

from the materials from which it was transformed.

\* \* \* \* \*

■ 12. Amend section 52.225–12 by revising the introductory text of Alternate II to read as follows:

**52.225–12 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.**

\* \* \* \* \*

*Alternate II* (“AUG 2007”). As prescribed in 25.1102(d)(3), add the definition of “Bahrainian or Mexican construction material” to paragraph (a) and substitute the following paragraph (d) for paragraph (d) of the basic provision:

\* \* \* \* \*

[FR Doc. 07–3799 Filed 8–16–07; 8:45 am]

BILLING CODE 6820–EP–S

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

**48 CFR Part 23**

[FAC 2005–19; FAR Case 2006–025; Item IX; Docket 2007–0001, Sequence 3]

RIN 9000–AK76

**Federal Acquisition Regulation; FAR  
Case 2006–025, Online  
Representations and Certifications  
Application Review**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

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

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to revise the prescription for use of clauses for the use of EPA-designated products and toxic chemical release reporting.

**DATES:** Effective Date: August 17, 2007.

*Comment Date:* Interested parties should submit written comments to the FAR Secretariat on or before October 16, 2007 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAC 2005–19, FAR case 2006–025, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper

document types and selecting “Federal Acquisition Regulation” as the agency of choice. At the “Keyword” prompt, type in the FAR case number (for example, FAR Case 2006–025) and click on the “Submit” button. Please include your name and company name (if any) inside the document.

You may also search for any document by clicking on the “Advanced search/document search” tab at the top of the screen, selecting from the agency field “Federal Acquisition Regulation”, and typing the FAR case number in the keyword field. Select the “Submit” button.

- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FAC 2005–19, FAR case 2006–025, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ernest Woodson, Procurement Analyst, at (202) 501–3775 for clarification of content. Please cite FAC 2005–19, FAR case 2006–025. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

FAR Subpart 4.12, Annual Representations and Certifications, prescribes policies and procedures for prospective offerors to submit annual representations via the Online Representations and Certifications Application (ORCA). ORCA, located at <http://orca.bpn.gov>, eliminates the administrative burden of submitting the same information to various contracting offices and establishes a common source for the Government to obtain the information. FAR 4.1201 requires prospective contractors to complete annual representations and certifications in ORCA (and update them as necessary, but at least annually) in conjunction with their required registration in the Central Contractor Registration (CCR) database.

FAR 4.1104 requires (with few exceptions as listed at FAR 4.1102) the use of FAR clause 52.204–7, Central Contractor Registration, which requires the contractor to register in CCR. FAR 4.1202 lists twenty-six representations and certifications that are included in

ORCA and are therefore not to be included in solicitations that include the clause at 52.204–7, Central Contractor Registration.

Of the twenty-six representations and certifications, the prescriptions for use of two associated clauses, (1) 52.223–9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products, and (2) 52.223–14, Toxic Chemical Release Reporting, were determined to be problematic. The prescriptions for use of the clauses were dependent upon the associated provisions at 52.223–4, Recovered Material Certification, and 52.223–13, Certification of Toxic Chemical Release Reporting, being included in the solicitation. In instances where CCR is required, the annual certification in ORCA applies, and therefore neither provision will be included in the solicitation. Therefore, when applicable to the resultant contract, the Government may fail to include the associated clause because the provision was not included in the solicitation. Failure to include the clause may preclude receipt of information or certification required by statute.

This interim rule amends FAR 23.406 and 23.906, both titled Solicitation provision and contract clause, to revise the prescriptions for the use of 52.223–9 and 52.223–14 to provide for use under the same circumstances as the prescription for use of their associated provisions. These revisions ensure compliance with the statutory requirements of 40 CFR part 247 and 42 U.S.C. 11023.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**B. Regulatory Flexibility Act**

The 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 the rule revises language that the Office of Management and Budget has already approved for obtaining representations and certifications under OMB Control Numbers 9000–0134 and 9000–0139 for compliance with Section 6002 of the Resource Conservation and Recovery Act and the requirements of Executive Order 12969, Emergency Planning and Community Right-to-Know Act of 1986. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities

concerning the affected FAR Part 23 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2005–19, FAR case 2006–025), in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0134 and 9000–0139.

### D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the rule amends the FAR to address necessary changes to the prescriptions for the use of FAR clauses, allowing the proper receipt of certification information and ensuring compliance with the statutory requirements of 40 CFR part 247 and 42 U.S.C. 11023. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

#### List of Subjects in 48 CFR Part 23

Government procurement.

Dated: July 30, 2007.

**Al Matera,**

*Acting Director, Contract Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 23 as set forth below:

#### PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 1. The authority citation for 48 CFR part 23 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 23.406 by revising the first sentence of paragraph (b) to read as follows:

#### 23.406 Solicitation provision and contract clause.

\* \* \* \* \*

(b) Insert the clause at 52.223–9, Estimate of Percentage of Recovered

Material Content for EPA-Designated Products, in solicitations and contracts exceeding \$100,000 that are for, or specify the use of, EPA-designated products containing recovered materials. \* \* \*

■ 3. Amend section 23.906 by revising paragraph (b) to read as follows:

#### 23.906 Solicitation provision and contract clause.

\* \* \* \* \*

(b) Insert the clause at 52.223–14, Toxic Chemical Release Reporting, in competitively awarded contracts exceeding \$100,000 and competitively awarded 8(a) contracts, except when the determination at 23.905(b) has been made.

[FR Doc. 07–3800 Filed 8–16–07; 8:45 am]

**BILLING CODE 6820–EP–S**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 25 and 52

[FAC 2005–19; FAR Case 2006–006; Item X; Docket 2006–0020; Sequence 7]

RIN 9000–AK49

#### Federal Acquisition Regulation; FAR Case 2006–006, Free Trade Agreements—El Salvador, Honduras, and Nicaragua

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to adopt the interim rule published in the **Federal Register** at 71 FR 36935, June 28, 2006, as a final rule without change. This final rule amends the Federal Acquisition Regulation (FAR) to implement the Dominican Republic—Central America—United States Free Trade Agreement with respect to El Salvador, Honduras, and Nicaragua.

**DATES:** *Effective Date:* August 17, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith Murphy, Procurement Analyst, at (202) 208–6925 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–19, FAR case 2006–006.

## SUPPLEMENTARY INFORMATION:

### A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 71 FR 36935 on June 28, 2006, to implement the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA-DR) with respect to El Salvador, Honduras, and Nicaragua (Public Law 109–53). No comments were received by the close of the public comment period on August 28, 2006. Therefore, the Councils agreed to convert the interim rule to a final rule without change.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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.* Although the rule opens up Government procurement to the products of El Salvador, Honduras, and Nicaragua, the Councils do not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set-aside for small businesses are exempt.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0139, 9000–0025, and 9000–0141.

#### List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: July 30, 2007

**Al Matera,**

*Acting Director, Contract Policy Division.*

#### Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 25 and 52, which was published at 71 FR 36935,