

petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 10, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

■ 2. Section 52.220 is amended by redesignating paragraph (c)(347) (as added on August 1, 2007 at 73 FR 41894), as paragraph (c)(348) and by revising newly designated paragraph (c)(348) introductory text to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(348) New and amended rules for the following APCDs were submitted on December 29, 2006, by the Governor's designee.

* * * * *

[FR Doc. E7–16699 Filed 8–27–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 215, 247, and 252

RIN 0750–AF75

Defense Federal Acquisition Regulation Supplement; Carriage Vessel Overhaul, Repair, and Maintenance (DFARS Case 2007–D001)

AGENCY: Defense Acquisition Regulations System, 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 1017 of the National Defense Authorization Act for Fiscal Year 2007. Section 1017 requires DoD to establish an evaluation criterion, for use in obtaining carriage of cargo by vessel, that considers the extent to which an offeror has had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam.

DATES: *Effective date:* August 28, 2007.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before October 29, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2007–D001, using any of the following methods:

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

- *E-mail:* dfars@osd.mil. Include DFARS Case 2007–D001 in the subject line of the message.

- *Fax:* (703) 602–7887.

- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

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

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, (703) 602–0302.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364). Section 1017 requires DoD to issue an acquisition policy that establishes, as a criterion required to be considered in obtaining carriage of cargo by vessel for DoD, the extent to which an offeror of such carriage has had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam. Section 1017 defines “covered vessel” as one that is (1) Owned, operated, or controlled by the offeror, and (2) qualified to engage in the carriage of cargo in the coastwise or noncontiguous trade under Section 27 of the Merchant Marine Act (46 U.S.C. 883); 46 U.S.C. 12106; and Section 2 of the Shipping Act (46 U.S.C. App. 802). Section 1017 also requires DoD to submit an annual report to the congressional defense committees regarding overhaul, repair, and maintenance performed on covered vessels of each offeror of carriage to which the acquisition policy applies. The interim rule contains a solicitation provision and corresponding prescriptive language to address the statutory requirements. The solicitation provision includes a definition of “overhaul, repair, and maintenance work” consistent with the definition in Commander Military Sealift Command Instruction 4700.14B; and a definition of “shipyards” consistent with the definition applicable to NAICS Code 336611, Ship Building and Repairing.

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 has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The objective of the rule is to maintain a strong national ship repair industrial base. Therefore, the rule contains an evaluation preference for use in DoD solicitations for carriage of cargo by vessel, to apply to those entities that use domestic shipyards for vessel overhaul, repair, and maintenance. The requirements of the rule will apply to entities interested in receiving DoD contracts for carriage of cargo by vessel. An evaluation preference will be given to offerors of carriage who use domestic shipyards for vessel overhaul, repair, and

maintenance work. This is expected to have a positive effect on entities owning domestic shipyards, by encouraging the use of those shipyards.

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 2007–D001.

C. Paperwork Reduction Act

This interim rule contains a new information collection requirement. The Office of Management and Budget (OMB) has approved the information collection requirement for use through February 29, 2008, under OMB Control Number 0704–0445, in accordance with the emergency processing procedures of 5 CFR 1320.13. DoD invites comments on the following aspects of the interim rule: (a) Whether the collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The following is a summary of the information collection requirement.

Title: Defense Federal Acquisition Regulation Supplement (DFARS); Subpart 247.5, Carriage Vessel Overhaul, Repair, and Maintenance.

Type of Request: New collection.

Number of Respondents: 15.

Responses Per Respondent: 1.

Annual Responses: 15.

Average Burden Per Response: 1.5 hours.

Annual Burden Hours: 22.5.

Needs and Uses: DoD needs this information to implement Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364). Section 1017 requires DoD to (1) Issue an acquisition policy establishing an evaluation criterion, for use in obtaining carriage of cargo by vessel, that considers the extent to which an offeror has had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam; and (2) submit an annual report to the congressional defense committees regarding overhaul, repair, and maintenance performed on covered

vessels of each offeror to which the acquisition policy applies.

