Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Air Quality Permitting Program, Bureau of Operating Permits, 401 E. State Street, Trenton, New Jersey 08625–0027.

FOR FURTHER INFORMATION CONTACT: Suilin Chan, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–4019.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: April 19, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 99–10854 Filed 5–3–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6333–3]

Missouri: Final Authorization of State Hazardous Waste Management Program Revision for Corrective Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization for corrective action to the hazardous waste program submitted by Missouri Department of Natural Resources. In the final rules section of this **Federal Register**, the EPA is authorizing the state's program revisions as an immediate final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. If no adverse written comments are received on this action, the immediate final rule will become effective and no further activity will occur in relation to this proposal. If the EPA receives adverse written comments, it will withdraw the immediate final rule before its effective date by publishing a timely withdrawal in the **Federal Register**. The EPA will then respond to public comments in a later final rule based on this proposal. The EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before June 3, 1999.

ADDRESSES: Send written comments to Heather Hamilton, U.S. EPA Region VII, ARTD/RESP, 726 Minnesota Avenue, Kansas City, Kansas 66101; (913) 551–7039. Copies of the Missouri program revision applications and the materials which the EPA used in evaluating the revisions are available for inspection and copying during normal business hours at the following address: Hazardous Waste Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102–0176; (573) 751–3176.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, U.S. EPA Region VII, ARTD/RESP, 726 Minnesota Avenue, Kansas City, Kansas 66101; (913) 551–7039.

SUPPLEMENTARY INFORMATION: For additional information see the immediate final rule published in the Rules section of this **Federal Register**.

Dated: April 13, 1999.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 99–11038 Filed 5–3–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 215

[DFARS Case 99–D001]

Defense Federal Acquisition Regulation Supplement; Weighted Guidelines and Performance-Based Payments

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to modify the weighted guidelines method of computing profit objectives by adding contracts with performance-based payments to the types of contracts that affect a contractor's cost risk.

DATES: Comments on the proposed rule should be submitted in writing to the address specified below on or before July 6, 1999, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Sandra G. Haberlin, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 99–D001.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite DFARS Case 99–D001 in all correspondence related to this issue. E-mail correspondence should cite DFARS Case 99–D001 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberlin, (703) 602–0131. Please cite DFARS Case 99–D001.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 215.404–4, Profit, requires contracting officers to use the weighted guidelines method of developing a prenegotiation profit or fee objective on most negotiated contract actions that require cost analysis. This method focuses on three profit factors: performance risk, contract type risk, and facilities capital employed. Calculations using these profit factors result in values that become part of the part objective.

For contract type risk, the calculations include an assessment of the degree of cost risk accepted by the contractor under varying contract types as adjusted by the costs of contractor-provided financing. Currently, DFARS 214.404–71–3, Contract type risk and working capital adjustment, provides only two financing choices for fixed-price and fixed-price-incentive contracts: The contract either will provide progress payments or will offer no financing. The proposed rule adds contracts with performance-based payments as a third choice.

The rule proposes to amend DFARS 215.404–71–3 to—

1. Add firm-fixed-price and fixed-price incentive contracts with performance-based payments to the table of contract types at 215.404–71–3(c);

2. Add evaluation criteria at 215.404–71–3(d) that contracting officers should consider when determining the value for contract type risk associated with contracts using performance-based payments; and

3. Remove the reference to the flexible progress payments type of financing at 215.404–71–3(e)(3). DoD does not permit the use of flexible progress payments for contracts awarded as a result of solicitations issued on or after November 11, 1993. A final rule, published in the **Federal Register** on February 23, 1999 (64 FR 8731), removed references to flexible progress payments form DFARS Part 232. The change to 215.404–71–3(e)(3) in this proposed rule does not reflect a policy change but merely removes obsolete language.

