

○ *E-mail:* dfars@osd.mil. Include DFARS Case 2011–D025 in the subject line of the message.

○ *Fax:* 703–602–0350.

○ *Mail:* Defense Acquisition Regulations System, Attn: Amy G. Williams, 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:

Ms. Amy Williams, 703–602–0328.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule amends DFARS 225.7002–2 to implement section 847 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383). Section 847 provides a nonavailability exception to the requirement at 10 U.S.C. 2533a (Berry Amendment) to acquire only domestic hand or measuring tools. The nonavailability exception was previously limited to the items covered in 10 U.S.C. 2533(b)(1).

II. Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public and is consistent with DoD's requirement to acquire domestic hand or measuring tools unless an authorized exception applies.

IV. Regulatory Flexibility Act

DoD does not expect this rule to 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.*, because the rule allows purchase of hand or measuring tools from foreign sources only when such tools are not available from domestic sources. If no domestic sources produce the tools, then allowing purchase from a foreign source will not impact any U.S. small business. Therefore, an initial regulatory

flexibility analysis has not been performed.

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 2011–D025) in correspondence.

V. Paperwork Reduction Act

The rule does not impose 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.

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense, that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements section 847 of the National Defense Authorization Act for Fiscal Year 2011. This requirement became effective upon enactment, January 7, 2011. This action is necessary in order to enable contracting officers to acquire hand or measuring tools that are not available from domestic sources. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 225

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. In section 225.7002–2, the introductory text of paragraph (b) is revised to read as follows:

225.7002–2 Exceptions.

* * * * *

(b) Acquisitions of any of the items in 225.7002–1, if the Secretary concerned determines that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and

when needed in a satisfactory quality and sufficient quantity at U.S. market prices. (See the requirement in 205.301 for synopsis within 7 days after contract award when using this exception.)

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AH18

Defense Federal Acquisition Regulation Supplement; Repeal of Restriction on Ballistic Missile Defense Research, Development, Test, and Evaluation (DFARS Case 2011–D026)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule to implement section 222 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383). Section 222 repeals the restriction on purchase of Ballistic Missile Defense research, development, test, and evaluation from foreign sources.

DATES: *Effective date:* March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–0328; facsimile 703–602–0350.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends DFARS subpart 225.70 by deleting section 225.7016 and the associated clause at DFARS 252.225–7018, because section 222 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383) repealed the restriction from foreign sources of acquisition of Ballistic Missile Defense research, development, test, and evaluation that was required by section 222 of the DoD Authorization Act for Fiscal Years 1988 and 1989.

II. Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not considered a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public, and is consistent with section 222 of the National Defense Authorization Act for Fiscal Year 2011.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because a final regulatory flexibility analysis is only required for final rules that were previously published for public comment, and for which an initial regulatory flexibility analysis was prepared (5 U.S.C. 604).

This final rule does not constitute a significant FAR revision as defined at FAR 1.501-1 because this rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Government. Therefore, publication for public comment under 41 U.S.C. 1707 is not required.

V. Paperwork Reduction Act

This rule modifies an existing information collection by removing the requirement for an offeror to represent whether it is or is not a United States firm by completing the clause at DFARS 252.225-7018. Deletion of this requirement reduces the total approved hours for the collection under OMB Control Number 0704-0229, "Defense Federal Acquisition Regulation Supplement Part 225, Foreign Acquisition, and Related Clauses" from 57,140 to 57,135. A change request has been submitted to OMB.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

225.7016 through 225.7016-4 [Removed]

■ 2. Sections 225.7016 through 225.7016-4 are removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225-7018 [Removed and reserved]

■ 3. Section 252.225-7018 is removed and reserved.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 246 and 252

RIN 0750-AG73

Defense Federal Acquisition Regulation Supplement; Safety of Facilities, Infrastructure, and Equipment for Military Operations (DFARS Case 2009-D029)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 807 of the National Defense Authorization Act for Fiscal Year 2010. Section 807 requires that facilities, infrastructure, and equipment that are intended for use by military or civilian personnel of the Department of Defense (DoD), in current or future military operations, should be inspected for safety and habitability prior to use, and that such facilities should be brought into compliance with generally accepted standards for the safety and health of personnel to the maximum extent practicable consistent with the requirements of military operations and the best interests of DoD to minimize the safety and health risk posed to such personnel.

DATES: *Effective date:* March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Clare Zebrowski, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060. Telephone 703-602-0289; facsimile 703-602-0350. Please cite DFARS Case 2009-D029.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule at 75 FR 66683 on October 29, 2010, to implement section 807 of the National Defense Authorization Act for Fiscal

Year 2010 (Pub. L. 111-84), which was signed on October 28, 2009. Section 807 requires that—

- Each contract, including task or delivery orders, entered into for the construction, installation, repair, maintenance, or operation of facilities, infrastructure, and equipment for use by DoD military or civilian personnel should be inspected for safety and habitability prior to use to minimize the safety and health risk posed to such personnel;

- The term "generally accepted standards" shall be defined with respect to fire protection, structural integrity, electrical systems, plumbing, water treatment, waste disposal, and telecommunications networks for the purposes of this section; and

- Exceptions and limitations shall be provided as may be needed to ensure that this section can be implemented in a manner that is consistent with the requirements of military operations and the best interests of the Department of Defense.

There were no comments submitted on the interim rule.

II. Executive Order 12866

This rule is a significant regulatory action and, therefore, was subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public. It is consistent with DoD's requirement to ensure the safety and health of its military and civilian personnel to the maximum extent practicable.

IV. Regulatory Flexibility Act

DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The rule affects contractors with contracts, including task and delivery orders, in support of current and future military operations for construction, installation, repair, maintenance, or operation of facilities. This includes contracts for facilities, infrastructure, and equipment configured for occupancy, including but not limited to, existing host nation facilities, new construction, and relocatable buildings.