

List of Subjects in 48 CFR Part 216

Government procurement.

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

■ Therefore, 48 CFR Part 216 is amended as follows:

■ 1. The authority citation for 48 CFR Part 216 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 216—TYPES OF CONTRACTS

■ 2. Section 216.405–2 is amended by adding paragraph (b)(3) to read as follows:

216.405–2 Cost-plus-award-fee contracts.

* * * * *

(b) * * *

(3) The CPAF contract may include provisional award fee payments. A provisional award fee payment is a payment made within an evaluation period prior to a final evaluation for that period. The contracting officer may include provisional award fee payments in a CPAF contract on a case-by-case basis, provided those payments—

(A) Are made no more frequently than monthly;

(B) Are limited to no more than—

(1) For the initial award fee evaluation period, 50 percent of the award fee available for that period; and

(2) For subsequent award fee evaluation periods, 80 percent of the evaluation score for the prior evaluation period times the award fee available for the current period, *e.g.*, if the contractor received 90 percent of the award fee available for the prior evaluation period, provisional payments for the current period shall not exceed 72 percent (90 percent \times 80 percent) of the award fee available for the current period;

(C) Are superceded by an interim or final award fee evaluation for the applicable evaluation period. If provisional payments have exceeded the payment determined by the evaluation score for the applicable period, the contracting officer shall collect the debt in accordance with FAR 32.606; and

(D) May be discontinued, or reduced in such amounts deemed appropriate by the contracting officer, when the contracting officer determines that the contractor will not achieve a level of performance commensurate with the provisional payment. The contracting officer shall notify the contractor in writing of any discontinuance or

reduction in provisional award fee payments.

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 579**

[Docket No. NHTSA 2001–8677; Notice 7]

RIN 2127–AJ21

Reporting of Information and Documents About Potential Defects

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

ACTION: Correcting amendment.

SUMMARY: This document corrects a provision in the early warning reporting regulation under the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. As noted in a petition for reconsideration, the due date for one-time historical reports was extended to a date that is not consistent with schedules of many of the manufacturers that must provide the reports. This corrects the reporting date from December 31, 2003 to January 15, 2004.

DATES: This final rule is effective November 14, 2003.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA (phone: 202–366–5226). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–5263).

SUPPLEMENTARY INFORMATION:**I. Background**

On July 10, 2002, the National Highway Traffic Safety Administration (NHTSA) published a final rule implementing the early warning reporting (EWR) provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, 49 U.S.C. 30166(m) (67 FR 45822).

We received a number of petitions for reconsideration of the final rule, and have responded to most of them in three separate rulemaking notices. These notices were published on April 15, 2003 (Notice 4, 68 FR 18136), and on June 11, 2003 (Notice 5, 68 FR 35132; Notice 6, 68 FR 35145). Notice 6 amended the EWR reporting dates. In response, we received one petition for

reconsideration of the due date for the filing of the one-time historical report. We now make a technical correction in light of that petition.

II. Extension of Due Date for the One-Time Historical Report

Notice 6 deferred the initial reporting dates of EWR information for a calendar quarter and the date for submitting the one-time historical report required by 49 CFR 579.28(c), 68 FR 35148. Currently, the latter report must be filed no later than December 31, 2003. On July 28, 2003, the Alliance of Automobile Manufacturers (Alliance) petitioned for reconsideration of this date, asking that it be changed to January 15, 2004. The Alliance asserted that the December 31 date “falls during a traditional winter holiday period, during which most Alliance member offices in the United States are closed.” This request does not affect the initial due date for filing of the initial quarterly report, which remains December 1, 2003.

At the time that we published Notice 6, we were primarily concerned with deferring reporting by one quarter and with adopting a schedule that staggered the submission of field reports and one-time historical reports to dates later than the reports of incidents and statistical data. We did not specifically consider whether a December 31 due date would pose any problems. If we had taken into account the practices noted by the Alliance, we would not have adopted that date. We do not believe that safety will be compromised by deferring the reporting date of historical information by two weeks in order to accommodate the practice of members of the Alliance, as well as other vehicle and child restraint system and tire manufacturers, and are amending the introductory text of subsection 579.28(c) accordingly.

IV. Privacy Act Statement

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

V. Rulemaking Analyses

This notice extends, by 15 days, a reporting date adopted in Notice 6. The changes made to the EWR regulation by this notice do not alter the burdens and impacts discussed in the Regulatory Analyses of Notice 6. To the extent that