

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments, under Colorado, is amended by removing Channel 247C1 and by adding Channel 266C1 at Dinosaur; by removing Channel 257C1 and by adding Channel 295C1 at Rangely.

■ 3. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 248C1 and by adding Channel 255C3 at Franklin, and by removing Preston, Channel 244C1.

■ 4. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 246A and adding Channel 259A at Beaver; by adding Channel 248C at Coalville; by adding Elsinore, Channel 249C; by adding Manila, Channel 228A; by removing Channel 257C2 and by adding Channel 264C2 at Monroe; by removing Channel 280C1 and adding Channel 256C at Nephi; by removing Channel 248C at Richfield; by removing Channel 280A and by adding Channel 244C1 at Smithfield, and by removing Tremonton, Channel 285C0.

■ 5. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by removing Channel 256C1 and by adding Channel 280C at Fort Bridger; by removing Channel 259C1 and adding Channel 250C2 at Green River; by adding Lyman, Channel 284C; by removing Channel 283C and adding Channel 259C at Rock Springs; by removing Channel 259A and adding Channel 258A at Saratoga; by removing Channel 266A and Channel 261C and by adding Channel 234A and Channel 282C at Wamsutter.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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**DEPARTMENT OF DEFENSE****48 CFR Parts 212 and 237**

[DFARS Case 2003-D111]

**Defense Federal Acquisition Regulation Supplement; Use of FAR Part 12 for Performance-Based Contracting for Services**

**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 obsolete text pertaining to the use of FAR Part 12

(Acquisition of Commercial Items) procedures for performance-based contracting for services. The statutory authority upon which this text was based has expired.

**EFFECTIVE DATE:** June 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Brooks, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2003-D111.

**SUPPLEMENTARY INFORMATION:****A. Background**

This final rule removes DFARS 212.102 and 237.601, which implemented Section 821 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106-398). Section 821 permitted DoD to treat certain performance-based service contracts and task orders as contracts for the procurement of commercial items. The authority provided by section 821 expired on October 30, 2003, and has been superseded by the authority provided in section 1431 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Section 1431 provides broader, governmentwide authority for the treatment of performance-based service contracts and task orders as contracts for the procurement of commercial items. An interim FAR rule implementing section 1431 was published in Federal Acquisition Circular 2001-24 on June 18, 2004 (69 FR 34226).

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 rule will not have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Therefore, 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 2003-D111.

**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 212 and 237**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR parts 212 and 237 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212 and 237 continues to read as follows:

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

**PART 212—ACQUISITION OF COMMERCIAL ITEMS****Subpart 212.1—[Removed]**

■ 2. Subpart 212.1 is removed.

**PART 237—SERVICE CONTRACTING****Subpart 237.6—[Removed]**

■ 3. Subpart 237.6 is removed.

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**DEPARTMENT OF DEFENSE****48 CFR Part 237**

[DFARS Case 2003-D107]

**Defense Federal Acquisition Regulation Supplement; Firefighting Services Contracts**

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

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

**SUMMARY:** DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 331 of the National Defense Authorization Act for Fiscal Year 2004. Section 331 provides authority for contractor performance of firefighting functions at military installations or facilities for periods of one year or less, if the functions would otherwise have to be performed by members of the armed forces who are not readily available by reason of a deployment.

**DATES:** *Effective date:* June 25, 2004.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before August 24, 2004, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D107, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.