



Federal Register

**Thursday,
January 11, 2001**

Part VI

Department of Defense General Services Administration National Aeronautics and Space Administration

**48 CFR Parts 8 and 52
Federal Acquisition Regulation;
Acquisition of Helium; Proposed Rule**

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 8 and 52**

[FAR Case 2000-008]

RIN: 9000-AJ09

**Federal Acquisition Regulation;
Acquisition of Helium**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement the Helium Privatization Act of 1996 and associated changes to the U.S. Department of the Interior's regulations regarding its helium program.

DATES: Interested parties should submit comments in writing on or before March 12, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2000-008@gsa.gov

Please submit comments only and cite FAR case 2000-008 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAR case 2000-008.

SUPPLEMENTARY INFORMATION:**A. Background**

This proposed rule revises FAR subpart 8.5 and the clause at 52.208-8 to implement the U.S. Department of the Interior's final rule regarding helium contracts that was published in the *Federal Register* at 63 FR 66760, December 3, 1998.

The proposed rule—

- Requires agencies and their contractors and subcontractors to

purchase major helium requirements from Federal helium suppliers;

- Changes the definitions;
- Eliminates the requirement for certain contractors and subcontractors to submit helium forecasts; and
- Establishes the requirement that contractors and subcontractors under contracts with a major helium requirement must report purchases of helium from Federal helium suppliers.

The rule is written using plain language in accordance with the White House memorandum, Plain Language in Government Writing, dated June 1, 1999.

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.

B. Regulatory Flexibility Act

The Councils do not expect this proposed 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 rule eliminates the information requirement for submitting helium forecasts and replaces it with a similar information requirement to report helium purchases. We estimate that the net change is zero. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR parts 8 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000-008), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, the proposed changes to the FAR do not materially change existing information collection requirements under OMB Control Number 9000-0113, which was previously approved by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR parts 8 and 52

Government procurement.

Dated: January 4, 2001.

Al Matera,

Acting Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 8 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 8 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 8—REQUIRED SOURCES OF
SUPPLIES AND SERVICES****§ 8.500 [Amended]**

2. Amend section 8.500 by removing “30 CFR Parts 601 and 602” and add “43 CFR part 3195” in its place.

3. Amend section 8.501 as follows:

(a) Remove the definitions “Bureau helium” and “Helium requirement forecast”;

(b) Amend the definition “Bureau of Land Management” by removing “Field” and after the word “Street” adding “ Suite 500”;

(c) Add the definition “Federal helium supplier”;

(d) Revise the definition “Major helium requirement”; The added and revised text reads as follows:

8.501 Definitions.

* * * * *

Federal helium supplier means a private helium vendor that has an in-kind crude helium sales contract with the Bureau of Land Management (BLM) and that is on the BLM Amarillo Field Office's Authorized List of Federal Helium Suppliers available via the Internet at http://www.nm.blm.gov/www/amfo/amfo_home.html.

Major helium requirement means an estimated refined helium requirement greater than 200,000 standard cubic feet (scf) (measured at 14.7 pounds per square inch absolute pressure and 70 degrees Fahrenheit temperature) of gaseous helium or 7510 liters of liquid helium delivered to a helium use location per year.

4. Revise section 8.502 to read as follows:

8.502 Policy.

Agencies and their contractors and subcontractors must purchase major helium requirements from Federal helium suppliers, to the extent that supplies are available.

5. Revise sections 8.504 and 8.505 to read as follows:

8.504 Procedures.

The contracting officer must forward the following information to the Bureau

of Land Management within 45 days of the close of each fiscal quarter—

- (a) The name of any company that supplied a major helium requirement;
- (b) The amount of helium purchased;
- (c) The delivery date(s); and
- (d) The location where the helium was used.

8.505 Contract clause.

Insert the clause at 52.208–8, Required Sources for Helium and Helium Usage Data, in solicitations and contracts if it is anticipated that performance of the contract involves a major helium requirement.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Revise section 52.208–8 to read as follows:

52.208–8 Required Sources for Helium and Helium Usage Data.

As prescribed in 8.505, insert the following clause:

Required Sources for Helium and Helium Usage Data (Date)

(a) *Definitions.* As used in this clause—
Bureau of Land Management means the—
Department of the Interior, Bureau of Land Management, Helium Operations 801 South Fillmore Street, Suite 500, Amarillo, TX 79101–3545.

Federal helium supplier means a private helium vendor that has an in-kind crude helium sales contract with the Bureau of Land Management (BLM) and that is on the BLM Amarillo Field Offices Authorized List of Federal Helium Suppliers available via the Internet at http://www.nm.blm.gov/www/amfo/amfo_home.html.

Major helium requirement means an estimated refined helium requirement greater than 200,000 standard cubic feet (scf) (measured at 14.7 pounds per square inch

absolute pressure and 70 degrees Fahrenheit temperature) of gaseous helium or 7510 liters of liquid helium delivered to a helium use location per year.

(b) *Requirements.*—(1) Contractors must purchase major helium requirements from Federal helium suppliers, to the extent that supplies are available.

(2) The Contractor shall provide to the Contracting Officer the following data within 10 days after the Contractor or subcontractor receives a delivery of helium from a Federal helium supplier—

- (i) The name of the supplier;
- (ii) The amount of helium purchased;
- (iii) The delivery date(s); and
- (iv) The location where the helium was used.

(c) *Subcontracts.* The Contractor shall insert this clause, including this paragraph (c), in any subcontract or order that involves a major helium requirement. (End of clause)

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