

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 208, 209, 212, 213, 215, 217, 219, 222, 223, 225, 227, 233, 235, 236, 237, 242, 247, 252, and 253 and Appendix F to Chapter 2

[DFARS Case 2001–D003]

Defense Federal Acquisition Regulation Supplement; Geographic Use of the Term “United States”

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to standardize the use of the term “United States” and associated geographic terms, in accordance with definitions found in the Federal Acquisition Regulation.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before January 10, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2001–D003, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

- Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

- E-mail: dfars@osd.mil. Include DFARS Case 2001–D003 in the subject line of the message.

- Fax: (703) 602–0350.

- Mail: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the DFARS to standardize the use of geographic terms, for consistency with the definitions of the following terms found in section 2.101 of the Federal Acquisition Regulation: “United States”; “contiguous United States”; “customs territory of the United States”; and “outlying areas”.

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 does not expect this rule 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 the rule standardizes DFARS terminology, but makes no substantive change to policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2001–D003.

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 204, 208, 209, 212, 213, 215, 217, 219, 222, 223, 225, 227, 233, 235, 236, 237, 242, 247, 252, and 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR parts 204, 208, 209, 212, 213, 215, 217, 219, 222, 223, 225, 227, 233, 235, 236, 237, 242, 247, 252, and 253 and Appendix F to Chapter 2 as follows:

PART 204—ADMINISTRATIVE MATTERS

1. The authority citation for 48 CFR Parts 204, 208, 209, 212, 213, 215, 217, 219, 222, 223, 225, 227, 233, 235, 236, 237, 242, 247, 252, and 253 and Appendix F to subchapter I continues to read as follows:

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

204.670–1 [Amended]

2. Section 204.670–1 is amended by removing paragraph (d).

3. Section 204.904 is amended by revising paragraph (1)(v) to read as follows:

204.904 Reporting payment information to the IRS.

(1) * * *

(v) Any contract with a State, the District of Columbia, or an outlying area of the United States; or a political subdivision, agency, or instrumentality of any of the foregoing;

* * * * *

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

4. Section 208.7002 is amended by revising paragraphs (a)(3) and (4) to read as follows:

208.7002 Assignment authority.

(a) * * *

(3) Outside the contiguous United States, by the Unified Commanders; and

(4) For acquisitions to be made in the contiguous United States for commodities not assigned under paragraphs (a)(1), (2), or (3) of this section, by agreement of agency heads (10 U.S.C. 2311).

* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

5. Section 209.406–2 is amended by revising paragraph (a) introductory text to read as follows:

209.406–2 Causes for debarment.

(a) Any person shall be considered for debarment if criminally convicted of intentionally affixing a label bearing a “Made in America” inscription to any product sold in or shipped to the United States or its outlying areas that was not made in the United States or its outlying areas (10 U.S.C. 2410f).

* * * * *

PART 212—ACQUISITION OF COMMERCIAL ITEMS

6. Section 212.602 is amended by revising paragraph (b)(ii) to read as follows:

212.602 Streamlined evaluation of offers.

(b) * * *

(ii) For the acquisition of transportation in supply contracts that will include a significant requirement for transportation of items outside the contiguous United States, also evaluate offers in accordance with the criterion at 247.301–71.

* * * * *

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

7. Section 213.270 is amended by revising paragraph (c)(1) to read as follows:

213.270 Use of the Governmentwide commercial purchase card.

* * * * *

(c) * * *

(1) The place of performance is entirely outside the United States and its outlying areas.

* * * * *

8. Section 213.307 is amended in paragraph (b)(i)(B)(2) by revising the first sentence to read as follows:

213.307 Forms.

* * * * *

(b)(i) * * *

(B) * * *

(2) Classified acquisitions when the purchase is made within the United States or its outlying areas. * * *

* * * * *

PART 215—CONTRACTING BY NEGOTIATION

9. Section 215.404–76 is amended by revising paragraph (d) to read as follows:

215.404–76 Reporting profit and fee statistics.

