

■ 2. Section 207.170–2 definition of “Multiple award contract” is amended by revising paragraphs (1) and (2) to read as follows:

**207.170–2 Definitions.**

\* \* \* \* \*

*Multiple-award contract* means—

(1) A multiple-award schedule contract issued by the General Services Administration or Department of Veterans Affairs as described in FAR subpart 8.4;

(2) A multiple award task-order or delivery-order contract issued in accordance with FAR subpart 16.5; or

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 232

RIN 0750–AH19

#### Defense Federal Acquisition Regulation Supplement; Accelerate Small Business Payments (DFARS Case 2011–D008)

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to accelerate payments to all small business concerns.

**DATES:** The interim rule is effective April 27, 2011. Comments on the interim rule should be submitted in writing to the address shown below on or before June 27, 2011, to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments, identified by DFARS Case 2011–D008, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting “DFARS Case 2011–D008” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2011–D008.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2011–D008” on your attached document.

- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2011–D008 in the subject line of the message.

- *Fax:* 703–602–0350.

- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Lee Renna, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail). Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lee Renna, 703–602–0764.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD is amending the DFARS to accelerate payments for all small business concerns. Currently, DoD assists small disadvantaged business concerns by paying them as quickly as possible after invoices are received and before the normal payment due dates established in the contract. This interim rule removes the term “disadvantaged” from the language at DFARS 232.903 and DFARS 232.906(a)(ii), thereby extending this payment policy uniformly to all small business concerns.

##### II. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### III. Regulatory Flexibility Act

DoD expects this rule to have a significant positive economic impact on all small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it extends

accelerated payments to all small business concerns. An initial regulatory flexibility analysis has been completed and is summarized as follows:

This interim rule revises DFARS 232.903 and 232.906(a)(ii) to allow accelerated payments to all small business concerns. This rule allows DoD to exercise greater flexibility offered by 5 CFR 1315.5 and FAR 32.903 which permit the use of accelerated payment procedures for small business concerns.

Analysis of the Federal Procurement Data System indicates that approximately 60,000 small businesses had active contracts in Fiscal Year 2010. It is reasonable to assume a similar number of small businesses will be positively affected by the use of accelerated payment procedures.

There are no information collection requirements associated with this rule. This rule does not duplicate, overlap, or conflict with any other Federal rules.

The desired outcome is best achieved by the implementation of the rule as stated herein and there are no other alternatives available to achieve the desired outcome. This rule is expected to have a positive impact on small entities.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2011–D008) in correspondence.

##### IV. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Burden Act (44 U.S.C. chapter 35).

##### V. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD) that urgent and compelling circumstances exist to promulgate this interim rule without prior opportunity for public comments pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b). This action is necessary to ensure DoD implements cash flow improvements for small business firms as quickly as possible. Accelerating payments is a way to boost the financial health of small businesses. At present, the authority to accelerate payments at DFARS 232.903 and 232.906 is limited

to small disadvantaged business. Implementation of the interim rule will expand that authority to the entire community of DoD's small business suppliers. However, DoD will consider public comments received in response to this interim rule in the formation of the final rule.

#### List of Subjects in 48 CFR Part 232

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 232 is amended as follows:

#### PART 232—CONTRACT FINANCING

■ 1. The authority citation for 48 CFR part 232 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise section 232.903 to read as follows:

##### 232.903 Responsibilities.

DoD policy is to assist small business concerns by paying them as quickly as possible after invoices and all proper documentation, including acceptance, are received and before normal payment due dates established in the contract (see 232.906(a)).

##### 232.906 (Amended)

■ 3. Amend section 232.906(a)(ii) by removing the word "disadvantaged". [FR Doc. 2011-10094 Filed 4-26-11; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

##### National Highway Traffic Safety Administration

##### 49 CFR Part 571

[Docket No. NHTSA-2004-18794]

RIN 2127-AK85

##### Federal Motor Vehicle Safety Standards No. 108; Lamp, Reflective Devices and Associated Equipment

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule; response to petitions for reconsideration.

