

National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of New Jersey, through the Department of Environmental Protection (NJDEP), have determined that all appropriate remedial actions have been implemented at the Site and no further fund-financed remedial action is appropriate under CERCLA. Moreover, EPA and NJDEP have determined that the Site poses no significant threat to public health or the environment.

EFFECTIVE DATE: May 13, 2004.

FOR FURTHER INFORMATION CONTACT:

Mark Austin, Remedial Project Manager, New Jersey Remediation Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, New York 10007-1866, phone: (212) 637-3954; fax: (212) 637-4429; e-mail: austin.mark@epa.gov.

SUPPLEMENTARY INFORMATION: To be deleted from the NPL is: The Florence Land Recontouring Landfill Superfund Site, Townships of Florence, Mansfield, and Springfield, Burlington County, New Jersey.

A Notice of Intent to Delete for the Site was published in the **Federal Register** on February 18, 2004 (69 FR 7613). The closing date for comments on the Notice of Intent to Delete was March 19, 2004. EPA received no comments regarding this action. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, any site or portion thereof deleted from the NPL remains eligible for remedial actions in the unlikely event that conditions at the site warrant such action in the future. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 31, 2004.

Jane M. Kenny,

Regional Administrator, Region 2.

■ For the reasons set out in the preamble, part 300, title 40 of Chapter I of the Code of Federal Regulations, is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601-9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR., 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended under New Jersey (NJ) by removing the Site name “Florence Land Recontouring Landfill” and the City/County “Florence Township.”

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DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 2003-D004]

Defense Federal Acquisition Regulation Supplement; Multiyear Procurement Authority for Environmental Services for Military Installations

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 827 of the National Defense Authorization Act for Fiscal Year 2003. Section 827 authorizes DoD to enter into multiyear contracts for environmental remediation services for military installations.

EFFECTIVE DATE: May 13, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Euclides Barrera, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0296; facsimile (703) 602-0350. Please cite DFARS Case 2003-D004.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 68 FR 43332 on July 22, 2003, to implement Section 827 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314).

Section 827 amended 10 U.S.C. 2306c to provide authority for DoD to enter into multiyear contracts for environmental remediation services for military installations. Two sources submitted comments on the interim rule. A discussion of the comments is provided below.

1. *Comment:* The interim rule is a major step forward for environmental remediation that can be accomplished within 5 years. However, the rule should provide for limited authority beyond 5 years where practicable and in the best interest of the Government.

DoD Response: The recommended change is not feasible, since 10 U.S.C. 2306c limits multiyear contracting authority for services to not more than 5 years.

2. *Comment:* DFARS 232.703-1(1)(iii), which addresses incremental funding, must be sustained and clarified to provide the ability to cash flow expensive remedial projects that cannot be fully funded within a single year appropriation.

DoD Response: No change to the incremental funding policy in DFARS 232.703-1(1)(iii) is necessary for implementation of this rule.

3. *Comment:* There is confusion within DoD as to what constitutes environmental services and environmental construction. DoD should clarify that all actions taken to remediate contamination under the DERA program constitute environmental services.

DoD Response: The recommended clarification is outside the scope of this DFARS case.

4. *Comment:* The definition of “military installation” or the list in DFARS 217.171(a)(1)(v) should specifically include industrial property to remove any question as to whether the remediation services can be used at both active and former government-owned-contractor-operated industrial plants currently or previously owned by DoD.

DoD Response: The definition of “military installation” in DFARS 217.103 and the list in DFARS 217.171(a)(1)(v) are consistent with the provisions of 10 U.S.C. 2306c as amended by Section 827 of Public Law 107-314. The multiyear contracting authority provided by the rule applies to environmental remediation services that meet the criteria at DFARS 217.171(a)(1)(v).

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 application of the rule is limited to contracts for environmental remediation services at military installations or sites formerly used by DoD. Before using the multiyear contracting authority provided by the rule, the head of the agency must determine that certain conditions exist, to include a determination that use of a multiyear contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operations.

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 217

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR Part 217, which was published at 68 FR 43332 on July 22, 2003, is adopted as a final rule without change.

[FR Doc. 04-10881 Filed 5-12-04; 8:45 am]

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DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 2003-D099]

Defense Federal Acquisition Regulation Supplement; Berry Amendment Changes

AGENCY: 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 Sections 826 and 827 of the National Defense Authorization Act for Fiscal Year 2004. Sections 826 and 827 provide exceptions to the domestic source requirements of the Berry Amendment. Section 826 applies to the acquisition of

food, specialty metals, and hand or measuring tools needed to support contingency operations or to fulfill other urgent requirements. Section 827 applies to the acquisition of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives.

DATES: Effective date: May 13, 2004.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before July 12, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcom>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003-D099 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D099.

At the end of the comment period, interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0328.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 225.7002-1 contains requirements for the acquisition of certain items from domestic sources in accordance with the Berry Amendment (10 U.S.C. 2533a). DFARS 225.7002-2 provides exceptions to these requirements. This interim rule adds new exceptions to DFARS 225.7002-2 to implement Sections 826 and 827 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Section 826 applies to the acquisition of food, specialty metals, and hand or measuring tools when needed to support contingency operations or when the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency. Section 827 applies to the acquisition of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives. A corresponding change is made to the clause at DFARS 252.225-7012.

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 does not expect this rule to 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 exceptions to domestic source requirements authorized by the rule are limited to acquisitions of items needed to support contingency operations, to fulfill requirements that are of unusual and compelling urgency, or to produce propellants and explosives. Therefore, DoD has not performed an initial regulatory flexibility analysis. 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 2003-D099.

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.*

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 Sections 826 and 827 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Sections 826 and 827 provide exceptions to the domestic source requirements of the Berry Amendment (10 U.S.C. 2533a). Section 826 applies to the acquisition of food, specialty metals, and hand or measuring tools needed to support contingency operations or to fulfill other urgent requirements. Section 827 applies to the acquisition of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives. Sections 826 and 827 became effective on November 24, 2003. Comments received in response to this interim rule will be considered in the formation of the final rule.