

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

#### E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 16, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

**Note:** Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 23, 1998.

**Clyde Morris,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(242)(i)(A)(1), (c)(248)(i)(A)(2), (c)(248)(i)(B)(1), and (c)(254)(i)(A)(2) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(242) \* \* \*

(i) \* \* \*

(A) Mojave Desert AQMD.

(1) Rule 1118, adopted on October 28, 1996.

\* \* \* \* \*

(248) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 67.9, adopted on April 30, 1997.

(B) South Coast AQMD.

(1) Rule 1124, adopted on December 13, 1996.

\* \* \* \* \*

(254) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 4605, adopted on December 19, 1991 and amended on December 19, 1996.

\* \* \* \* \*

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#### DEPARTMENT OF DEFENSE

#### 48 CFR Parts 225 and 252

[DFARS Case 98-D016]

#### Defense Federal Acquisition Regulation Supplement; Waiver of 10 U.S.C. 2534—United Kingdom

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a waiver of domestic source restrictions for certain

defense items produced in the United Kingdom. The waiver was executed by the Under Secretary of Defense (Acquisition and Technology) and became effective on August 4, 1998.

**DATES:** *Effective date:* August 17, 1998.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before October 16, 1998, to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax (703) 602-0350.

E-mail comments submitted over the Internet should be addressed to:

dfars@acq.osd.mil

Please cite DFARS Case 98-D016 in all correspondence related to this issue. E-mail comments should cite DFARS Case 98-D016 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0131.

#### SUPPLEMENTARY INFORMATION:

#### A. Background

This interim rule amends DFARS Subpart 225.70 and the clauses at DFARS 252.225-7016 and 252.225-7029 to implement a waiver of the domestic source restrictions of 10 U.S.C. 2534(a) for certain defense items produced in the United Kingdom. A notice of the waiver was published in the **Federal Register** on July 20, 1998 (63 FR 38815). This rule amends DFARS guidance pertaining to the acquisition of air circuit breakers for naval vessels, ball and roller bearings, and totally enclosed lifeboats. Anchor and mooring chain, which is covered by the waiver, is not addressed in this rule, as the more stringent defense appropriations act restrictions on the acquisition of anchor and mooring chain presently take precedence over the restrictions of 10 U.S.C. 2534. The other items listed in the July 20, 1998, notice of waiver are not covered in the DFARS and, therefore, are not addressed in this rule.

#### B. Regulatory Flexibility Act

This interim 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 there are no known small business manufacturers of the restricted air circuit breakers; defense appropriations acts presently impose domestic source restrictions on the acquisition of totally enclosed lifeboats

and noncommercial ball and roller bearings; and the restrictions of 10 U.S.C. 2534(a) do not apply to acquisitions of commercial items incorporating ball or roller bearings. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 98-D016 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.*

**D. 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 this interim rule prior to affording the public an opportunity to comment. This interim rule implements a waiver of the domestic source restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom. The Under Secretary of Defense (Acquisition and Technology) has determined that application of the limitation at 10 U.S.C. 2534(a) impedes the reciprocal procurement of defense items under DoD's memorandum of understanding with the United Kingdom. The waiver became effective on August 4, 1998. Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

**List of Subjects in 48 CFR Parts 225 and 252**

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

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. 421 and 48 CFR Chapter 1.

**PART 225—FOREIGN ACQUISITION**

2. Section 225.7005 is amended by redesignating the paragraphs as follows:

Paragraph	Redesignated as
Introductory text .....	(a) introductory text.
(a)(1) Introductory text.	(a)(1)(i) introductory text.
(a)(1)(i) .....	(a)(1)(i)(A).
(a)(1)(ii) .....	(a)(1)(i)(B).
(a)(2) .....	(a)(1)(ii).
(a)(3) .....	(a)(1)(iii).
(a)(4) introductory text	(a)(1)(iv) introductory text.
(a)(4)(i) .....	(a)(1)(iv)(A).
(a)(4)(ii) .....	(a)(1)(iv)(B).
(b) introductory text ...	(a)(2) introductory text.
(b)(1) .....	(a)(2)(i).
(b)(2) .....	(a)(2)(ii).
(b)(3) .....	(a)(2)(iii).
(b)(4) .....	(a)(2)(iv).
(b)(5) .....	(a)(2)(v).
(c) .....	(a)(3).

