Public Comments Processing, Attn: FWS-R9-MB-2010-0037; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Suite 222; Arlington, VA 22203-1610.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information that you provide. See the **Public Comments** section below for more information.

**FOR FURTHER INFORMATION CONTACT:** Dr. George T. Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703-358-1825.

**SUPPLEMENTARY INFORMATION:****Background**

The muscovy duck is native to Mexico, and Central and South America. However, the species has recently expanded its range into Hidalgo, Starr, and Zapata Counties in south Texas. As a result of this natural expansion into the United States, on March 1, 2010, we published a final rule (75 FR 9282) adding the muscovy duck (*Cairina moschata*) to the List of Migratory Birds protected under the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-12).

The muscovy duck has been introduced through human intervention to many parts of the United States. These feral muscovy ducks may appear much different than the muscovy duck in its native range, but biologically they are still *Cairina moschata*, and thus are accorded the protection of the MBTA. To reduce the spread of muscovy ducks in the wild, 50 CFR 21.14(g) prohibits the release of captive-reared muscovy ducks to the wild.

On March 1, 2010, we also published a final rule that, among other things, established a control order to manage feral populations (75 FR 9316). The control order at 50 CFR 21.54 allows landowners and Federal, State, Tribal, and local wildlife management agencies, and their tenants, employees, or agents, to remove or destroy muscovy ducks (including hybrids of muscovy ducks), their nests, and eggs, anywhere outside their natural range, without a Federal migratory bird permit. Any muscovy duck removed live under this order must be: (1) placed with a facility where it will be maintained under conditions that will prevent its escape to the wild, (2) donated to public museums or public institutions for scientific or educational purposes, or (3) euthanized

and disposed of by burying or incineration.

In that March 1, 2010, final rule (75 FR 9316), we also amended the regulations at 50 CFR 21 to prohibit sale, transfer, or propagation of muscovy ducks for hunting and any other purpose other than for sale as food. This action required revision of regulations governing permit exceptions for captive-reared migratory waterfowl other than mallard ducks and governing waterfowl sale and disposal permits, as well as the addition of the control order described above. We also rewrote the affected regulations to make them easier to understand.

After that final rule (75 FR 9316) was published, we were contacted by many individuals concerned about provisions in the rule that prohibit long-established muscovy duck activities, particularly keeping the ducks for exhibition, or as barnyard animals for personal consumption and egg production (rather than for sale as food). This document proposes changes to the regulations to address these concerns.

*Specific Proposed Changes to 50 CFR 21.14*

In 50 CFR 21.14, we would remove the requirement that muscovy ducks may not be acquired, possessed, propagated, sold, or transferred, except for sale as food. We would add the following provisions to the regulations:

- You do not need a permit to acquire, possess, or sell properly-marked, captive-reared muscovy ducks or their eggs;
- You may not release muscovy ducks to the wild or to any location used by wild ducks; and
- You may not sell or distribute muscovy ducks as pets. Muscovy ducks have been sold as pets and given as prizes, activities we intend to disallow. However, we do not consider muscovy show ducks to be pets.

When we published the proposed rule to change the regulations for muscovy ducks on August 22, 2008 (73 FR 49626), we were unaware that muscovy ducks are kept as barnyard animals, for consumption by their owners, and for egg production. We were not made aware of these issues until after our March 1, 2010, final rule was published (75 FR 9316). The changes we are proposing in this document would allow the continued keeping and production of muscovy ducks that were restricted by the March 1, 2010 final rule. We expect that these proposed regulations changes would have a very minimal impact on populations of wild ducks, and would facilitate