B. Regulatory Flexibility Act

The proposed 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 most contracts awarded to small entities have a dollar value less than the simplified acquisition threshold and, therefore, would not use the weighted guidelines method of profit computation. The weighted guidelines method normally is used to compute profit objectives on negotiated contract actions at or above $500,000. 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 99–D001 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 Part 215

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 215 is proposed to be amended as follows:

PART 215—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 215 continues to read as follows:

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

2. Section 215.404–71–3 is amended by revising paragraphs (c), (d), and (e) to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(c) *Values: Normal and designated ranges.*

Contract type	Notes	Normal value (percent)	Designated range (percent)
Firm-fixed-price, no financing	(1)	5	4 to 6.
Firm-fixed-price, with performance-based payments	(6)	4	2.5 to 5.5.
Firm-fixed-price, with progress payments	(2)	3	2 to 4.
Fixed-price incentive, no financing	(1)	3	2 to 4.
Fixed-price incentive, with performance-based payments	(6)	2	0.5 to 3.5.
Fixed-price with redetermination provision	(3)		
Fixed-price incentive, with progress payments	(2)	1	0 to 2.
Cost-plus-incentive-fee	(4)	1	0 to 2.
Cost-plus-fixed-fee	(4)	.5	0 to 1.
Time-and-materials (including overhaul contracts priced on time-and-materials basis)	(5)	.5	0 to 1.
Labor-hour	(5)	.5	0 to 1.
Firm-fixed-price, level-of-effort	(5)	.5	0 to 1.

(1) ''No financing'' means either that the contract does not provide progress payments or performance-based payments, or that the contract provides them only on a limited basis, such as financing of first articles. Do not compute a working capital adjustment.

(2) When progress payments are used, compute a working capital adjustment (Block 26).

(3) For the purposes of assigning profit values, treat a fixed-price contract with redetermination provisions as if it were a fixed-price incentive contract with below normal conditions.

(4) Cost-plus contracts shall not receive the working capital adjustment.

(5) These types of contracts are considered cost-plus-fixed-fee contracts for the purposes of assigning profit values. They shall not receive the working capital adjustment in Block 26. However, they may receive higher than normal values within the designated range to the extent that portions of cost are fixed.

(6) When performance-based payments are used, do not compute a working capital adjustment.

(d) *Evaluation criteria.*

(1) *General.* The contracting officer should consider elements that affect contract type risk such as—

(i) Length of contract;

(ii) Adequacy of cost data for projections;

(iii) Economic environment;

(iv) Nature and extent of subcontracted activity;

(v) Protection provided to the contractor under contract provisions (e.g., economic price adjustment clauses);

(vi) The ceilings and share lines contained in incentive provisions;

(vii) Risks associated with contracts for foreign military sales (FMS) that are not funded by U.S. appropriations; and

(viii) When performance-based payments are used—

(A) The frequency of payments;

(B) The total amount of payments compared to the maximum allowable amount specified at FAR 32.1004(b)(2); and

(C) The risk of the payment schedule to the contractor.

(2) *Mandatory.* The contracting officer shall assess the extent to which costs have been incurred prior to definitization of the contract action 9also see 217.7404–6(a)). The assessment shall include any reduced contractor risk on both the contract before definitization and the remaining portion of the contract. When costs have been incurred prior to definitization, generally regard the contract type risk to be in the low end of the designated range. If a substantial portion of the costs have been incurred prior to definitization, the contracting officer may assign a value as low as 0 percent, regardless of contract type.

(3) *Above normal conditions.* The contracting officer may assign a higher than normal value when there is substantial contractor type risk. Indicators of this—

(i) Efforts where there is minimal cost history;

(ii) Long-term contracts without provisions protecting the contractor, particularly when there is considerable economic uncertainty;

(iii) Incentive provisions (e.g., cost and performance incentives) that place a high degree of risk on the contractor;

(iv) FMS sales (other than those under DoD cooperative logistics support

arrangements or those made from U.S. Government inventories or stocks) where the contractor can demonstrate that there are substantial risks above those normally present in DoD contracts for similar items;

(v) Performance-based payments made less frequently than monthly;

(vi) Performance-based payments totaling less than the maximum allowable amount(s) specified at FAR 32.1004(b)(2); or

(vii) An aggressive performance-based payment schedule that increases risk.

(4) *Below normal conditions.* The contracting officer may assign a lower than normal value when the contract type risk is low. Indicators of this are—

(i) Very mature product line with extensive cost history;

(ii) Relatively short-term contracts;

(iii) Contractual provisions that substantially reduce the contractor's risk;

(iv) Incentive provisions that place a low degree of risk on the contractor;

(v) Performance-based payments provided on a monthly basis;

(vi) Performance-based payments totaling the maximum allowable amount(s) specified at FAR 32.1004(b)(2); or

(vii) A performance-based payment schedule that is routine with minimal risk.