Affected Public: Businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Written comments and recommendations on the proposed information collection should be sent to Ms. Hillary Fielden at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364). Section 1017 requires DoD to issue an acquisition policy that establishes an evaluation criterion, for use in obtaining carriage of cargo by vessel, that considers the extent to which an offeror of such carriage has had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam. In addition, Section 1017 requires DoD to submit an annual report to the congressional defense committees regarding overhaul, repair, and maintenance performed on covered vessels of each offeror to which the acquisition policy applies. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 212, 215, 247, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 212, 215, 247, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 215, 247, and 252 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Section 212.301 is amended by adding paragraph (f)(xiii) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

(xiii) Use the provision at 252.247–7026, Evaluation Preference for Use of Domestic Shipyards—Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade, as prescribed in 247.574(e).

■ 3. Section 212.602 is amended by revising paragraph (b)(iii) to read as follows:

212.602 Streamlined evaluation of offers.

(b) * * *

(iii) For the direct purchase of ocean transportation services, also evaluate offers in accordance with the criteria at 247.573–2(c).

PART 215—CONTRACTING BY NEGOTIATION

■ 4. Section 215.304 is amended by adding paragraph (c)(iii) to read as follows:

215.304 Evaluation factors and significant subfactors.

(c) * * *

(iii) See 247.573–2(c) for additional evaluation factors required in solicitations for the direct purchase of ocean transportation services.

PART 247—TRANSPORTATION

■ 5. Section 247.570 is amended by revising paragraph (a) to read as follows:

247.570 Scope.

* * * * *

(a) Implements—

(1) The Cargo Preference Act of 1904 (“the 1904 Act”), 10 U.S.C. 2631, which applies to the ocean transportation of

cargo owned by, or destined for use by, DoD; and

(2) Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364), which requires consideration of the extent to which offerors have had overhaul, repair, and maintenance work performed in shipyards located in the United States or Guam;

* * * * *

247.571, 247.572-1, 247.572-2, and 247.573
[Redesignated as 247.572, 247.573-1, 247.573-2, and 247.574]

■ 6. Sections 247.571, 247.572-1, 247.572-2, and 247.573 are redesignated as sections 247.572, 247.573-1, 247.573-2, and 247.574, respectively.

■ 7. A new section 247.571 is added to read as follows:

247.571 Definitions.

Covered vessel, overhaul, repair, and maintenance work, and shipyards, as used in this subpart, have the meaning given in the provision at 252.247-7026, Evaluation Preference for Use of Domestic Shipyards—Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade.

■ 8. Newly designated section 247.572 is amended by revising paragraphs (a)(1) through (3) and adding paragraph (d) to read as follows:

247.572 Policy.

(a) * * *

(1) Those vessels are not available, and the procedures at 247.573-1(c)(1) or 247.573-2(d)(1) are followed;

(2) The proposed charges to the Government are higher than charges to private persons for the transportation of like goods, and the procedures at 247.573-1(c)(2) or 247.573-2(d)(2) are followed; or

(3) The Secretary of the Navy or the Secretary of the Army determines that the proposed freight charges are excessive or unreasonable in accordance with 247.573-1(c)(3) or 247.573-2(d)(3).

* * * * *

(d) In accordance with Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364)—

(1) When obtaining carriage by vessel, DoD must consider the extent to which offerors have had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam; and

(2) DoD must submit an annual report to the congressional defense committees, addressing the information provided by offerors with regard to

overhaul, repair, and maintenance for covered vessels performed in the United States or Guam.

■ 9. Section 247.573 is added to read as follows:

247.573 Procedures.

■ 10. Newly designated section 247.573-2 is amended as follows:

■ a. By revising paragraph (c); and

■ b. In paragraph (d)(3)(i) introductory text and paragraph (d)(3)(i)(C), by removing “247.572” and adding in its place “247.573”.

The revised text reads as follows:

247.573-2 Direct purchase of ocean transportation services.

