

to receive correctly by ear texts in the international Morse code at not less than the prescribed speed, using all the letters of the alphabet, numerals 0–9, period, comma, question mark, slant mark, and prosigns AR, BT, and SK. Element 1: 5 words per minute

(b) A written examination must be such as to prove that the examinee possesses the operational and technical qualifications required to perform properly the duties of an amateur service licensee. Each written examination must be comprised of a question set as follows:

(1) Element 2: 35 questions concerning the privileges of a Technician Class operator license. The minimum passing score is 26 questions answered correctly.

(2) Element 3: 35 questions concerning the privileges of a General Class operator license. The minimum passing score is 26 questions answered correctly.

(3) Element 4: 50 questions concerning the privileges of an Amateur Extra Class operator license. The minimum passing score is 37 questions answered correctly.

12. Section 97.505 is amended by revising paragraph (a) to read as follows:

**§ 97.505 Element credit.**

(a) The administering VEs must give credit as specified below to an examinee holding any of the following license grants or license documents:

(1) An unexpired (or expired but within the grace period for renewal) FCC-granted Advanced Class operator license grant: Elements 1, 2, and 3.

(2) An unexpired (or expired but within the grace period for renewal) FCC-granted General Class operator license grant: Elements 1, 2, and 3.

(3) An unexpired (or expired but within the grace period for renewal) FCC-granted Technician Plus Class operator (including a Technician Class operator license granted before February 14, 1991) license grant: Elements 1 and 2.

(4) An unexpired (or expired but within the grace period for renewal) FCC-granted Technician Class operator license grant: Element 2.

(5) An expired or unexpired FCC-granted Novice Class operator license grant: Element 1.

(6) A CSCE: Each element the CSCE indicates the examinee passed within the previous 365 days.

(7) An unexpired (or expired less than 5 years) FCC-issued commercial radiotelegraph operator license or permit: Element 1.

(8) An expired FCC-issued Technician Class operator license document granted before March 21, 1987: Element 3.

(9) An expired or unexpired FCC-issued Technician Class operator license document granted before February 14, 1991: Element 1.

\* \* \* \* \*

13. Section 97.507 is amended by revising paragraph (a) to read as follows:

**§ 97.507 Preparing an examination.**

(a) Each telegraphy message and each written question set administered to an examinee must be prepared by a VE holding an Amateur Extra Class operator license. A telegraphy message or written question set may also be prepared for the following elements by a VE holding an operator license of the class indicated:

(1) Element 3: Advanced Class operator.

(2) Elements 1 and 2: Advanced, General, or Technician (including Technician Plus) Class operators.

\* \* \* \* \*

14. Section 97.509 amended by revising paragraphs (a) and (b)(3) to read as follows:

**§ 97.509 Administering VE requirements.**

(a) Each examination for an amateur operator license must be administered by a team of at least 3 VEs at an examination session coordinated by a VEC. Before the session, the administering VEs or the VE session manager must ensure that a public announcement is made giving the location and time of the session. The number of examinees at the session may be limited.

(b) \* \* \*

(3) Be a person who holds an amateur operator license of the class specified below:

(i) Amateur Extra, Advanced or General Class in order to administer a Technician Class operator license examination;

(ii) Amateur Extra or Advanced Class in order to administer a General Class operator license examination;

(iii) Amateur Extra Class in order to administer an Amateur Extra Class operator license examination.

\* \* \* \* \*

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**DEPARTMENT OF DEFENSE**

**48 CFR Parts 201 and 225**

[DFARS Case 99-D027]

**Defense Federal Acquisition Regulation Supplement; Delegation of Class Deviation Authority**

AGENCY: Department of Defense (DOD).

ACTION: Final rule.

**SUMMARY:** The Acting Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to authorize the senior procurement executives for the Army, Navy, and Air Force, and the Directors of the Defense Commissary Agency and the Defense Logistics Agency, to approve certain class deviations from the Federal Acquisition Regulation (FAR) and the DFARS.

**EFFECTIVE DATE:** February 10, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathleen Fenk, Defense Acquisition Regulations Council, PDUSD(AT&L)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0296; telefax (703) 602-0350. Please cite DFARS Case 99-D027.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule amends DFARS Parts 201 and 225 to authorize the senior procurement executives for the Army, Navy, and Air Force, and the Directors of the Defense Commissary Agency and the Defense Logistics Agency, to approve certain class deviations from the FAR and the DFARS. The rule also contains amendments to reflect the title change of the "Under Secretary of Defense for Acquisition and Technology" to the "Under Secretary of Defense for Acquisition, Technology, and Logistics."

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 final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577 and 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 comment should cite DFARS Case 99-D027.

