

(c) Follow the procedures at PGI 236.201(c) for distribution and use of performance reports.

■ 4. Section 236.203 is revised to read as follows:

236.203 Government estimate of construction costs.

Follow the procedures at PGI 236.203 for handling the Government estimate of construction costs.

■ 5. Section 236.213 is revised to read as follows:

236.213 Special procedures for sealed bidding in construction contracting.

If it appears that sufficient funds may not be available for all the desired construction features, consider using a bid schedule with additive or deductive items in accordance with PGI 236.213.

236.213–70 and 236.273 [Removed]

■ 6. Sections 236.213–70 and 236.273 are removed.

236.274 [Redesignated]

■ 7. Section 236.274 is redesignated as section 236.273.

■ 8. Newly designated section 236.273 is amended by revising paragraph (b) to read as follows:

236.273 Construction in foreign countries.

* * * * *

(b) See PGI 236.273(b) for guidance on technical working agreements with foreign governments.

[FR Doc. 06–1631 Filed 2–22–06; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 242

[DFARS Case 2003–D050]

Defense Federal Acquisition Regulation Supplement; Contractor Insurance/Pension Reviews

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to Government review of contractor insurance programs, pension plans, and other deferred compensation plans. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: *Effective Date:* February 23, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Overstreet, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0310; facsimile (703) 602–0350. Please cite DFARS Case 2003–D050.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm>.

This final rule is a result of the DFARS Transformation initiative. The DFARS changes—

- Update and clarify requirements and responsibilities for Government review of a contractor's insurance programs, pension plans, and other deferred compensation plans; and
- Delete text addressing procedural matters relating to these reviews. This text has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

DoD published a proposed rule at 70 FR 35606 on June 21, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 certifies 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.*, because contractor insurance/pension review requirements apply primarily to large business concerns.

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 Part 242

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 242 is amended as follows:

■ 1. The authority citation for 48 CFR part 242 continues to read as follows:

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

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

242.7300 [Removed]

■ 2. Section 242.7300 is removed.

■ 3. Sections 242.7301 through 242.7303 are revised to read as follows:

242.7301 General.

(a) The administrative contracting officer (ACO) is responsible for determining the allowability of insurance/pension costs in Government contracts and for determining the need for a Contractor/Insurance Pension Review (CIPR). Defense Contract Management Agency (DCMA) insurance/pension specialists and Defense Contract Audit Agency (DCAA) auditors assist ACOs in making these determinations, conduct CIPRs when needed, and perform other routine audits as authorized under FAR 42.705 and 52.215–2. A CIPR is a DCMA/DCAA joint review that—

(1) Provides an in-depth evaluation of a contractor's—

- (i) Insurance programs;
- (ii) Pension plans;
- (iii) Other deferred compensation plans; and

(iv) Related policies, procedures, practices, and costs; or

(2) Concentrates on specific areas of the contractor's insurance programs, pension plans, or other deferred compensation plans.

(b) DCMA is the DoD Executive Agency for the performance of all CIPRs.

(c) DCAA is the DoD agency designated for the performance of contract audit responsibilities related to Cost Accounting Standards administration as described in FAR Subparts 30.2 and 30.6 as they relate to a contractor's insurance programs,

pension plans, and other deferred compensation plans.

242.7302 Requirements.

Follow the procedures at PGI 242.7302 to determine if a CIPR is needed.

242.7303 Responsibilities.

Follow the procedures at PGI 242.7303 when conducting a CIPR.

[FR Doc. 06-1632 Filed 2-22-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2004-19523]

RIN 2127-AJ80

Federal Motor Vehicle Safety Standards; Rear Impact Guards and Rear Impact Protection

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

ACTION: Final rule; response to petition for reconsideration.

SUMMARY: To address the problem of rear underride crashes, Federal safety standards require heavy trailers and semitrailers to be equipped with underride guards. Compliance with these requirements is not practicable for vehicles featuring work-performing equipment mounted in the area where an underride guard would normally be located. These trailers and semitrailers are designated as "special purpose vehicles" and are excluded from the standard. On November 5, 2004, we published a final rule amending the definition of "special purpose vehicles" in order to clarify the exclusion by specifying the dimensions of the area where the work-performing equipment must reside or pass through in order for the exclusion to apply. On December 14, 2004, we were petitioned by the National Truck Equipment Association to reconsider the final rule because the amendment has had an unintended effect of narrowing the exclusion applicable to "special purpose vehicles."

