

Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-615.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register on September 6, 1994 (59 FR 46020). The proposed rule amended FAR Subpart 22.2 and the clause at 52.222-3 to (1) remove all references to 18 U.S.C. 4082(c)(2), which now only applies to offenses committed prior to November 1, 1987; (2) reflect the addition of the Commonwealth of the Northern Mariana Islands to the jurisdictions covered by Executive Order 11755; and (3) include further information regarding the requirements of Executive Order 11755, as amended by Executive Order 12608.

No substantive comments were received on the proposed rule during the public comment period. The Councils, therefore, agreed to adopt the proposed rule as a final rule without change.

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.*, because it merely updates FAR language pertaining to the employment of convict labor to conform to current statutory requirements. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which 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 22 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 22 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 22 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Section 22.201 is revised to read as follows:

§ 22.201 General.

(a) Executive Order 11755, December 29, 1973, as amended by Executive Order 12608, September 9, 1987, and Executive Order 12943, December 13, 1994, states: "The development of the occupational and educational skills of prison inmates is essential to their rehabilitation and to their ability to make an effective return to free society. Meaningful employment serves to develop those skills. It is also true, however, that care must be exercised to avoid either the exploitation of convict labor or any unfair competition between convict labor and free labor in the production of goods and services." The Executive order does not prohibit the contractor, in performing the contract, from employing—

- (1) Persons on parole or probation;
- (2) Persons who have been pardoned or who have served their terms;
- (3) Federal prisoners; or
- (4) Nonfederal prisoners authorized to work at paid employment in the community under the laws of a jurisdiction listed in the Executive order if—

- (i) The worker is paid or is in an approved work training program on a voluntary basis;
- (ii) Representatives of local union central bodies or similar labor union organizations have been consulted;
- (iii) Paid employment will not—
 - (A) Result in the displacement of employed workers;
 - (B) Be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or
 - (C) Impair existing contracts for services;
- (iv) The rates of pay and other conditions of employment will not be less than those for work of a similar nature in the locality where the work is being performed; and
- (v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended.

(b) Department of Justice regulations authorize the Director of the Bureau of Justice Assistance to exercise the power and authority vested in the Attorney General by the Executive order to certify and to revoke the certification of work-

release laws or regulations (see 28 CFR 0.94-1(b)).

22.202 [Amended]

3. Section 22.202 is amended in the introductory paragraph by inserting after "Samoa," "the Commonwealth of the Northern Mariana Islands,".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.222-3 is revised to read as follows:

52.222-3 Convict labor.

As prescribed in 22.202, insert the following clause:

Convict Labor (Aug 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
- (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
- (3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
- (4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

[FR Doc. 96-14526 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 23 and 52

[FAC 90-39; FAR Case 93-307; Item XII]

RIN 9000-AG42

Federal Acquisition Regulation; Ozone Executive Order

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

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published at 60 FR 28500, May 31, 1995, to a final rule with changes to amend the Federal Acquisition Regulation (FAR) to provide policy for the acquisition of items that contain or are manufactured with ozone-depleting substances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-307.

SUPPLEMENTARY INFORMATION:**A. Background**

The Environmental Protection Agency (EPA) promulgated 40 CFR Part 82, Subpart D, to satisfy EPA's obligation under Section 613, Title VI of the Clean Air Act Amendments of 1990. The EPA rule requires each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of Title VI of the Clean Air Act and to maximize the substitution of safe alternatives for ozone-depleting substances as identified under Section 612 of the Act. The EPA rule complements Executive Order 12843, Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances (58 FR 21881, April 23, 1993). Both the Executive Order and the EPA rule require that new contracts provide that any acquired products which contain or are manufactured with ozone-depleting substances be labeled in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E. On May 31, 1995 (60 FR

28500), the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council published an interim rule to implement the EPA regulations and the Executive Order.