* * * * *

(d) Contracting offices outside the United States and its outlying areas are exempt from reporting.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

10. Section 217.7005 is revised to read as follows:

217.7005 Solicitation provision.

Use the provision at 252.217–7002, Offering Property for Exchange, when offering nonexcess personal property for exchange. Allow a minimum of 14 calendar days for the inspection period in paragraph (b) of the clause if the exchange property is in the contiguous United States. Allow at least 21 calendar days outside the contiguous United States.

11. Section 217.7102 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

217.7102 General.

(a) Activities shall enter into master agreements for repair and alteration of vessels with all prospective contractors located within the United States or its outlying areas, which—

* * * * *

(b) Activities may use master agreements in work with prospective contractors located outside the United States and its outlying areas.

* * * * *

12. Section 217.7103–3 is amended by revising paragraph (a) introductory text to read as follows:

217.7103–3 Solicitations for job orders.

(a) When a requirement arises within the United States or its outlying areas for the type of work covered by the master agreement, solicit offers from prospective contractors that’

* * * * *

PART 219—SMALL BUSINESS PROGRAMS

13. Section 219.800 is amended in paragraph (a) by revising the fourth sentence to read as follows:

219.800 General.

(a) * * * Consistent with the provisions of this subpart, this authority is hereby redelegated to DoD contracting officers within the United States or its outlying areas, to the extent that it is consistent with any dollar or other restrictions established in individual warrants. * * *

* * * * *

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

14. Section 222.7201 is amended by revising paragraph (a) to read as follows:

222.7201 Contract clauses.

(a) Use the clause at 252.222–7002, Compliance with Local Labor Laws (Overseas), in solicitations and contracts for services or construction to be performed outside the United States and its outlying areas.

* * * * *

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

15. Section 223.570–4 is amended by revising paragraph (b)(2) to read as follows:

223.570–4 Contract clause.

* * * * *

(b) * * *

(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

* * * * *

PART 225—FOREIGN ACQUISITION

16. Section 225.7014 is revised to read as follows:

225.7014 Restriction on overseas military construction.

For restriction on award of military construction contracts to be performed

in the United States outlying areas in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, see 236.274(a).

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.7103–17 [Amended]

17. Section 227.7103–17 is amended in paragraph (b) in the second sentence, and in paragraph (c), by removing “possessions” and adding in its place “outlying areas”.

227.7203–17 [Amended]

18. Section 227.7203–17 is amended in paragraph (b) in the second sentence, and in paragraph (c), by removing “possessions” and adding in its place “outlying areas”.

PART 233—PROTESTS, DISPUTES, AND APPEALS

19. Section 233.215–70 is revised to read as follows:

233.215–70 Additional contract clause.

Use the clause at 252.233–7001, Choice of Law (Overseas), in solicitations and contracts when contract performance will be outside the United States and its outlying areas, unless otherwise provided for in a government-to-government agreement.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

20. Section 235.071 is amended by revising paragraph (a) to read as follows:

235.071 Additional contract clauses.

(a) Use the clause at 252.235–7002, Animal Welfare, or one substantially the same, in solicitations and contracts awarded in the United States or its outlying areas involving research on live vertebrate animals.

* * * * *

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

236.274 [Amended]

21. Section 236.274 is amended in paragraph (a) introductory text by removing “territories and possessions” and adding in its place “outlying areas”.

236.570 [Amended]

22. Section 236.570 is amended in paragraph (c)(1) by removing “territory or possession” and adding in its place “outlying area”.

23. Section 236.602–1 is amended in paragraph (a)(i)(6)(A)(2) by revising the first sentence to read as follows:

236.602–1 Selection criteria.

(a)(i) * * *

(6) * * *

(A) * * *

(2) Do not consider awards to overseas offices for projects outside the United States and its outlying areas. * * *

* * * * *

PART 237—SERVICE CONTRACTING

24. Section 237.102–70 is amended by revising paragraph (a)(1) to read as follows:

237.102–70 Prohibition on contracting for firefighting or security-guard functions.