In addition, section 225.7005 is amended by adding a new paragraph (b) to read as follows:

**225.7005 Waiver of certain restrictions.**

\* \* \* \* \*

(b) In accordance with the provisions of paragraphs (a)(1)(i) through (a)(1)(iii) of this section, the Under Secretary of Defense (Acquisition and Technology) has waived the restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom, including air circuit breakers for naval vessels and totally enclosed lifeboats (see 225.7016 and 225.7022). This waiver applies to—

- (1) Procurements under solicitations issued on or after August 4, 1998; and
  - (2) Subcontracts and options under contracts entered into prior to August 4, 1998, under the conditions described in paragraphs (a)(1)(iv) of this section.
3. Section 225.7007-4 is revised to read as follows:

**225.7007-4 Waiver.**

The waiver criteria at 225.7005(a) apply to this restriction.

4. Section 225.7010-3 is revised to read as follows:

**225.7010-3 Waiver.**

The waiver criteria at 225.7005(a) apply to this restriction.

5. Section 225.7016-1 is revised to read as follows:

**225.7016-1 Restriction.**

In accordance with 10 U.S.C. 2534 and 225.7005(b), do not acquire air circuit breakers for naval vessels unless they are manufactured in the United States, Canada, or the United Kingdom.

**225.7016-2 [Amended]**

6. Section 225.7016-2 is amended in paragraph (b) in the first sentence by removing at the end "and Canada".

7. Section 225.7016-3 is revised to read as follows:

**225.7016-3 Waiver.**

The waiver criteria at 225.7005(a) apply to this restriction.

8. Section 225.7019-1 is amended by revising paragraph (a) to read as follows:

**225.7019-1 Restrictions.**

(a) In accordance with 10 U.S.C. 2534 and 225.7019-3(b)(5), through fiscal year 2000, do not acquire ball and roller bearings or bearing components that are not manufactured in the United States, Canada, or the United Kingdom.

\* \* \* \* \*

9. Section 225.7019-3 is amended by paragraph (b)(5) to read as follows:

**225.7019-3 Waiver.**

\* \* \* \* \*

(b) \* \* \*

(5) In accordance with the provisions of paragraphs (b)(1) through (b)(3) of this subsection, the Under Secretary of Defense (Acquisition and Technology) has waived the restrictions of 10 U.S.C. 2534(a)(5) for ball and roller bearings manufactured in the United Kingdom. This waiver applies to—

- (i) Procurements under solicitations issued on or after August 4, 1998; and
- (ii) Subcontracts and options under contracts entered into prior to August 4, 1998, under the conditions described in paragraph (b)(4) of this subsection.

\* \* \* \* \*

10. Section 225.7022-1 is amended in paragraph (b) by revising the first sentence to read as follows:

**225.7022-1 Restrictions.**

\* \* \* \* \*

(b) In accordance with 10 U.S.C. 2534(a)(3)(B) and 225.7005(b), do not purchase a totally enclosed lifeboat that is a component of a naval vessel, unless it is manufactured in the United States, Canada, or the United Kingdom. \* \* \*

**225.7022-2 [Amended]**

11. Section 225.7022-2 is amended in paragraph (b) by removing at the end "and Canada".

12. Section 225.7022-3 is revised to read as follows:

**225.7022-3 Waiver.**

The waiver criteria at 225.7005(a) apply only to the restriction of 225.7022-1(b).

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

13. Section 252.225-7016 is amended by revising the clause date and paragraph (c)(1) to read as follows:

**252.225-7016 Restriction of Acquisition of Ball and Roller Bearings.**

\* \* \* \* \*

## RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (AUG 1998)

\* \* \* \* \*

(c)(1) The restriction in paragraph (b) of this clause does not apply to the extent that—

(i) The end items or components containing ball or roller bearings are commercial items; or

(ii) The ball or roller bearings are commercial items manufactured in the United Kingdom.

\* \* \* \* \*

14. Section 252.225-7029 is revised to read as follows:

**252.225-7029 Preference for United States or Canadian Air Circuit Breakers.**

As prescribed in 225.7016-4, use the following clause:

## PREFERENCE FOR UNITED STATES OR CANADIAN AIR CIRCUIT BREAKERS (AUG 1998)

(a) Unless otherwise specified in its offer, the Contractor agrees that air circuit breakers for naval vessels provided under this contract shall be manufactured in the United States, Canada, or the United Kingdom.