This final FAR rule contains revisions resulting from public comments received in response to the interim rule. Several respondents questioned whether the interim rule went beyond the labeling requirements in Section 611 of the 1990 amendments to the Clean Air Act (42 U.S.C. 7671j) and its implementing EPA regulations at 40 CFR. This confusion has been resolved by replacing the definitions of "Class I substance" and "Class II substance" with a definition of "ozone-depleting substance", and by revising the clause at 52.223-11 to clarify that labeling shall be in accordance with 42 U.S.C. 7671j and 40 CFR Part 82. The intent of the rule is to stay within the bounds of the Clean Air Act and the EPA regulations.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule and a Final Regulatory Flexibility Analysis has been performed. A copy of the analysis may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which 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 23 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR Parts 23 and 52 which was published at 60 FR 28500, May 31, 1995, is adopted as final with changes as set forth below:

1. The authority citation for 48 CFR Parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**23.800 [Amended]**

2. Section 23.800 is amended by removing the last sentence.

3. Section 23.802 is revised to read as follows:

23.802 Definition.

Ozone-depleting substance means—

(a) Any substance designated as Class I by EPA (40 CFR part 82), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(b) Any substance designated as Class II by EPA (40 CFR part 82), including but not limited to hydrochlorofluorocarbons.

23.803 [Amended]

4. Section 23.803 is amended in paragraph (b)(2) by removing the period and inserting “, except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR 82.4(r).”

5. Section 23.804 is revised to read as follows:

23.804 Contract clauses.

Except for contracts to be performed outside the United States, its possessions, and Puerto Rico, the contracting officer shall insert the clause at:

(a) 52.223-11, Ozone-Depleting Substances, in solicitations and contracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances.

(b) 52.223-12, Refrigeration Equipment and Air Conditioners, in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.223-11 is revised to read as follows:

52.223-11 Ozone-Depleting Substances.

As prescribed in 23.804(a), insert the following clause:

Ozone-Depleting Substances (Jun 1996)

(a) *Definitions.* *Ozone-depleting substance*, as used in this clause, means any substance designated as Class I by the Environmental Protection Agency (EPA) (40 CFR Part 82),

including but not limited to chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or any substance designated as Class II by EPA (40 CFR Part 82), including but not limited to hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

"WARNING: Contains (or manufactured with, if applicable) *, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere."

* The Contractor shall insert the name of the substance(s).

(End of clause)

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48 CFR Parts 25 and 52

[FAC 90-39; FAR Case 95-304; Item XIII]

RIN 9000-AG80

Federal Acquisition Regulation; Uruguay Round (1996 Code)

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

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are finalizing without further change the interim rule on the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-304.

SUPPLEMENTARY INFORMATION:

A. Background

This rule finalizes without further change the interim rule, published in the Federal Register on December 29, 1995 (60 FR 67514), which implemented the Uruguay Round Agreement Act, Public Law 103-465. No

public comments were received in response to the interim rule.

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.*, because the rule does not impose any new requirements on contractors, large or small. The rule primarily changes the list of designated foreign countries and extends applicability of the Trade Agreements Act to all agencies for supply and construction contracts over certain dollar thresholds. However, those contracts which are now subject to the Trade Agreements Act were already subject to the Memorandum of Understanding between the United States of America and the European Community on Government Procurement. This change will have minimal impact on U.S. firms. The rule does not diminish existing preferences for small businesses, because purchases under small and small disadvantaged business preference programs are exempted from the Trade Agreements Act.

C. Paperwork Reduction Act

The final rule does not impose any new reporting or recordkeeping requirements which require OMB approval under 44 U.S.C. 3501, *et seq.* Contractors, which previously were required to respond to the now deleted provision at 52.225-16, Buy American Act—Supplies under European Community Agreement Certificate, will now be required to respond to the comparable provision at 52.225-8, Buy American Act—Trade Agreements—Balance of Payments Program Certificate (OMB Control No. 9000-0046).

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Interim Rule Adopted as Final

Accordingly, the interim rule amending 48 CFR Parts 25 and 52, which was published at 60 FR 67514, December 29, 1995, is adopted as final without further change.

The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96-14528 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 25, 27, and 52

[FAC 90-39, FAR Case 93-310, Item XIV]

RIN 9000-AF60

Federal Acquisition Regulation; Implementation of the North American Free Trade Agreement Implementation Act

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

ACTION: Revised interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a revised interim rule implementing the North American Free Trade Agreement (NAFTA) Implementation Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: Effective Date: June 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 19, 1996, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 18th & F Streets, NW., Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90-39, FAR case 93-310 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-310.

SUPPLEMENTARY INFORMATION:

A. Background

While the North American Free Trade Agreement (NAFTA) remains in effect, the Canadian Free Trade Agreement (CFTA) is suspended. The CFTA interim rule published December 30, 1988 (53 FR 53340, FAC 84-41, FAR case 88-070), which revised the FAR coverage