(a) * * *

(1) The contract is to be carried out at a location outside the United States and its outlying areas at which members of the armed forces would have to be used for the performance of firefighting or security-guard functions at the expense of unit readiness;

* * * * *

25. Section 237.7301 is amended by revising paragraph (a)(1) to read as follows:

237.7301 Definitions.

* * * * *

(a) * * *

(1) Is located in the United States or its outlying areas;

* * * * *

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

26. Section 242.1402 is amended by revising the section heading to read as follows:

242.1402 Volume movements within the contiguous United States.

* * * * *

PART 247—TRANSPORTATION

27. Section 247.571 is amended by revising paragraph (c)(1) introductory text to read as follows:

247.571 Policy.

* * * * *

(c)(1) Any vessel used under a time charter contract for the transportation of supplies under this section shall have any reflagging or repair work, as defined in the clause at 252.247–7025, Reflagging or Repair Work, performed in the United States or its outlying areas, if the reflagging or repair work is performed—

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

28. Section 252.209–7002 is amended by revising the clause date and paragraph (a)(3) to read as follows:

252.209–7002 Disclosure of ownership or control by a foreign government.

* * * * *

DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT (XXX 2004)

(a) * * *

(3) *Foreign government* includes the state and the government of any country (other than the United States and its outlying areas) as well as any political subdivision, agency, or instrumentality thereof.

* * * * *

29. Section 252.212–7000 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. By redesignating paragraph (a)(2) as paragraph (a)(3); and

c. By adding a new paragraph (a)(2) to read as follows:

252.212–7000 Offeror Representations and Certifications—Commercial Items.

* * * * *

(a) * * *

(2) *United States* means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

* * * * *

30. Section 252.225–7000 is amended by revising the clause date and paragraph (a) to read as follows:

252.225–7000 Buy American Act—Balance of Payments Program Certificate.

* * * * *

BUY AMERICAN ACT—BALANCE OF PAYMENTS PROGRAM CERTIFICATE (XXX 2004)

(a) *Definitions. Domestic end product, foreign end product, qualifying country, qualifying country end product, and United States* have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

* * * * *

31. Section 252.225–7001 is amended by revising the clause date and by adding paragraph (a)(8) to read as follows:

252.225–7001 Buy American Act and Balance of Payments Program.

* * * * *

BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (XXX 2004)

(a) * * *

(8) *United States* means the 50 States, the District of Columbia, and outlying areas.

* * * * *

32. Section 252.225–7003 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. By redesignating paragraphs (a) through (d) as paragraphs (b) through (e) respectively; and

c. By adding a new paragraph (a) to read as follows:

252.225–7003 Report of intended performance outside the United States.

* * * * *

(a) *Definition. United States*, as used in this provision, means the 50 States, the District of Columbia, and outlying areas.

* * * * *

33. Section 252.225–7004 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. By redesignating paragraphs (a) through (d) as paragraphs (b) through (e) respectively; and

c. By adding a new paragraph (a) to read as follows:

252.225–7004 Reporting of contract performance outside the United States.

* * * * *

(a) *Definition. United States*, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

* * * * *

34. Section 252.225–7005 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. By redesignating paragraphs (a) through (c) as paragraphs (b) through (d) respectively; and

c. By adding a new paragraph (a) to read as follows:

252.225–7005 Identification of expenditures in the United States.

* * * * *

(a) *Definition. United States*, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

* * * * *

35. Section 252.225–7011 is revised to read as follows:

252.225–7011 Restriction on Acquisition of Supercomputers.

As prescribed in 225.7012–3, use the following clause:

RESTRICTION ON ACQUISITION OF SUPERCOMPUTERS (XXX 2004)

Supercomputers delivered under this contract shall be manufactured in the United States or its outlying areas.

(End of clause)

36. Section 252.225–7013 is amended by revising the clause date, paragraph (a)(1), paragraph (b) introductory text, paragraph (f)(1)(i)(A), and the first sentence of paragraph (h) introductory text to read as follows:

252.225-7013 Duty-Free Entry.