In response to that petition for reconsideration, this document further amends the definition of a "special purpose vehicle" to exclude a specific group of vehicles that cannot comply with the underride guard requirements in a practicable manner.

DATES: This final rule is effective April 24, 2006. Voluntary compliance is permitted before that time.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC, 20590:

For technical and policy issues: Mr. Maurice Hicks, Office of Crashworthiness Standards, NVS-113, telephone (202) 366-6345, facsimile (202) 493-2739, e-mail: maurice.hicks@nhtsa.dot.gov.

For legal issues: Mr. George Feygin, Office of the Chief Counsel (202) 366-2992, facsimile (202) 366-3820, e-mail: george.feygin@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 224, "*Rear impact protection*," requires that heavy¹ trailers and semitrailers be equipped with underride guards in order to reduce the risk to passenger vehicle occupants in crashes in which a passenger vehicle impacts the rear of a heavy truck trailer or a semitrailer. Compliance with these requirements is not practicable for a small number of vehicles featuring work performing equipment mounted on the rear of a trailer or semitrailer where an underride guard would normally be located. If the equipment needs to move through the area that could be occupied by the horizontal member of the guard, the presence of a guard would impair or eliminate the usefulness of the equipment. These vehicles are designated as "special purpose vehicles" and are excluded from the standard.

On June 24, 1998, Thieman Tailgates, Inc., (Thieman) petitioned NHTSA to amend FMVSS No. 224 in order to exclude trailers with rear-mounted rail type² and tuckunder³ lift gates from the requirements of the standard because, according to the petitioner, they could not accommodate underride guards for reasons of impracticability. Thieman

¹ Trailers and semitrailers with a gross vehicle weight rating (GVWR) of 4,536 kg or more.

² Rail-type liftgate consists of a loading platform that typically moves vertically along two permanently mounted rails on the rear of the trailer. With rail-type liftgates, the platform swings up and stows along the rear of the trailer body while not in use.

³ Tuckunder liftgate consists of a loading platform, which operates from its stowed position by swinging out to the rear of the trailer where it may be hydraulically raised and lowered to load heavy deliveries. Tuckunder liftgates are stowed under the body of the trailer while not in use, thus freeing the rear of the trailer for light deliveries and dock operations with elevated bays.

argued that the previous definition of special purpose vehicles (as set forth below) was not descriptive enough to exclude all rail type and tuckunder lift gates.

Special purpose vehicle means a trailer or semitrailer having work-performing equipment that, while the vehicle is in transit, resides in or moves through the area that could be occupied by the horizontal member of the rear underride guard, as defined by S5.1.1 through S5.1.3.⁴

We note that in a September 9, 1998 letter of interpretation responding to the National Truck Equipment Association (NTEA) question about the "area that could be occupied by the horizontal member of the rear underride guard," we described the area as follows: (1) The side boundaries are the side extremities of the trailer; (2) the rearward boundary is the transverse vertical plane tangent to the rear extremity of the vehicle; (3) the forward boundary is the transverse vertical plane 305 mm (12 inches) forward of the transverse vertical plane tangent to the rear extremity of the vehicle; (4) the vertical boundaries may be as high as the bottom of the vehicle body, and as low as the ground.

On February 27, 2004, NHTSA published an NPRM proposing to amend FMVSS No. 224.⁵ Specifically, the NPRM proposed to define and specifically exclude tuckunder lift gates from the requirements of the standard. The NPRM also proposed to amend the definition of "special purpose vehicle" to include a precise description of the space in which work-performing equipment must reside in or move through while a trailer is in transit. The NPRM did not propose to exclude rail type lift gates from the requirements of FMVSS No. 224.

On November 5, 2004, NHTSA published a final rule amending FMVSS No. 224.⁶ First, with respect to rail type liftgates, we reiterated that we never intended to exclude rail-type lift gates from the requirements of the standard. Second, the agency agreed that the requirements of the standard are impracticable for vehicles equipped with tuckunder lift gates. However, instead of creating a specific exclusion for tuckunder lift gates, the November 2004 final rule amended the definition of "special purpose vehicles" with the intent to exclude such vehicles. We indicated our belief that expressly excluding tuckunder lift gates would be redundant in light of the revised definition. We also stated that the

⁴ See <http://www.nhtsa.dot.gov/cars/rules/interps/files/17799-2.pja.html>.

⁵ See 69 FR 9288.

⁶ See 69 FR 64495.