

DEPARTMENT OF DEFENSE**48 CFR Part 223****[DFARS Case 2001–D005]****Defense Federal Acquisition Regulation Supplement; Use of Recovered Materials****AGENCY:** Department of Defense (DoD).**ACTION:** Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove approval requirements pertaining to the acquisition of items that do not meet Environmental Protection Agency (EPA) minimum recovered material standards. The DFARS requirements are no longer necessary as a result of changes made to the Federal Acquisition Regulation (FAR) in Item III of Federal Acquisition Circular (FAC) 97–18.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2001–D005.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule—

- Removes DFARS 223.404(b)(3). FAR 223.404(b)(3) had required a written determination approved by an official designated by the agency head if the agency was acquiring EPA designated items that did not meet the EPA minimum recovered material standards. DFARS 223.404(b)(3) designated the approval officials for DoD. Since Item III of FAC 97–18 (65 FR 36016, June 6, 2000) removed the written determination requirement from the FAR, the corresponding levels of approval are removed from the DFARS; and

- Moves the text at DFARS 223.404(b)(4) to DFARS 223.405(d), since Item III of FAC 97–18 moved the corresponding text from FAR 223.404(b)(4) to FAR 223.405(d).

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

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is

not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2001–D005.

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 Part 223

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 223 is amended as follows:

1. The authority citation for 48 CFR Part 223 continues to read as follows:

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

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**223.404 [Removed]**

2. Section 223.404 is removed.

3. Section 223.405 is added to read as follows:

223.405 Procedures.

(d) Departments and agencies must centrally collect information submitted in accordance with the clause at FAR 52.223–9 for reporting to the Office of the Deputy Under Secretary of Defense (Environmental Security).

[FR Doc. 01–24388 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE**48 CFR Parts 232 and 252****[DFARS Case 2001–D012]****Defense Federal Acquisition Regulation Supplement; Customary Progress Payment Rate for Large Business Concerns****AGENCY:** Department of Defense (DoD).**ACTION:** Final rule.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to increase the customary uniform progress payment rate for large business concerns from 75 percent to 80 percent. The progress payment rate change is applicable only

to contract awards made on or after October 1, 2001. Contracts awarded before October 1, 2001, will not be modified to include the 80 percent rate.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2001–D012.

SUPPLEMENTARY INFORMATION:**A. Background**

This final DFARS rule conforms the DoD customary uniform progress payment rate for large business concerns with the progress payment rate for large business concerns currently being used by other Executive agencies under Federal Acquisition Regulation 32.501–1(a).

This final rule is unchanged from the proposed rule that was published at 66 FR 44589 on August 24, 2001. DoD received two comments in response to the proposed rule. Both comments were in favor of the rule.

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

B. Regulatory Flexibility Act

DoD certifies that this final rule will not 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 rule makes no change to the progress payment rates for small business and small disadvantaged business concerns.

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 232 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 232 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

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