* * * * *

DUTY-FREE ENTRY (XXX 2004)

(a) * * *

(1) *Customs territory of the United States* means the 50 States, the District of Columbia, and Puerto Rico.

* * * * *

(b) Except as provided in paragraph (i) of this clause, or unless supplies were imported into the customs territory of the United States before the date of this contract or the applicable subcontract, the price of this contract shall not include any amount for duty on—

* * * * *

(f) * * *

(1)(i) * * *

(A) Prepare any customs forms required for the entry of foreign supplies into the customs territory of the United States in connection with this contract; and

* * * * *

(h) The Contractor shall notify the Administrative Contracting Officer (ACO) in writing of any purchase of qualifying country supplies to be accorded duty-free entry, that are to be imported into the customs territory of the United States for delivery to the Government or for incorporation in end items to be delivered to the Government. * * *

* * * * *

37. Section 252.225-7014 is amended by revising the clause date and paragraph (b) to read as follows:

252.225-7014 Preference for domestic specialty metals.

* * * * *

PREFERENCE FOR DOMESTIC SPECIALTY METALS (XXX 2004)

* * * * *

(b) Any specialty metals incorporated in articles delivered under this contract shall be melted in the United States or its outlying areas.

* * * * *

38. Section 252.225-7015 is revised to read as follows:

252.225-7015 Restriction on acquisition of hand or measuring tools.

As prescribed in 225.7002-3(c), use the following clause:

RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS (XXX 2004)

Hand or measuring tools delivered under this contract shall be produced in the United States or its outlying areas.
(End of clause)

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

252.225-7016 Restriction on acquisition of ball and roller bearings.

* * * * *

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (XXX 2004)

* * * * *

(b) Except as provided in paragraph (c) of this clause, all ball and roller bearings and ball and roller bearing components (including miniature and instrument ball bearings) delivered under this contract, either as end items or components of end items, shall be wholly manufactured in the United States, its outlying areas, or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube, or rod stock and lubricants, need not be mined or produced in the United States, its outlying areas, or Canada.

* * * * *

40. Section 252.225-7018 is amended by revising the clause date, paragraph (b) in the second sentence, and paragraph (c)(1) to read as follows:

252.225-7018 Notice of prohibition of certain contracts with foreign entities for the conduct of ballistic missile defense research, development, test, and evaluation.

* * * * *

NOTICE OF PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES FOR THE CONDUCT OF BALLISTIC MISSILE DEFENSE RESEARCH, DEVELOPMENT, TEST, AND EVALUATION (XXX 2004)

* * * * *

(b) * * * However, foreign governments and firms are encouraged to submit offers, since this provision is not intended to restrict access to unique foreign expertise if the contract will require a level of competency unavailable in the United States or its outlying areas.

(c) * * *

(1) The contract will be performed within the United States or its outlying areas;

* * * * *

41. Section 252.225-7019 is amended by revising the clause date and paragraph (a) to read as follows:

252.225-7019 Restriction on acquisition of anchor and mooring chain.

* * * * *

RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN (XXX 2004)

(a) Welded shipboard anchor and mooring chain, four inches or less in diameter, delivered under this contract—

(1) Shall be manufactured in the United States or its outlying areas, including cutting, heat treating, quality control, testing, and welding (both forging and shot blasting process); and

(2) The cost of the components manufactured in the United States or its outlying areas shall exceed 50 percent of the total cost of components.

* * * * *

42. Section 252.225-7021 is amended by revising the clause date and paragraph (a)(12) to read as follows:

252.225-7021 Trade agreements.

* * * * *

TRADE AGREEMENTS (XXX 2004)

(a) * * *

(12) *United States* means the 50 States, the District of Columbia, and outlying areas.

* * * * *

43. Section 252.225-7022 is amended by revising the clause date and paragraph (b) to read as follows:

252.225-7022 Restriction on acquisition of polyacrylonitrile (PAN) carbon fiber.

