

(C) Ensure that apparatus they manufacture make closed caption settings available to applications via an API or similar method.

(2) Compliance with this requirement is required for devices that use next generation operating systems deployed after FCC publishes a rule in the **Federal Register** establishing the compliance date.

Note: The compliance date is after the Office of Management and Budget has completed its review of any information collection requirements that the Media Bureau determines is required under the Paperwork Reduction Act or August 17, 2026, whichever is later.

(3) This paragraph (e) places no restrictions on the importing, shipping, or sale of apparatus that were manufactured before August 17, 2026.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 212, 223, 226, and 252

[Docket DARS-2024-0026]

RIN 0750-AM21

Defense Federal Acquisition Regulation Supplement: Sustainable Procurement (DFARS Case 2024-D024)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to align the DFARS with changes made to the Federal Acquisition Regulation.

DATES: Effective August 15, 2024.

FOR FURTHER INFORMATION CONTACT: David Johnson, telephone 202-913-5764.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule revises the DFARS to align it with changes made to the Federal Acquisition Regulation (FAR). FAR Case 2022-006, published in the **Federal Register** on April 22, 2024, at 89 FR 30210, reorganized and updated FAR part 23. Changes included consolidation of content into particular subparts within part 23 and renaming part 23 along with some of its subparts.

FAR Case 2022-006 also moved nonenvironmental matters, to include requirements for a drug-free workplace, from FAR part 23 to part 26.

To align the DFARS with the FAR, this final rule implements corresponding changes to the DFARS. This rule changes the title of DFARS part 223 to “Environment, Sustainable Acquisition, and Material Safety” and the title of subpart 223.3 to “Hazardous Material Identification, Material Safety Data, and Notice of Radioactive Materials.” This rule adds subpart 223.1, Sustainable Products and Services, and moves the content from subparts 223.4 and 223.8 to the newly added subpart 223.1. It moves the content of subpart 223.5, Drug-Free Workplace, to newly added subpart 226.5, Drug-Free Workplace. Consequently, this rule also relocates the contract clause at DFARS 252.223-7004, Drug-Free Work Force, to DFARS 252.226-7003, Drug-Free Work Force.

As a result of this reorganization, and to correspond to changes in the FAR, this rule renumbers or revises the headings of certain DFARS paragraphs. In addition, editorial changes are made in 252.226-7003, paragraph (a), to conform with drafting conventions for definitions.

None of the changes in this rule affect the DFARS substantively. This rule does not alter policy or requirements stated in the DFARS.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it only renames an existing DFARS part and existing subparts, and relocates DFARS subparts and paragraphs, to align the DFARS with changes made in the FAR. None of these changes to the DFARS are substantive.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services

This final rule does not create any new solicitation provisions or contract clauses. It merely relocates an existing clause from DFARS 252.223-7004, Drug-Free Work Force, to DFARS 252.226-7003, Drug-Free Work Force, without substantive change. The rule does not impact the applicability of any existing solicitation provisions or contract clauses to contracts valued at or below the simplified acquisition threshold, for commercial products including COTS items, or for commercial services.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This final rule does not contain 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).

List of Subjects in 48 CFR Parts 211, 212, 223, 226, and 252

Government procurement.

Jennifer D. Johnson, Editor/Publisher, Defense Acquisition Regulations System.

Therefore, the Defense Acquisition Regulations System amends 48 CFR parts 211, 212, 223, 226, and 252 as follows:

- 1. The authority citation for 48 CFR parts 211, 212, 223, 226, and 252 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

211.271 [Amended]

- 2. Amend section 211.271 by removing “subpart 223.8” and adding “223.107–4” in its place.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

- 3. Amend section 212.301 by revising the heading of paragraph (f)(ix) introductory text to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(ix) Part 223—Environment, Sustainable Acquisition, and Material Safety. * * *

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PART 223—ENVIRONMENT, SUSTAINABLE ACQUISITION, AND MATERIAL SAFETY

- 4. Revise the heading for part 223 to read as set forth above.
■ 5. Add subpart 223.1 to read as follows:

Subpart 223.1—Sustainable Products and Services

Sec. 223.107–1 Products containing recovered materials.

223.107–4 Products that contain, use, or are manufactured with ozone-depleting substances or products that contain or use high global warming potential hydrofluorocarbons.

Subpart 223.1—Sustainable Products and Services

223.107–1 Products containing recovered materials.