**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 201 and 225**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR parts 201 and 225 are amended as follows:

1. The authority citation for 48 CFR Parts 201 and 225 continues to read as follows:

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

**PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM**

2. Section 201.201-1 is amended in paragraph (d)(i) introductory text by removing the parenthetical "(A&T)" and adding in its place "(AT&L)", and by revising paragraph (d)(i)V. to read as follows:

**201.201-1 The two councils.**

\* \* \* \* \*

(d)(i) \* \* \*

V. Deviations: If a recommended revision of DFARS is a FAR deviation, identify the deviation and include under separate TAB a justification for the deviation that addresses the requirements of 201.402(2). The justification should be in the form of a memorandum for the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics).

\* \* \* \* \*

**201.301 [Amended]**

3. Section 201.301 is amended in paragraph (b) by removing "USD (A&T)" and adding in its place "Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD (AT&L))".

4. Section 201.304 is amended as follows:

a. In paragraph (1)(i) introductory text by removing "Under Secretary of Defense (Acquisition and Technology) (USD (A&T))"; and adding in its place "USD (AT&L)";

b. In paragraph (1)(ii) by removing the parenthetical "(A&T)" both places it appears and adding in its place "(AT&L)";

c. In paragraph (2)(ii) by removing the parenthetical "(A&T)" and adding in its place "(AT&L)"; and

d. By revising paragraphs (3) through (5) to read as follows:

**201.304 Agency control and compliance procedures.**

\* \* \* \* \*

(3) Contracting activities must obtain the appropriate approval (see 201.404) for any class deviation (as defined in FAR subpart 1.4) from the FAR or DFARS, before its inclusion in a department/agency or component supplement or any other contracting regulation document such as a policy letter or clause book.

(4) Each department and agency must develop and, upon approval by USD(AT&L)DP, implement, maintain, and comply with a plan for controlling the use of clauses other than those prescribed by FAR or DFARS.

(5) Departments and agencies must submit requests for the Secretary of Defense, USD(AT&L), and USD(AT&L)DP approvals required by this section through the Director of the DAR Council.

\* \* \* \* \*

5. Section 201.402 is amended by revising paragraph (1); removing paragraph (2); redesignating paragraph (3) as paragraph (2); and revising newly designated paragraph (2) introductory text to read as follows:

**201.402 Policy.**

(1) The Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)DP), is the approval authority within DoD for any individual or class deviation from—

(i) FAR 3.104, Procurement Integrity, or DFARS 203.104, Procurement Integrity;

(ii) FAR Subpart 27.4, Rights in Data and Copyrights, or DFARS Subpart 227.4, Rights in Data and Copyrights;

(iii) FAR part 30, Cost Accounting Standards Administration, or DFARS part 230, Cost Accounting Standards Administration;

(iv) FAR subpart 31.1, Applicability, or DFARS subpart 231.1, Applicability (contract cost principles);

(v) FAR subpart 31.2, Contracts with Commercial Organizations, or DFARS subpart 231.2, Contracts with Commercial Organizations; or

(vi) FAR part 32, Contract Financing (except subparts 32.7 and 32.8 and the payment clauses prescribed by subpart 32.1), or DFARS part 232, Contract Financing (except subparts 232.7 and 232.8).

(2) Submit requests for deviation approval through department/agency channels to the approval authority in paragraph (1) of this section, 201.403, or 201.404, as appropriate. Submit deviations that require USD(AT&L)DP approval through the Director of the DAR Council. At a minimum, each request must—

\* \* \* \* \*

6. Sections 201.403 and 201.404 are revised to read as follows:

**201.403 Individual deviations.**

(1) Individual deviations, except those described in 201.402(1) and paragraph (2) of this section, must be approved in accordance with the department/agency plan prescribed by 201.304(4).

(2) Contracting officers outside the United States may deviate from prescribed nonstatutory FAR and DFARS clauses when—

(i) Contracting for support services, supplies, or construction, with the governments of North Atlantic Treaty Organization (NATO) countries or other allies (as described in 10 U.S.C. 2341(2)), or with United Nations or NATO organizations; and

(ii) Such governments or organizations will not agree to the standard clauses.

**201.404 Class deviations.**

(b)(i) Except as provided in paragraph (b)(ii) of this section, USD(AT&L)DP is the approval authority within DoD for any class deviation.

(ii) The senior procurement executives for the Army, Navy, and Air Force, and the Directors of the Defense Commissary Agency and the Defense Logistics Agency, may approve any class deviation, other than those described in 201.402(1), that does not—

(A) Have a significant effect beyond the internal operating procedures of the department or agency;

(B) Have a significant cost or administrative impact on contractors or offerors;

(C) Diminish any preference given small business concerns by the FAR or DFARS; or

(D) Extend to requirements imposed by statute or by regulations of other agencies such as the Small Business Administration and the Department of Labor.

**PART 225—FOREIGN ACQUISITION**

**225.970 [Amended]**

7. Section 225.970 is amended by removing "201.402(2)" and adding in its place "201.403(2)".

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