* * * * *

RESTRICTION ON ACQUISITION OF POLYACRYLONITRILE (PAN) CARBON FIBER (XXX 2004)

* * * * *

(b) PAN carbon fibers contained in the end product shall be manufactured in the United States, its outlying areas, or Canada using PAN precursor produced in the United States, its outlying areas, or Canada.

* * * * *

44. Section 252.225-7023 is amended by revising the clause date and paragraph (a) to read as follows:

252.225-7023 Restriction on acquisition of vessel propellers.

* * * * *

RESTRICTION ON ACQUISITION OF VESSEL PROPELLERS (XXX 2004)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall deliver under this contract, whether as end items or components of end items, vessel propellers—

(1) Manufactured in the United States, its outlying areas, or Canada; and

(2) For which all component castings were poured and finished in the United States, its outlying areas, or Canada.

* * * * *

45. Section 252.225-7025 is amended by revising the clause date and paragraph (a)(1) introductory text to read as follows:

252.225-7025 Restriction on acquisition of forgings.

* * * * *

RESTRICTION ON ACQUISITION OF FORGINGS (XXX 2004)

(a) * * *

(1) “Domestic manufacture” means manufactured in the United States, its outlying areas, or Canada if the Canadian firm—

* * * * *

46. Section 252.225-7031 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. By redesignating paragraph (a)(2) as paragraph (a)(3); and

c. By adding a new paragraph (a)(2) to read as follows:

252.225-7031 Secondary Arab boycott of Israel.

* * * * *

SECONDARY ARAB BOYCOTT OF ISRAEL (XXX 2004)

(a) * * *

(2) *United States* means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

* * * * *

47. Section 252.225-7036 is amended by revising the clause date and paragraph (a)(10) to read as follows:

252.225-7036 Buy American Act—Free Trade Agreements—Balance of Payments Program.

* * * * *

BUY AMERICAN ACT—FREE TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM (XXX 2004)

(a) * * *

(10) *United States* means the 50 States, the District of Columbia, and outlying areas.

* * * * *

48. Section 252.225-7037 is revised to read as follows:

252.225-7037 Evaluation of offers for air circuit breakers.

As prescribed in 225.7006-4(a), use the following provision:

EVALUATION OF OFFERS FOR AIR CIRCUIT BREAKERS (XXX 2004)

(a) The offeror shall specify, in its offer, any intent to furnish air circuit breakers that are not manufactured in the United States or its outlying areas, Canada, or the United Kingdom.

(b) The Contracting Officer will evaluate offers by adding a factor of 50 percent to the offered price of air circuit breakers that are not manufactured in the United States or its outlying areas, Canada, or the United Kingdom.

(End of provision)

49. Section 252.225-7038 is revised to read as follows:

252.225-7038 Restriction on acquisition of air circuit breakers.

As prescribed in 225.7006-4(b), use the following clause:

RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS (XXX 2004)

Unless otherwise specified in its offer, the Contractor shall deliver under this contract air circuit breakers manufactured in the United States or its outlying areas, Canada, or the United Kingdom.

(End of clause)

50. Section 252.225-7039 is revised to read as follows:

252.225-7039 Restriction on acquisition of totally enclosed lifeboat survival systems.

As prescribed in 225.7008-4, use the following clause:

RESTRICTION ON ACQUISITION OF TOTALLY ENCLOSED LIFEBOAT SURVIVAL SYSTEMS (XXX 2004)

The Contractor shall deliver under this contract totally enclosed lifeboat survival systems (consisting of the lifeboat and associated davits and winches), for which—

(a) 50 percent or more of the components have been manufactured in the United States or its outlying areas; and

(b) 50 percent or more of the labor in the manufacture and assembly of the entire system has been performed in the United States or its outlying areas.

(End of clause)

51. Section 252.225-7043 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. By redesignating paragraphs (a) through (c) as paragraphs (b) through (d) respectively; and

c. By adding a new paragraph (a) to read as follows:

252.225-7043 Antiterrorism/force protection policy for defense contractors outside the United States.

