

§ 90.669 Emission limits.

(a) On any frequency in an MTA licensee's spectrum block that is adjacent to a non-MTA frequency, the power of any emission shall be attenuated below the transmitter power (P) by at least 43 plus $10 \log_{10}(P)$ decibels or 80 decibels, whichever is the lesser attenuation.

Note: The measurements of emission power can be expressed in peak or average values, provided they are expressed in the same parameters as the transmitter power.

(b) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

11. A new § 90.671 is added to Subpart S to read as follows:

§ 90.671 Field strength limits.

The predicted or measured field strength at any location on the border of the MTA service area for MTA licensees shall not exceed 40 dBuV/m unless all bordering MTA licensees agree to a higher field strength. MTA licensees are also required to coordinate their frequency usage with so-channel adjacent MTA licensees and all other affected parties. To the extent that a single entity obtains licenses for adjacent MTAs on the same channel block, it will not be required to coordinate its operations in this manner. In the event that this standard conflicts with the MTA licensee's obligation to provide co-channel protection to incumbent licensees under Section 90.621(b), the requirements of Section 90.621(b) shall prevail.

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DEPARTMENT OF DEFENSE**Defense Logistics Agency****48 CFR Part 5452****DLA Acquisition Regulation; Fuel Allocation Procedures**

AGENCY: Defense Logistics Agency, DoD.

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency establishes a new 48 CFR Chapter 54 to contain Defense Logistics Agency acquisition regulations. New part 5452 is added to supplement Federal Acquisition Regulation 49.504(a)(1) and its requirement to use FAR Default clause 52.249-8. The Defense Fuel Supply Center (DFSC) proposed three nonstandard clauses for bulk, bunkers, into-plane, and posts, camps, and

stations petroleum solicitations and contracts concerning fuel allocation procedures. The three clauses have been incorporated into one clause for use by DFSC. This allocation clause permits DFSC contractors to supply less than the full amount of fuel contracted by the government, without being terminated for default, during periods of exceptional fuel shortages, provided that the shortage is beyond the control and without the fault or negligence of the contractor.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Melody Reardon, (703) 274-6431.

SUPPLEMENTARY INFORMATION:**A. Background**

On April 28, 1994, DFSC published a proposed rule in the **Federal Register** to incorporate three nonstandard clauses into the DLAR. Public comments were requested, received, addressed, and resolved by DFSC. As a result, the three nonstandard clauses were consolidated into one clause by DFSC, to be used in domestic and overseas petroleum solicitations and contracts. DFSC has historically utilized deviations to FAR termination for default clauses in order to provide for contingencies in the case of fuel allocations by contractors. These deviations have been approved on an annual basis since 1974. DFSC incorporates the nonstandard fuel allocation clause in DLAR in order to eliminate the need for annual review and approval. The clause is necessary to protect potential contractors from default proceedings and ensure the continuance of a competitive procurement environment for government petroleum requirements. Allocation of fuel to customers on a pro rata basis during periods of extreme shortage is a standard practice in the petroleum industry.

B. Regulatory Flexibility Act

The final clause is not expected to have 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.*, since the previous clauses have been utilized for many years by Defense Fuel Supply Center as deviations to FAR. An initial regulatory flexibility analysis has, therefore, not been performed.

C. Paperwork Reduction Act

The final rule does not impose any reporting or record keeping requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 5452

Government procurement.

Accordingly, 48 CFR Chapter 54 is added to read:

CHAPTER 54—DEFENSE LOGISTICS AGENCY, DEPARTMENT OF DEFENSE**PART 5452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****Subpart 5452.2—Texts of Provisions and Clauses****5452.249 Allocation**

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, 48 CFR part 1, subpart 1.3 and 48 CFR part 201, subpart 201.3

5452.249 Allocation

The Defense Fuel Supply Center is authorized to use the following clause in domestic and overseas petroleum solicitations/contracts, including those for Canal Zone and Puerto Rico, when a fixed-price contract is contemplated and the contract amount is expected to exceed the small purchase limitation.

Allocation (DFSC 1995) (Deviation) (9F01)**(a) Reduced Supplies.**

If, for any cause beyond the control and without the fault or negligence of the Contractor, the total supply of crude oil and/or refined petroleum product is reduced below the level that would have otherwise been available to the Contractor, the Contractor allocates to its regular customers its remaining available supplies of crude oil or product, then the Contractor may also allocate to the U.S. Government supplies to be delivered under this contract, provided—

(1) Prompt notice of and evidence substantiating the necessity to allocate and describing the allocation rate for all the Contractor's customers are submitted to the Contracting Officer;

(2) Allocation among the Contractor's regular customers is made on a fair and reasonable basis (except where allocation on a different basis is required by a governmental authority, agency or instrumentality); and

(3) Reduction of the quantity of product due the Government under this contract shall not exceed the pro rata amount by which the Contractor reduces delivery to its other contractual customers.

(b) Additional Supplies.

If, after the event causing the shortage of crude oil and/or refined petroleum product as described in (a) above, additional supply becomes available to the Contractor, the Contracting Officer may choose any one of the following three possible courses of action:

(1) Accept an updated pro rata reduction as outlined in (a);

(2) Determine that continuance of the contract with the quantities as originally stated in the Schedule is in the best interests of the Government; or

(3) Terminate the contract as permitted in (d) below.