* * * * *

(c) All solicitations within the scope of this subsection must provide—

(1) A preference for U.S.-flag vessels in accordance with the 1904 Act;

(2) An evaluation factor or subfactor for offeror participation in the Voluntary Intermodal Sealift Agreement; and

(3) An evaluation factor or subfactor considering the extent to which offerors have had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam.

* * * * *

■ 11. Section 247.573-3 is added to read as follows:

247.573-3 Annual reporting requirement.

(a) No later than February 15th of each year, departments and agencies shall—

(1) Prepare a report containing all information received from offerors in response to the provision at 252.247-7026 during the previous calendar year; and

(2) Submit the report to: Directorate of Acquisition, U.S. Transportation Command, ATTN: TCAQ, 508 Scott Drive, Scott AFB, IL 62225-5357.

(b) The Director of Acquisition, U.S. Transportation Command, will submit a consolidated report to the congressional defense committees in accordance with Section 1017 of Public Law 109-364.

■ 12. Newly designated section 247.574 is amended as follows:

■ a. By revising the section heading;

■ b. In paragraph (d), by removing “247.571” and adding in its place “247.572”; and

■ c. By adding paragraph (e) to read as follows:

247.574 Solicitation provisions and contract clauses.

* * * * *

(e) Use the provision at 252.247-7026, Evaluation Preference for Use of Domestic Shipyards—Applicable to

Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade, in solicitations for carriage of cargo by vessel for DoD. See 247.573-3 for reporting of the information received from offerors in response to the provision.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.247-7022 [Amended]

■ 13. Section 252.247-7022 is amended in the introductory text by removing “247.573” and adding in its place “247.574”.

252.247-7023 [Amended]

■ 14. Section 252.247-7023 is amended in the introductory text, and in the introductory text of Alternates I, II, and III, by removing “247.573” and adding in its place “247.574”.

252.247-7024 [Amended]

■ 15. Section 252.247-7024 is amended in the introductory text by removing “247.573” and adding in its place “247.574”.

252.247-7025 [Amended]

■ 16. Section 252.247-7025 is amended in the introductory text by removing “247.573” and adding in its place “247.574”.

■ 17. Section 252.247-7026 is added to read as follows:

252.247-7026 Evaluation Preference for Use of Domestic Shipyards—Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade.

As prescribed in 247.574(e), use the following provision:

Evaluation Preference For Use of Domestic Shipyards—Applicable To Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade (Aug 2007)

(a) *Definitions.* As used in this provision—

Covered vessel means a vessel—

(1) Owned, operated, or controlled by the offeror; and

(2) Qualified to engage in the carriage of cargo in the coastwise or noncontiguous trade under Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), commonly referred to as “Jones Act”; 46 U.S.C. 12106; and Section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802).

Overhaul, repair, and maintenance work means work requiring a pierside shipyard period greater than or equal to 15 calendar days.

Shipyards means fixed facilities with drydocks and fabrication equipment capable of building a ship, defined as watercraft typically suitable or intended for other than personal or recreational use.

(b) This solicitation includes an evaluation factor that considers the extent to which the offeror has had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam.

(c) The offeror shall provide the following information with its offer, addressing all covered vessels for which overhaul, repair, and maintenance work has been performed during the period covering the current calendar year, up to the date of proposal submission, and the preceding four calendar years:

(1) Name of vessel.

(2) Description of qualifying shipyard work performed.

(3) Name of shipyard that performed the work.

(4) Inclusive dates of work performed.

(5) Cost of work performed.

(d) Offerors are responsible for submitting accurate information. The Contracting Officer—

(1) Will use the information to evaluate offers in accordance with the criteria specified in the solicitation; and

(2) Reserves the right to request supporting documentation if determined necessary in the proposal evaluation process.

(e) The Department of Defense will provide the information submitted in response to this provision to the congressional defense committees, as required by Section 1017 of Public Law 109-364.

(End of provision)

[FR Doc. E7-17037 Filed 8-27-07; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2007-29083]

Federal Motor Vehicle Safety Standards; Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; technical amendments; response to petitions for reconsideration.