* * * * *

(a) *Definition. United States*, as used in this clause, means, the 50 States, the District of Columbia, and outlying areas.

* * * * *

52. Section 252.225-7044 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. In paragraph (a) by revising the definition of “United States” to read as follows:

252.225-7044 Balance of Payments Program—Construction Material.

* * * * *

(a) * * *

“United States” means the 50 States, the District of Columbia, and outlying areas.

* * * * *

53. Section 252.225-7045 is amended as follows:

a. By revising the clause date to read “(XXX 2004)”;

b. In paragraph (a) by revising the definition of “United States” to read as follows:

252.225-7045 Balance of Payments Program—Construction Material Under Trade Agreements.

* * * * *

(a) * * *

“United States” means the 50 States, the District of Columbia, and outlying areas.

* * * * *

54. Section 252.247-7025 is amended by revising the clause date and paragraph (b) introductory text to read as follows:

252.247-7025 Reflagging or repair work. REFLAGGING OR REPAIR WORK (XXX 2004)

* * * * *

(b) *Requirement.* Unless the Secretary of Defense waives this requirement, reflagging or repair work shall be performed in the United States or its outlying areas, if the reflagging or repair work is performed—

* * * * *

PART 253—FORMS

55. Section 253.204-70 is amended by revising paragraphs (b)(6)(iv)(A)(1) and (c)(4)(xiii) to read as follows:

253.204-70 DD Form 350, Individual Contracting Action Report.

* * * * *

(b) * * *

(6) * * *

(iv) * * *

(A) * * *

(1) For places in the United States and outlying areas, enter the numeric place code from FIPS PUB 55, Guideline: Codes for Named Populated Places, Primary County Divisions, and Other Locational Entities of the United States, Puerto Rico, and the Outlying Areas. Leave Line B6A blank for places outside the United States and outlying areas.

* * * * *

(c) * * *

(4) * * *

(xiii) LINE C13, FOREIGN TRADE DATA.

(A) LINE C13A, PLACE OF MANUFACTURE. Complete Line C13A only if the action is for a foreign end product or a service provided by a foreign concern under a DoD contract or a Federal schedule. Otherwise, leave Line C13A blank.

(1) *Code A—U.S.* Enter code A if the action is for—

(i) A foreign end product that is manufactured in the United States or its outlying areas but is still determined to be foreign because 50 percent or more of the cost of its components is not mined, produced, or manufactured inside the United States or its outlying areas or inside qualifying countries; or

(ii) Services performed in the United States or its outlying areas by a foreign concern.

(2) *Code B—Foreign.* Enter code B if the action is for—

(i) Any other foreign end product; or

(ii) Services performed outside the United States or its outlying areas by a foreign concern.

(B) LINE C13B, COUNTRY OF ORIGIN CODE.

(1) Complete Line C13B only if Line C13A is coded A or B. Otherwise, leave Line C13B blank.

(2) Enter the code from FIPS PUB 10, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions, that identifies the country where the foreign product is coming from or where the foreign company providing the services is located. If more than one foreign country is involved, enter the code of the foreign country with the largest dollar value of work under the contract.

* * * * *

56. Section 253.213-70 is amended by revising paragraph (a)(2) to read as follows:

253.213-70 Instructions for completion of DD Form 1155.

(a) * * *

(2) The contractor is located in the contiguous United States or Canada.

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Appendix F to Chapter 2—Material Inspection and Receiving Report F-104 [Amended]

57. Appendix F to Chapter 2 is amended in Part 1, Section F-104, as follows:

a. In paragraph (a)(5)(i) introductory text by removing "Continental United States" and adding in its place "Contiguous United States"; and

b. In paragraph (a)(5)(ii), in the first sentence, by removing "continental U.S." and adding in its place "contiguous United States".

[FR Doc. 04-24861 Filed 11-9-04; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2002-12845]

RIN 2127-AH71

Federal Motor Vehicle Safety Standards; Accelerator Control Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Withdrawal of rulemaking.