**SUMMARY:** This document responds to seven petitions for reconsideration submitted regarding our August 2004 final rule that amended the Federal motor vehicle safety standard on lamps, reflective devices, and associated equipment. After careful review of the

petitions, we are revising certain requirements of the standard pertaining to the visibility of lamps mounted on motorcycles to increase the compatibility of our visibility requirements with those of the United Nations Economic Commission for Europe (ECE R53). We are otherwise denying the petitions.

**DATES:** *Effective date:* The final rule is effective May 27, 2011 except for the revision at instruction number 3, which is effective December 1, 2012. Petitions for reconsideration of the final rule must be received not later than June 13, 2011.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mr. Markus Price, Office of Crash Avoidance Standards (Phone: 202-366-0098; FAX: 202-366-7002).

For legal issues, you may call Mr. Thomas Healy, Office of the Chief Counsel (Phone: 202-366-2992; FAX: 202-366-3820).

You may send mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

##### SUPPLEMENTARY INFORMATION:

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##### I. Background

The National Highway Traffic Safety Administration (NHTSA) issued a Notice of Proposed Rulemaking (NPRM) in 1995 to address a petition from the Groupe de Travail Working Party "Brussels 1952" (GTB).<sup>1</sup> The petitioner asked the agency to harmonize the U.S. visibility requirements with the United Nations Economic Commission for Europe (UNECE or ECE) requirements. As a result, the agency published a proposal that included several aspects of harmonization including visibility of reflex reflectors (front side, rear, rear side, intermediate), side markers (front, rear, intermediate), front turn, rear turn, stop, front parking, tail, rear fog, high mount stop, and daytime running lamps. In addition, the agency requested comments on allowing amber rear side

markers and regulating front and rear fog lamps.

In response to comments received, the agency followed the NPRM with a Supplementary Notice of Proposed Rulemaking (SNPRM)<sup>2</sup> in 1998 that limited the scope to only visibility and terminated proposed rulemaking that would allow an option of providing amber rear side marker lamps and reflectors. The SNPRM proposed using either Society of Automotive Engineers (SAE) or ECE derived visibility requirements. In a separate notice, the issue of regulating front and rear fog lamps was also terminated.<sup>3</sup>

In 2004, NHTSA published a final rule<sup>4</sup> that was based on the UNECE derived visibility requirements. Regarding the method of certification, the final rule stated the visibility requirements could be satisfied by meeting a minimum visible area or by a minimum photometric intensity. The final rule set a compliance date of September 1, 2011 for vehicles that are less than 2032 mm in overall width, and September 1, 2014 for vehicles that are 2032 mm or more in overall width.<sup>5</sup>

##### II. Petitions for Reconsideration

Seven petitions for reconsideration were received from automotive manufacturers, lighting suppliers, and motorcycle manufacturers. Petitions for reconsideration were received from the Motor and Equipment Manufacturers Association (MEMA), the Alliance of Automobile Manufacturers (AAM), General Motors (GM), Sierra Products, North American Lighting (NAL), Harley Davidson, and the Motorcycle Industry Council (MIC). Among the seven petitions, six issues were raised that requested reconsideration of the final rule. In addition, there were also several requests, which could be characterized as clarifications, related to the final rule that did not specifically request a rule change. Finally, several general questions were received that are related to FMVSS No. 108 but which are not directly related to the final rule. These items are all summarized below.

##### 1. Issue Regarding Harmonization of FMVSS No. 108 With ECE Regulation No. 53 (ECE R53) for Vehicles With Less Than 4 Wheels

Two petitions for reconsideration were received regarding the visibility requirements of motorcycles from

<sup>2</sup> See 63 FR 68233 December 10, 1998.

<sup>3</sup> See 62 FR 8883 February 27, 1997.

<sup>4</sup> See 69 FR 48805 August 11, 2004.

<sup>5</sup> Dual dimension (80 in) has not been added because it does not appear in the regulation text S5.3.2(b) which is the primary area of interest for this background.

<sup>1</sup> See 60 FR 54833 October 26, 1995.