SUMMARY: In June 2003, NHTSA published a final rule establishing

upgraded tire performance requirements for new tires for use on vehicles with a gross vehicle weight rating of 10,000 pounds or less. In January 2006, NHTSA published a final rule; response to petitions for reconsideration, which modified certain performance requirements to better address snow tires and certain specialty tires. This document responds to a petition for reconsideration of the January 2006 rule. After carefully considering the issues raised, the agency is denying the petition. We are also making a number of technical corrections in several tire-related Federal safety standards.

DATES: The amendments in this rule are effective September 1, 2007. Voluntary compliance is permitted before that date. If you wish to submit a petition for reconsideration of this rule, your petition must be received October 12, 2007

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, 4th Floor, Washington, DC 20590. Please see the Privacy Act heading under Regulatory Notices.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues, contact George Soodoo, Office of Crash Avoidance Standards, by telephone at (202) 366-2720, or by fax at (202) 366-4329.

For legal issues, contact Rebecca Schade, Office of the Chief Counsel, by telephone at (202) 366-2992, or by fax at (202) 366-3820.

Both persons may be reached by mail at the following address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Summary of Final Rule; Technical Amendments; Response to Petition for Reconsideration
- II. Background
- III. Petition for Reconsideration
- IV. Discussion and Analysis
- V. Technical Corrections to the Regulatory Text
- VI. Effective Date
- VII. Rulemaking Notices and Analyses
- VIII. Regulatory Text

I. Summary of Final Rule; Technical Amendments; Response to Petition for Reconsideration

This final rule makes several technical corrections and amendments to the regulatory text of Federal Motor Vehicle Safety Standard (FMVSS) Nos.

109, 110, 119, and 139, all of which are tire-related standards. This final rule also denies a petition by Advocates for Highway and Auto Safety (Advocates) for reconsideration of the January 2006 final rule; response to petitions for reconsideration, regarding the agency's requirements with respect to the endurance test for snow tires.

II. Background

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Section 10, "Endurance and resistance standards for tires," required NHTSA to revise and update FMVSS No. 109, *New pneumatic tires*, and FMVSS No. 119, *New pneumatic tires for vehicles other than passenger cars*.¹ In response to this mandate, NHTSA published a final rule on June 26, 2003, establishing FMVSS No. 139, *New pneumatic radial tires for light vehicles*, which will apply to new tires used on light vehicles; *i.e.*, vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, except motorcycles and low speed vehicles.²

The new standard is scheduled to become effective on September 1, 2007. It features substantially more stringent high speed and endurance tests, and a new low-pressure performance test. The purpose of the new and more stringent requirements is to improve the ability of tires to withstand the effects of tire heat build-up and severe under-inflation during highway travel in fully loaded conditions. Unlike the existing tire safety standards, which previously differentiated between light trucks and passenger cars,³ FMVSS No. 139 applies to tires used on both.

In a January 2006 final rule; response to petitions for reconsideration,⁴ the agency reduced the test speed for the tire endurance and low-inflation pressure performance tests in FMVSS No. 139, paragraphs S6.3.1.2.3 and S6.4.1.2.1, from 120 km/h (75 mph) to 110 km/h (68 mph) for all passenger car snow tires and light truck snow tires with load ranges of C, D, and E. The other test parameters—inflation pressure, duration, load, and ambient temperature—remained unchanged.

For snow tires, the endurance test is a 34-hour test conducted at a speed of 110 km/h (68 mph) with a tire inflation

¹ Pub. L. 106-414, November 1, 2000, 114 Stat. 1800.

² 68 FR 38115 (June 26, 2003); Docket No. NHTSA-2003-15400.

³ Historically, FMVSS No. 109 applied to tires for passenger cars, and FMVSS No. 119 applied to tires for use on all other vehicles, including light trucks.

⁴ 71 FR 877 (Jan. 6, 2006); Docket No. NHTSA-2005-23439.