SUMMARY: In July 2002, NHTSA published an NPRM proposing to update Federal Motor Vehicle Safety Standard (FMVSS) No. 124, the agency's safety standard for vehicle accelerator

control systems, to make explicit its applicability to new types of engines and throttle controls, particularly electronic ones. The proposal included a number of new test procedures to address different types of powertrain technology. One of those test procedures involved measurement of engine speed under realistic powertrain load conditions on a chassis dynamometer. That procedure was "technology-neutral" and was included to allow testing of vehicles that could not readily be tested by one of the other procedures included in the proposal that were technology specific.

As discussed in this document, the agency is withdrawing the NPRM while it conducts further research on issues relating to chassis dynamometer-based test procedures for accelerator controls.

FOR FURTHER INFORMATION CONTACT: The following persons at the NHTSA, 400 7th Street, SW., Washington, DC 20590.

For non-legal issues, you may call Mr. Michael Pyne, Office of Crash Avoidance Standards (Telephone: 202-366-2720) (Fax: 202-366-7002).

For legal issues, you may call Ms. Dorothy Nakama, Office of Chief Counsel (Telephone: 202-366-2992) (Fax: 202-366-3820).

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 124, *Accelerator Control Systems*, provides for safe control of engine power by a vehicle's driver-operated accelerator. For vehicles that are operating with their accelerator controls intact, FMVSS No. 124 requires the rapid return of the throttle to the idle position (within one second for light vehicles and two seconds for heavy vehicles) when the accelerator pedal is released. For vehicles that experience disconnections in the linkage between their accelerator pedals and throttling devices, FMVSS No. 124 requires return to idle in an equally rapid fashion. By virtue of FMVSS No. 124's requirements, drivers are ensured that releasing the accelerator pedal will prevent the engine from continuing to power the drive wheels at a level greater than the idle level, even if the accelerator linkage breaks.

New engine control technology such as "throttle-by-wire" systems have significantly changed the nature of accelerator control functions and failure modes. Throttle linkages have become less common, and now "disconnections" or "severances" as referred to in the standard could just as easily involve electrical wires as they could rods, levers, and cables. In

interpretation letters, NHTSA has stated that electrical wires and connectors in an electronic system are analogous to mechanical components in a traditional system and are therefore covered by FMVSS No. 124. However, complexity in electronic accelerator control systems is much greater than in mechanical ones, especially in terms of the powertrain responses that can result from failures in such systems.

In order to update FMVSS No. 124, NHTSA published a Request for Comments in 1995 (60 FR 60261) and, after consideration of comments received, issued an NPRM in 2002 (67 FR 48117).

The agency proposed that the standard specify explicitly the components and types of disconnections and severances to be covered in electronic accelerator control systems. NHTSA also proposed that the standard include new test procedures to better address different types of powertrains. A manufacturer could choose any one of the test procedures as a basis for compliance, and a "universal" chassis dynamometer test was included as a last resort in cases where the other procedures were inapplicable.

In making the proposal, NHTSA sought not to expand the scope of the existing Standard, but to merely clarify the standard's applicability to accelerator control systems associated with various powertrains including gasoline engines, diesel engines, electric motors, and hybrids. The new procedures in the proposal were all premised on return to a "baseline" idle condition measured on a normally operating vehicle, analogous to return of a throttle plate to the idle position.

The proposal included three technology specific test procedures plus a "universal" test procedure. The first of the proposed technology specific test procedures was essentially the existing air throttle plate position test of the current Standard, normally applicable to conventional gasoline engines. The second test procedure was measurement of fuel flow rate, normally applicable to diesel engines. The third test procedure was measurement of input current to a drive motor, applicable to electric vehicles. The last procedure was measurement of drivetrain output via engine speed, conducted on a chassis dynamometer. This was considered a universal test because it could be applied to gasoline, diesel, or electric vehicles.

II. Reason for Withdrawal

In commenting on the NPRM and in subsequent comments, the Alliance of