(e) Procedures. Follow the procedures at PGI 223.107–1(e).

223.107–4 Products that contain, use, or are manufactured with ozone-depleting substances or products that contain or use high global warming potential hydrofluorocarbons.

No DoD contract may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a general or flag officer or a member of the Senior Executive Service of the requiring activity in accordance with section 326, Public Law 102–484 (10 U.S.C. 3201 note prec.). This restriction is in addition to any imposed by the Clean Air Act and applies after June 1, 1993, to all DoD contracts, regardless of place of performance.

- 6. Revise the heading for subpart 223.3 to read as follows:

Subpart 223.3—Hazardous Material Identification, Material Safety Data, and Notice of Radioactive Materials

- 7. Amend section 223.302 by revising the section heading to read as follows:

223.302 Hazardous material identification and notice of material safety data.

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223.303 [Redesignated as 223.304]

- 8. Redesignate section 223.303 as section 223.304.

223.304 [Amended]

- 9. Amend newly redesignated section 223.304 by revising the section heading to read as follows:

223.304 Contract clauses.

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Subpart 223.4 [Removed and Reserved]

- 10. Remove and reserve subpart 223.4, consisting of section 223.405.

Subpart 223.5 [Removed and Reserved]

- 11. Remove and reserve subpart 223.5, consisting of sections 223.570, 223.570–1, and 223.570–2.

Subpart 223.8 [223 Removed]

- 12. Remove subpart 223.8, consisting of section 223.802.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

- 13. Add subpart 226.5 to read as follows:

Subpart 226.5—Drug-Free Workplace

Sec. 226.570 Drug-free work force.
226.570–1 Policy.
226.570–2 Contract clause.

Subpart 226.5—Drug-Free Workplace

226.570 Drug-free work force.

226.570–1 Policy.

DoD policy is to ensure that its contractors maintain a program for achieving a drug-free work force.

226.570–2 Contract clause.

(a) Use the clause at 252.226–7003, Drug-Free Work Force, in all solicitations and contracts—

- (1) That involve access to classified information; or
(2) When the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract.

(b) Do not use the clause in solicitations and contracts—

- (1) For commercial products and commercial services;
(2) When performance or partial performance will be outside the United States and its outlying areas, unless the contracting officer determines such inclusion to be in the best interest of the Government; or
(3) When the value of the acquisition is at or below the simplified acquisition threshold.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.223–7001 [Amended]

- 14. Amend section 252.223–7001 in the introductory text by removing “223.303” and adding “223.304” in its place.

252.223–7004 [Removed and Reserved]

- 15. Remove and reserve section 252.223–7004.
■ 16. Add section 252.226–7003 to read as follows:

252.226–7003 Drug-Free Work Force.

As prescribed in 226.570–2, use the following clause:

Drug-Free Work Force (Aug 2024)

(a) Definitions. As used in this clause—

Employee in a sensitive position means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security, health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

Illegal drugs means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that title. The term “illegal drugs” does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee’s duties, the efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing—

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employee has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of subpart B of the “Mandatory Guidelines for Federal Workplace Drug Testing Programs” (53 FR 11980 (April 11 1988)), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent they are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees that those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212 and 252

[Docket DARS–2024–0001]

Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

ACTION: Final rule; technical amendment.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to make needed editorial changes.

DATES: Effective August 15, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, Defense Acquisition Regulations System, telephone 703–717–8226.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS to make needed editorial changes to correct mistakes regarding commercial services in DFARS 212.207; the mistakes were part of DFARS Case 2018–D066, Definition of “Commercial Item.” This final rule also corrects a typographical error in a solicitation provision.

List of Subjects in 48 CFR Parts 212 and 252

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, the Defense Acquisition Regulations System amends 48 CFR part 252 as follows:

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

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

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

212.207 [Amended]

■ 2. Amend section 212.207—

■ a. In paragraph (b) introductory text by removing “commercial products and”; and

■ b. In paragraph (b)(iii)(A) by removing “paragraph (1)” and adding “paragraph (2)” in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.215–7010 in Alternate I—

■ a. By revising the provision date; and

■ b. In paragraph (d)(1) by removing “237.7002(e)” and adding “234.7002(e)” in its place.

The revision reads as follows:

252.215–7010 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.

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Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Alternate I (Aug 2024)

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[FR Doc. 2024–18109 Filed 8–14–24; 8:45 am]

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