(e) *Costs financed.*

(1) Costs financed equal total costs multiplied by the portion (percent) of costs financed by the contractor.

(2) Total costs equal Block 20 (i.e., all allowable costs, including general and administrative and independent research and development/bid and proposal, but excluding facilities capital cost of money), reduced as appropriate when—

(i) The contractor has little cash investment (e.g., subcontractor progress payments liquidated late in period of performance);

(ii) Some costs are covered by special financing provisions, such as advance payments; or

(iii) The contract is multiyear and there are special funding arrangements.

(3) The portion financed by the contractor is generally the portion not covered by progress payments, i.e., 100 percent minus the customary progress payment rate (see FAR 32.501). For example, if a contractor receives progress payments at 75 percent, the portion financed by the contractor is 25 percent. On contracts that provide progress payments to small businesses, use the customary progress payment rate for large businesses.

* * * * *

[FR Doc. 99–11184 Filed 5–3–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 229, 231, and 232

[FRA Docket No. PB–9; Notice No. 16]

RIN 2130–AB16

Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of public meeting.

SUMMARY: By notice of proposed rulemaking (NPRM) published on September 9, 1998 (63 FR 48294), FRA proposed revisions to the regulations governing the power braking systems and equipment used in freight and other non-passenger railroad train operations. This document announces a public meeting to discuss specific issues related to FRA's collection of data concerning inspections and defects and the use of defect ratios based upon that data, and the impact that information may have on the proposed rule.

DATES: *Public Meeting:* A public meeting will be held on the date and at the location listed below to provide interested parties the opportunity to discuss FRA's collection of inspection and defect data and the calculation of defect ratios relevant to this NPRM. The date of the public hearing is as follows:

Thursday, May 27, 1999 at 10:00 a.m. in Washington D.C.

ADDRESSES: (1) *Public Meeting:* The public meeting will be held at the following location: *Washington, D.C.:* Conference Area 1, Seventh Floor, 1120 Vermont Avenue, N.W., Washington, D.C.

(2) *Docket Clerk:* Written notification to FRA's Docket Clerk must identify the docket number, and the name, address, and phone number of the participant or attendee. Each notification must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590.

FOR FURTHER INFORMATION, CONTACT: John Leeds, Director, Office of Safety Analysis, RRS–20, 400 Seventh Street, S.W., Stop 25, Washington, D.C. 20950 (telephone 202–493–6211), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC–10, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20950 (telephone 202–493–6053).

SUPPLEMENTARY INFORMATION: At the public hearings and technical conference conducted in relation to the NPRM and in written comments submitted subsequent to the public hearings and technical conference, comments were received from some parties which raised concerns regarding FRA's collection of data related to FRA's inspection activity and the number of conditions not in compliance with Federal regulations found during that inspection activity. The comments and correspondence received allege that there are substantial problems with FRA's database, that there has been substantial overreporting of the number of units inspected, and that there has been a systematic deflation of defect ratios. As the allegations and concerns raised to date have been general in nature and because the comment period in this proceeding closed March 1, 1999, FRA believes it is prudent and necessary to conduct a public meeting, on the record, to allow interested parties to fully explain and discuss their concerns. Although many of the concerns appear to involve more than the estimation of power brake defect ratios, which is the focus of this rulemaking, FRA believes that this is the appropriate forum to develop the issues and concerns.

The purpose of the public meeting is to permit the exchange of information and concerns regarding FRA's database and the information developed from that database. One purpose of the meeting is to allow FRA to provide information regarding its internal review of the data and address some of the concerns raised to date, particularly as it relates to the estimation of power brake defect ratios discussed in the NPRM. A second purpose is to allow interested parties to fully develop and articulate the issues and concerns they have with the data gathered and presented by FRA so that these concerns can be fully addressed in any final rule that is developed. It should be noted that the meeting is not intended to allow participants to cross-examine FRA or other participants on either the content of the NPRM or positions taken with regard to the issues or data presented.

Public Participation Procedures

Any person wishing to attend the public meeting should notify the Docket Clerk by mail at the address provided in the **ADDRESSES** section at least five