(b) Unless an exception applies under Defense Federal Acquisition Regulation Supplement (DFARS) 225.7016-2 or a waiver is granted under DFARS 225.7005(a) (1) or (2), preference will be given to air circuit breakers manufactured in the United States or Canada by adding 50 percent for evaluation purposes to the offered price of all other air circuit breakers, except those manufactured in the United Kingdom.

(End of clause)

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## DEPARTMENT OF DEFENSE

## 48 CFR Parts 225 and 253

[DFARS Case 98-D015]

## Defense Federal Acquisition Regulation Supplement; Letter of Offer and Acceptance

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

**SUMMARY:** The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove references to an obsolete form pertaining to offer and acceptance of foreign military sales (FMS) agreements, and to make other editorial changes pertaining to FMS acquisitions.

**EFFECTIVE DATE:** August 17, 1998.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations Council, PDUSD (AT&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 98-D015.

## SUPPLEMENTARY INFORMATION:

**A. Background**

This final rule amends DFARS Subpart 225.73 and Part 253 to remove references to DD Form 1513, United States Department of Defense Offer and Acceptance, which is no longer used to document FMS agreements. Such agreements are documented in a Letter of Offer and Acceptance.

**B. Regulatory Flexibility Act**

The 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, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98-D015.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the final 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 225 and 253**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 225 and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 253 continues to read as follows:

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

**PART 225—FOREIGN ACQUISITION**

2. Section 225.7300 is revised to read as follows:

**225.7300 Scope of subpart.**

(a) This subpart contains policies and procedures for acquisitions for foreign military sales (FMS) under the Arms Export Control Act (22 U.S.C. Chapter 39). Section 22 of the Arms Export Control Act (22 U.S.C. 2762) authorizes DoD to enter into contracts for resale to foreign countries or international organizations.

(b) This subpart does not apply to—

(1) FMS made from inventories or stocks;

(2) Acquisitions for replenishment of inventories or stocks; or

(3) Acquisitions made under DoD cooperative logistic supply support arrangements.

3. Section 225.7301 is amended by revising paragraph (a) introductory text to read as follows:

**225.7301 General.**

(a) The U.S. Government sells defense articles and services to foreign governments or international organizations through FMS agreements. The agreement is documented in a Letter of Offer and Acceptance (LOA) (see DoD 5105.38-M, Security Assistance Management Manual). The LOA—

\* \* \* \* \*

**225.7302 [Amended]**

4. Section 225.7302 is amended in the introductory text, in paragraph (a)(1), and in paragraph (b) introductory text by removing “DoD Offer and Acceptance” and inserting in its place “LOA”; and in paragraph (b)(1) by removing “DD Form 1513” and inserting in its place “LOA”.

**225.7303 Pricing acquisitions for FMS.**

5. The heading of section 225.7303 is revised to read as set forth above.

6. Section 225.7303-2 is amended in paragraph (a)(3)(i) by removing “foreign military sale Letter of Offer and Acceptance” and inserting in its place “LOA”; in paragraph (b) by removing “foreign military sale” and inserting in its place “FMS”; and by revising paragraph (c) introductory text and paragraph (d) to read as follows:

**225.7303-2 Cost of doing business with a foreign government or an international organization.**

\* \* \* \* \*

(c) The provisions of 10 U.S.C. 2372 do not apply to contracts for FMS. Therefore, the cost limitations on independent research and development and bid and proposal (IR&D/B&P) costs in FAR 31.205-18 do not apply to such contracts, except as provided in 225.7303-5. The allowability of IR&D/B&P costs on contracts for FMS not wholly paid for from funds made available on a nonrepayable basis shall be limited to the contract’s allocable share of the contractor’s total IR&D/B&P expenditures. In pricing contracts for such FMS—

\* \* \* \* \*

(d) Under paragraph (e)(1)(A) of Section 21 of the Arms Export Control Act (22 U.S.C. 2761), the United States must charge for administrative services to recover the estimated cost of administration of sales made under the Army Export Control Act.