

**252.237-7008 [Amended]**

- Amend section 252.237-7008 introductory text by removing “237.7003(b)” and adding “237.7003(a) and (a)(6)” in its place.

**252.237-7009 [Amended]**

- Amend section 252.237-7009 introductory text by removing “237.7003(b)” and adding “237.7003(a) and (a)(7)” in its place.

**252.237-7011 [Amended]**

- Amend section 252.237-7011 introductory text by removing “237.7003(b)” and adding “237.7003(a) and (a)(8)” in its place.

[FR Doc. 2019-19563 Filed 9-12-19; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 247 and 252

[Docket DARS-2019-0053]

RIN 0750-AK62

### Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause “Returnable Containers Other Than Cylinders” (DFARS Case 2019-D025)

**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 remove a clause that is no longer necessary.

**DATES:** Effective September 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571-372-6093.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DFARS clause 252.249-7021, Returnable Containers Other Than Cylinders, is included in solicitations and contracts for supplies involving contractor-furnished reels, spools, or other returnable containers (other than cylinders) when the contractor will retain title to the containers. The clause was implemented to standardize the processes and procedures included in DoD contracts regarding the use and return of shipping containers. The clause identifies the rates and fees the Government will pay to use the

containers, and the terms and conditions on the loss or damage of the containers during use by DoD.

Upon review, DoD found that this clause is no longer used in transportation contracts and very rarely used in other DoD contracts. Instead, the processes and procedures addressing the use, return, reimbursement, loss, and damage of returnable shipping containers are included in a performance work statement, when necessary. As these specifications are rarely needed and can be negotiated and incorporated into a contract’s performance work statement, this DFARS clause is no longer necessary and can be removed.

The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, “Enforcing the Regulatory Reform Agenda,” which established a Federal policy “to alleviate unnecessary regulatory burdens” on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this clause. The DoD Task Force reviewed the requirements of DFARS clause 252.247-7021, and determined that the DFARS coverage was unnecessary and recommended removal.

##### II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only removes obsolete DFARS clause 252.247-7021, Returnable Containers Other Than Cylinders. The rule does not impose any new requirements on contracts at or below the simplified acquisition threshold or for commercial items, including commercially available off-the-shelf items.

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

The statute that applies to the publication of the Federal Acquisition Regulation is Office of Federal Procurement Policy statute (codified at title 41 of the United States Code).

Specifically, 41 U.S.C. 1707(a)(1) 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 DoD is not issuing a new regulation; rather, this rule is merely removing an obsolete clause from the DFARS.

## IV. Executive Orders 12866 and 13563

E.O.s 12866 and E.O. 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, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## V. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

## VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

## VII. Paperwork Reduction Act

The 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 247 and 252**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 247 and 252 are amended as follows:

- 1. The authority citation for 48 CFR parts 247 and 252 continues to read as follows:

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

**PART 247—TRANSPORTATION****247.305–70 [Removed]**

- 2. Remove section 247.305–70.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****252.247–7021 [Removed and Reserved]**

- 3. Remove and reserve section 252.247–7021.

[FR Doc. 2019–19564 Filed 9–12–19; 8:45 am]

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Parts 209, 212, 213, and 252**

[Docket DARS–2019–0035]

RIN 0750–AK70

**Defense Federal Acquisition Regulation Supplement: Update to Performance Information System References (DFARS Case 2019–D033)**

**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 implement changes regarding the discontinued use of the Past Performance Information Retrieval System and update all associated references in the DFARS.

**DATES:** Effective September 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kimberly Bass, telephone 571–372–6174.

**SUPPLEMENTARY INFORMATION:****I. Background**

DoD is issuing a final rule to amend the DFARS to update references to the

Past Performance Information Retrieval System (PPIRS) for past performance information and replace with Contractor Performance Assessment Reporting System (CPARS) to implement changes following the official retirement of PPIRS and subsequent merger with the CPARS effective January 15, 2019.

This rule also amends the DFARS to replace references to “Past Performance Information Retrieval System–Statistical Reporting” with “Supplier Performance Risk System” and update the associated web addresses.

**II. Discussion and Analysis**

This final rule removes two references to PPIRS at DFARS 209.105–1(2) and replaces the references with CPARS and the Federal Awardee Performance and Integrity Information System (FAPIIS) module of CPARS.

In addition, in the title of DFARS provision 252.213–7000, “Past Performance Information Retrieval System–Statistical Reporting” is replaced with “Supplier Performance Risk System.” Conforming changes are also made to the title of the provision at DFARS 213.301(f)(v) and the obsolete PPIRS web addresses at DFARS 213.106–2(b)(i)(A), 213.106–2–70, and 252.213–7000(a) and (d).

**III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items**

This rule does not impact or create any new provisions or clauses, and only makes technical corrections to the title of an existing provision and web addresses contained within the provision. The rule does not impose any new requirements on contracts at or below the simplified acquisition threshold or for commercial items, including commercially available off-the-shelf items.

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

The statute that applies to the publication of the Federal Acquisition Regulation is 41 U.S.C. 1707 entitled “Publication of Proposed Regulations.” Paragraph (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 the rule merely updates cross-references and makes technical corrections to address the system merger of PPIRS and CPARS, effective January 15, 2019.

**V. Executive Order 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, or reducing costs, or 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, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**VI. Executive Order 13771**

This rule is not an E.O. 13771 regulatory action, because this rule is not significant under E.O. 12866.

**VII. Regulatory Flexibility Act**

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section IV. of this preamble), the analytical requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

**VIII. Paperwork Reduction Act**

The 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 209, 212, 213, and 252**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 209, 212, 213, and 252 are amended as follows:

- 1. The authority citation for 48 CFR parts 209, 212, 213, and 252 continues to read as follows: