



March 30, 2023

TO:

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FROM: Steven M. Rothstein and John Kostyack
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Cc: Andrew Mayock
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RE: Supplemental Comment in FAR Case 2021-015, 87 Fed. Reg. 68312 - Analysis
of Comments on Federal Supplier Climate Risk & Resilience Proposal

We are writing to provide our analysis of the [comments](#) submitted regarding the [proposed Federal Supplier Climate Risks and Resilience rule](#) (“Proposed Rule”) released by the Federal Acquisition Regulatory (FAR) Council—composed of the General Services Administration (GSA), Department of Defense (DoD), National Aeronautics and Space Administration (NASA) and Office of Federal Procurement Policy —on November 14, 2022.

During the 90-day comment period, which ended on February 13, 2023, a total of 18,986 comments were submitted according to our analysis. Of those, 132 were from organizations and 18,854 were from individuals; 218 were unique and 18,768 utilized a template letter of support.

This analysis demonstrates majority support from key stakeholders for the proposed Rule, reinforces FAR Council’s legal and policy justification for moving forward to finalization, and provides practical recommendations for effective implementation.

Executive Summary

Overall, the comments demonstrate a broad base of support for the Proposed Rule. Diverse members of the private sector, as well as NGOs and state governments, show how the Proposed Rule will help the federal government meet its need for information on ways to reduce

climate-related financial risk, and capitalize on climate-related economic opportunities, in its supply chain. The key takeaway from our review of the entire comment file is that the FAR Council has a solid record on which to move forward. The following analysis provides a high-level summary of positions taken in the 132 organizational comments; it does not attempt to capture the many nuances.

Of the organizational comments, a plurality (68) support the Proposed Rule while 45 are opposed and 19 are neutral. Opposition is strong among carbon-intensive businesses and trade associations, with 21 of 29 carbon-intensive commenters expressing opposition. In contrast, only 14 of 47 private sector entities outside of carbon-intensive sectors expressed opposition.

Of the NGOs commenting, 29 support the Proposed Rule, 8 oppose it, and the 14 remainder are neutral. State governments are divided along partisan lines.

The three main areas of question and concern about the Proposed Rule are constitutional authority, statutory authority, and the burdens and costs of it relative to its benefits. The comment file shows adequate response to these criticisms from supportive letters, indicating that the Proposed Rule rests on sound legal footing and that there are significant cost savings for taxpayers and other policy justifications for moving forward.

Many organizations, while expressing support for the Proposed Rule, outline constructive suggestions regarding specific elements. Rather than attempting to summarize all proposed solutions, we focus on five critical issues on which suggestions are offered: (1) Utilizing climate risk analysis and disclosure methodologies of nonfederal entities; (2) Validating emissions reductions targets; (3) Mandating scope 3 emissions disclosures; (4) Ensuring fair and equitable exceptions; and (5) Ensuring fair and equitable waivers. These comments, which offer a variety of ways to strengthen the proposal, are described in greater detail below.

Methodology

In the first section of this analysis, we broadly assess the range of views expressed in the comments. We separate the commenters into four categories: Private Sector, NGOs, Government, and Individuals.

In the second section of this analysis, we describe the main concerns about the Proposed Rule and responses and we offer our conclusions regarding the legal authority and policy justifications for the Proposed Rule.

In the third and final section, we evaluate the significant number of comments expressing support for the Proposed Rule while indicating that amendments are warranted. We relay supporters' views on five critical issues and the proposed amendments to resolve those issues.

In [Ceres' initial comment letter](#), we summarized the Proposed Rule, explained why it represents an important step forward in federal efforts to reduce climate risk, and offered recommendations for improvement. In this analysis, we continue to use the Tier 1-3 terminology adopted in that letter to describe three contractor types and their responsibilities as outlined in the Proposed Rule. Appendix A describes the responsibilities and covered contractors at each of the three tiers and provides our definitions of “Oppose,” “Support,” “Neutral,” and “Carbon-Intensive.”

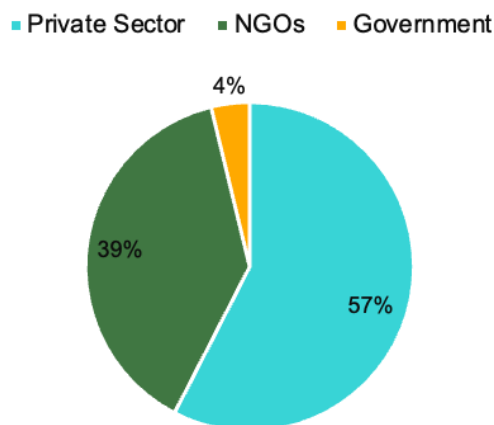
We identify a number of commenters in this analysis by name and sometimes paraphrase a portion of their comments. We strongly encourage readers to refrain from relying solely on our abbreviated descriptions and instead to refer to the full comment letters of these organizations. We similarly encourage readers not to rely on this document for legal analysis or a comprehensive review of all material issues. As noted above, this analysis summarizes key issues and does not attempt to capture nuance.

Analysis

1. Support for the Proposed Rule is strong among key stakeholders

Response to the FAR Council’s invitation to comment on the Proposed Rule was strong, especially from the private sector. As shown here on Chart 1, of the 132 organizational comments, private sector entities, which include companies and trade associations, submitted a large majority.

Chart 1: Organizational Comments on Proposed Rule



The following table shows the breakdown of support for the Proposed Rule in each of the key categories of commenters:

Table 1: Support for Proposed Rule by Comment Categories

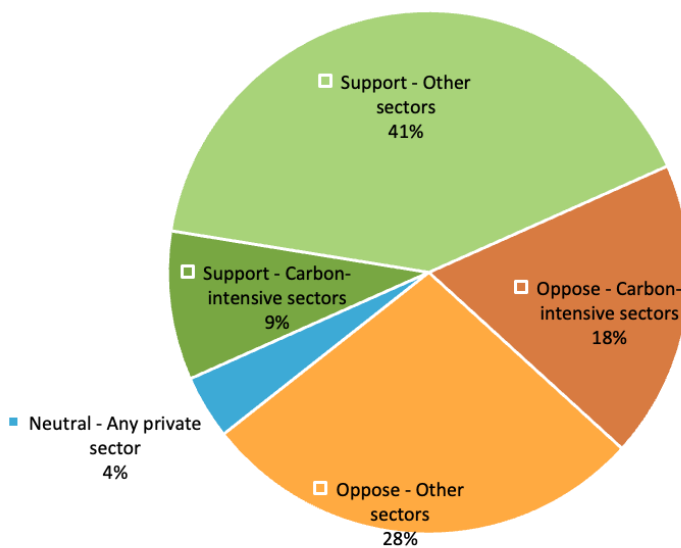
	Support	Oppose	Neutral	Totals
Private Sector - Carbon-Intensive	7	21	1	29
Private Sector - Other	31	14	2	47
Private Sector SUBTOTAL	38	35	3	76
NGOs	29	8	14	51
Government	1	2	2	5
Organizations SUBTOTAL	68	45	19	132
Individuals	18,832	19	3	18,854
TOTAL	18,900	64	22	18,986

As Table 1 shows, a plurality or majority of comments filed in each of four categories—Private Sector, NGOs, Government, and Individuals—expressed support for the FAR Council to move forward with the Proposed Rule. Many supporters offered constructive suggestions for improvement; those that we believe are most significant are discussed in section three of this analysis.

Government commenters were divided along partisan lines. One comment came from [two Republican state attorneys general](#) opposing the rule and another came from [17 Democratic state attorneys general and the District of Columbia attorney general](#) supporting it. Government comments also included those from [Senator Joni Ernst \(R-IA\)](#), the [U.S. Small Business Administration](#), and the [Ouzinkie Native Corporation](#).

Most noteworthy is the strong support expressed by many private sector companies and trade associations. Support was voiced by influential companies likely to be covered by the rule, including [Verizon](#), [Microsoft](#), [Pfizer](#), [PwC](#), and [Trane Technologies](#), as well as trade associations with companies likely to be covered, such as the [Global Electronics Council](#), [American Wood Council](#), [American Apparel and Footwear Association](#), and [Energy Workforce and Technology Council](#). The level of private sector support is highlighted in Chart 2:

Chart 2: Private Sector Positions on the Proposed Rule



Even more noteworthy is that seven companies and associations in carbon-intensive sectors, including [BP America](#) and [Baker Hughes](#), expressed support for the Proposed Rule and made constructive suggestions for improvement.

One of the most important benefits of a FAR Council notice-and-comment period is the opportunity it creates to hear from those with the greatest expertise on federal contracting. For this purpose, we paid particular attention to the comments submitted by the trade associations and NGOs that serve as leading conveners of federal contractors around best practices.

The comments of three organizations with substantial expertise caught our attention: [The Council of Defense and Space Industries Association](#), a private sector entity consisting of six industry associations representing thousands of government contractors; the [National Contract Management Association \(NCMA\)](#), another private sector entity representing over 20,000 professionals in government, industry, and academia; and the [Sustainable Purchasing Leadership Council](#), an NGO with over 180 organizational members. All three filed supportive comments, recognizing that the FAR Council, by calling for emissions inventories, climate risk analysis, emissions reduction targets and disclosure from large federal contractors, is taking a mainstream approach to risk management that is already broadly accepted by both buyers and sellers in the public and private sectors.

2. The Proposed Rule rests on a strong legal and policy foundation

Most opposition comments were from carbon-intensive businesses and trade associations such as [Chevron](#), the [American Petroleum Institute](#), and [American Fuel and Petrochemical Manufacturers](#). Noteworthy opposition comments from outside carbon-intensive sectors were

submitted by the [U.S. Chamber of Commerce](#) and [National Association of Manufacturers](#). In addition to these private sector examples, a handful of NGOs, including the [Pacific Legal Foundation](#) and [Consumers' Research](#), and one government group, the [Kentucky and West Virginia attorneys general](#), expressed opposition. The opposition from these advocates is consistent with their skepticism of climate-related policies in other regulatory venues and in Congress.

Three issues received the bulk of attention in the opposition comments:

- (1) Whether the Proposed Rule is constitutional. Some opponents argue it is barred by the First Amendment and the Major Questions Doctrine.
- (2) Whether it has statutory authorization. Some opponents argue that the Proposed Rule violates the Procurement Act and Administrative Procedure Act.
- (3) Whether the FAR Council has undertaken a sufficient cost-benefit analysis. Some opponents argue that the FAR Council has understated the burdens and costs of complying with the Proposed Rule.

Many of the legal criticisms aim at the FAR Council's proposal to rely on the Science Based Targets initiative (SBTi) to validate an emissions reduction target as science-based and thereby help decide a company's eligibility to serve as a federal contractor. For example, the [Aerospace Industries Association](#) asserts that reliance on SBTi for decisions affecting contractor eligibility is an improper delegation of authority and would leave U.S. national security open to undue foreign influence.

Many of the opposition comments, with or without touching on the Proposed Rule's legal validity, argue that it is unduly burdensome, particularly for small businesses. Most of the opposition comments dismiss as insufficient the FAR Council's proposals to excuse all but the nation's largest contractors from most or all of the Proposed Rule's requirements. As explained in **Ceres'** comments, the vast majority of the Proposed Rule's requirements are aimed at only 0.3% of federal contractors, the so-called Tier 3 contractors.¹

A significant number of opposition comments contend that the disclosures that would be required for Tier 3 contractors are unduly burdensome, even though those commenters would presumably not be subject to those requirements. An example is comments from the [Society of Independent Gasoline Marketers of America](#), which represents retail fuel stations and convenience stores. Opposition comments mostly sidestep any discussion of the cost savings that the Proposed Rule would achieve by reducing climate risk and leveraging the climate risk

¹ Tier 1 contractors, representing roughly 99 percent of all registered contractors, would be excused except to declare they are not "significant" or "major" contractors. Tier 2 contractors, representing roughly 0.7 percent of all registered contractors, would be excused from all requirements except declaring they are "significant" or "major" contractors and making scope 1 and 2 emissions disclosures. See Appendix A for Tier 1-3 definitions.

work underway by companies and nonprofit partners in response to investor pressure, financial regulations, and public procurement rules outside the U.S.²

Some opponents allege that the rule will burden small businesses not subject to it because they will be forced to respond to information requests from Tier 3 contractors covered by the scope 3 emissions disclosure requirements. [American Chemistry Council](#) attached its letter to Securities and Exchange Commission (SEC) complaining of burdens on value chain partners lacking sufficient resources to comply with scope 3-related data requests.

It should be noted that the Proposed Rule does not obligate Tier 3 contractors to gather data from value chain partners. Both the [GHG Protocol Corporate Value Chain \(Scope 3\) Accounting and Reporting Standard](#) and the [SEC in its proposed climate disclosure rule](#) endorse the widespread practice of using reasonable estimates of scope 3 emissions. The Proposed Rule implicitly endorses this practice by incorporating the GHG Protocol's Scope 3 standard in its GHG inventory requirement. See 87 Fed. Reg. at 68333.

Supporters of the Proposed Rule praised its tiered approach to assigning responsibilities, which assigned the bulk of responsibilities to the contractors most capable of meeting them due to the size of their contracts. Below, we explore several recommended adjustments to proposed waivers and exceptions to better execute this strategy.

Many supporters encouraged the FAR Council to pay attention not just to the costs imposed on large contractors by the Proposed Rule, but also to the much greater costs imposed on taxpayers from inaction. [Taxpayers for Common Sense](#) in particular outlines the harmful fiscal impacts of unaddressed physical and transition risk.

Others emphasized the cost savings to contractors of measuring, managing, and reducing their climate risk. For example, the [Sustainable Purchasing Leadership Council](#) states: "Suppliers will be enabled by the requirements to more fully understand and effectively target their own risks from, as well as their contributions to, business risks driven by climate change."

One set of supporters—in particular, the [attorneys general from 17 states and the District of Columbia](#), the [Sabin Center for Climate Change Law](#), [Public Citizen/Americans for Financial Reform \(AFR\)](#), [Center for American Progress](#), and [Governing for Impact](#)—focused their comments on explaining why the Proposed Rule has strong constitutional and statutory underpinnings. Anticipating the Major Questions Doctrine arguments of opponents, they outlined the decades of federal procurement rules issued pursuant to the Procurement Act that, like the Proposed Rule, are focused on environmental performance and/or risk-related

² Following on the heels of the [EU, UK, and Ireland](#), Canada recently enacted climate-related requirements for large contractors; [beginning in April](#), government contractors in Canada with more than CAD\$25M in annual contracts will be required to disclose GHG emissions and set net zero emissions reduction targets.

disclosures. Each of these comments provides a substantial body of evidence that the Proposed Rule would fulfill the Procurement Act’s mandates to advance economy and efficiency in contracting and satisfies the Administrative Procedure Act’s rational basis test.

3. *Five areas of improvement received significant attention from organizational supporters of the Proposed Rule*

The following chart highlights five issues that received significant attention from supporters of the Proposed Rule and specifies the number of commenters addressing each of them:

Table 2: Amendments Recommended by Supporters

	Revisit analysis and disclosure methodologies	Adjust target validation	Adjust scope 3 disclosure	Improve exceptions provisions	Improve waiver provisions
Private Sector - Carbon-Intensive (7)	3	3	3	1	0
Private Sector - Other (31)	14	6	1	6	3
Private Sector SUBTOTAL (38)	17	9	4	7	3
NGOs (29)	12	5	7	5	8
Government (1)	0	0	0	0	0
Organizations TOTAL (68)	29	14	11	12	11

a. *Revisit analysis and disclosure methodologies*

Numerous supporters offered insights on how to leverage the methodologies of non-federal entities involved with climate risk analysis and disclosure. Although the four entities discussed in the Proposed Rule (GHG Protocol, Task Force on Climate-Related Financial Disclosures (TCFD), CDP and SBTi) received widespread praise, various supporters offered reasons to avoid (1) strict adherence to the GHG Protocol for GHG emissions calculations, (2) reliance on CDP in framing questions for climate risk assessment and/or (3) exclusive use of SBTi for target-setting standards and validation. We summarize here the recommendations for adjusting analysis and disclosure of GHG emissions, climate risks, and targets. Recommendations on adjusting validation of targets are discussed in the next section.

Although virtually all 68 supporters of the Proposed Rule’s recommended use of the methodologies of the four nonprofits, nearly one-third (29) proposed amending key details on how one or more methodologies would be used. These concepts generally fell into three categories.

First, some supporters, including **Ceres**, recommended that the FAR Council set its own high-level standards and then provide flexibility in meeting those standards. These supporters reasoned that this would enable the FAR Council to avoid the need for rule updates during a rapid period of change in the world of climate risk assessment and disclosure. For example, the [Council of Defense and Space Industry Association](#) argues that rather than relying on CDP or SBTi, the FAR Council should provide "guardrails" and then allow contractors to choose the

methodologies for climate risk assessments and target-setting. The [Sustainable Purchasing Leadership Council](#) says that setting standards and then allowing the methodology of GHG Protocol “or another widely accepted science-based methodology” may reduce the burden on suppliers and prolong the requirement’s relevancy.

Setting federal standards rather than relying on outside standards also could reduce legal risk. Several comments suggested that the Proposed Rule’s reliance on nonprofits for standards involves difficult legal hurdles. [Pfizer](#) recommends removing reliance on third party standards until it is shown they meet the consensus requirements outlined in OMB Circular A-119. The [American Council on Renewable Energy](#) cites concerns about the need for a federal notice-and-comment and cost-benefit analysis whenever nonprofits’ standards are updated.

Second, some supporters, including **Ceres**, proposed that the FAR Council provide more options in selecting non-federal entities that provide methodologies for emissions calculations, climate risk assessments, and target setting. The [American Wood Council](#) calls for allowance of alternative methodologies, noting methodological changes underway at GHG Protocol and SBTi. [Microsoft](#) and [PwC](#) propose alternatives to the CDP questionnaire for disclosure methodologies. The [Motor & Equipment Manufacturers Association](#) endorses use of the GHG Protocol for emissions calculations but urge more flexibility for meeting other requirements. The [Center for Climate & Energy Solutions](#) asserts that although the four entities have “appropriate third-party standards and systems for the FAR Council to rely on,” the Proposed Rule should allow alternatives to SBTi because it does not yet have methodologies available for all sectors. The [Climate Registry](#) proposes approval of the General Reporting Protocol as an alternative to the GHG Protocol. The [We Mean Business Coalition](#) proposes allowing an alternative to the GHG Protocol for small and medium-sized enterprises. [Arcadia](#) and [Constellation Energy](#) propose alternatives to the GHG Protocol’s scope 2 methodology.

Third, some supporters suggested amendments to the Proposed Rule to ensure that it achieves cost-saving and other benefits of harmonization with other disclosure requirements. According to these supporters, the Proposed Rule could be adjusted to align more closely with the approaches used by the SEC and the International Sustainability Standards Board (ISSB) in their proposed climate disclosure frameworks. [PwC](#) proposes allowing the GHG inventory and TCFD risk analysis in SEC disclosures to partially satisfy the Proposed Rule. [Persefoni](#) proposes allowing companies to satisfy GHG inventory and risk reporting obligations with SEC disclosures where appropriate and integrating ISSB where appropriate. [Verizon](#) proposes use of SEC disclosures where appropriate to satisfy FAR Council standards. [E3G](#) recommends incorporation of ISSB disclosures as well as others based on widely-used and science-based methodologies.

b. Adjust target validation

Ceres and many other supporters of the Proposed Rule praised the work of SBTi in validating emissions reduction targets to ensure they are science-based. However, 14 of the 68

organizational supporters offered alternatives to the FAR Council's exclusive reliance on SBTi. Several supporters noted that SBTi has not yet completed its methodologies for all sectors. The [Motor & Equipment Manufacturers Association](#) emphasizes that the FAR Council's reliance on SBTi for validation while its guidance is not yet complete "could hinder the growth of zero-emitting technologies." [Baker Hughes](#) says that if the SBTi target validation requirement were kept despite the absence of guidance for the oil and gas sector, the rule should be delayed until public comment is obtained on the guidance and the guidance is integrated into the federal framework. [BP](#) argues that waivers are not a solution to the unavailability of the oil and gas guidance. Another key reason offered is that non-federal organizations arguably cannot legally be empowered to determine whether a company is eligible to serve as a federal contractor. For example, the [Council of Defense and Space Industry Association](#) asserts that the role of SBTi in validation may be an unconstitutional delegation of authority.

Two alternatives to the FAR Council's sole reliance on SBTi were offered in the comments. **Ceres** proposes that the FAR Council allow use of other non-federal entities to validate targets so long as they meet minimum thresholds for acceptance among stakeholders and adherence to science. [Carbon Direct](#) proposes use of additional external validators.³ Two supporters suggested enlisting a federal agency to validate targets. For example, [Pfizer](#) recommends the Environmental Protection Agency (EPA) should validate targets until SBTi qualifies as a consensus body under OMB Circular A-119. The [Shipbuilders Council of America](#) recommends that validation be provided by a U.S. regulatory authority.

c. Adjust scope 3 disclosure

Numerous supporters of the rule, such as [Microsoft](#), support its scope 3 emissions disclosure requirements, noting that these emissions are a key indicator of climate risk. Among supporters, only the [Shipbuilders Council of America](#) opposed scope 3 disclosure requirements, citing national security risks and burdens on value chain partners in producing data.

Other supporters, including **Ceres**, asked for greater specificity from the FAR Council regarding its scope 3 requirements. [Pfizer](#) and [Dell Technologies](#) request direction on what constitutes a "relevant" scope 3 disclosure. The Sustainable Purchasing Leadership Council calls for definition of "relevant" scope 3 and a requirement that contractors explain disclosure decisions in each scope 3 category.

Finally, some supporters called for the FAR Council to remove the flexibility of contractors to decide whether to disclose scope 3 based on their own assessments of relevance, including [Public Citizen/AFR](#) and [Union of Concerned Scientists](#). The [Center for Biological](#)

³ Several supporters, including Energy Workforce & Technology Council, Climate Registry, Center for Biological Diversity and Center for Resource Solutions, proposed that a third-party verification requirement should apply to emissions disclosures in addition to emissions reductions targets.

[Diversity](#) calls for extending scope 3 disclosure requirements to Tier 2 contractors as well as Tier 3 contractors.

d. Improve exceptions provisions

All supporters of the Proposed Rule agreed on the need for exceptions to address potential fairness and equity issues. However, many believed that the FAR Council’s approach to exceptions could be improved.

Supporters recommended changes to both categories of exceptions. The first category, in which five types of contractors are excused from Tier 2 duties, was a key focus of the **NCMA**’s comments. It called for removing or at least minimizing these exceptions because excusing these entities from climate risk disclosure would contradict the President’s climate risk objectives as stated in [Executive Order 14030](#). According to [NCMA](#), it also could create incentives for contractors to use the five types of organizations as a vehicle to defeat fair competition. [AFCEC COSC Pavements](#) adds that “providing exceptions for other groups will generate loopholes which vendors will exploit to ease their burden and obscure data needed by government and industry.”

[PwC](#) notes that the FAR Council justified its selection of several categories of contractors for this Tier 2 exception because they are already carrying out climate risk disclosures for the federal government; its proposed amendment is to have these disclosures serve as these contractors’ compliance with the Proposed Rule.

The second category of exceptions, in which small businesses and nonprofits are excused from Tier 3 duties, also drew attention from supporters of the Proposed Rule. Some supporters, including **Ceres** and the [Professional Services Council](#), called for removing the small business exception. As **Ceres** noted in its comments, the Small Business Association (SBA) definition of small businesses used by the FAR Council could unfairly allow companies to avoid Tier 3 duties despite the availability of very substantial financial resources to comply—more than \$50M in contract obligations in the prior fiscal year. Other supporters, such as [PwC](#), call for removing the exceptions for both small businesses and nonprofits.

Other supporters of the Proposed Rule proposed to expand the exceptions. For example, the [Women’s Chamber of Commerce](#) and [American Small Business Chamber of Commerce](#) proposed that small businesses other than high-emitting ones be excused entirely from compliance obligations. The [American Apparel & Footwear Association](#) called for this exception to be applied to all SBA-defined small businesses, regardless of whether they are high-emitting.⁴

⁴ A similarly broad exception for nonprofit disability service providers was sought by 14 nonprofits. These nonprofits, neutral about the Proposed Rule, did not indicate whether any disability service provider currently receives annual contract obligations at \$7.5M or greater.

e. *Improve waiver provisions*

Supporters of the Proposed Rule took a similar approach to its waiver provisions as they did its exceptions, offering conceptual support for their use to achieve fairness and equity with proposed amendments to address potential implementation problems. A number of NGOs, including **Ceres**, [Sustainable Purchasing Leadership Council](#), [Center for American Progress](#), [Taxpayers for Common Sense](#), [Public Citizen/AFR](#), and [Sierra Club](#), offer recommendations to ensure that waivers would not be used inappropriately to undercut the purpose of the Proposed Rule. Recommendations ranged from improved documentation and transparency to more explicit guidance on limiting the use of “mission critical” and “national security” waivers. The [Union of Concerned Scientists](#) calls for eliminating waivers entirely for contractors in carbon-intensive sectors.

Among the private sector supporters, the [Council of Defense and Space Industry Association](#) calls for clarification of the national security waiver, whereas the [Energy Workforce & Technology Council](#) recommends providing a “permanent waiver” (effectively an exception) for contractors engaged in national security matters. The [Motor & Equipment Manufacturers Association](#) calls for a waiver upon a demonstration that compliance would be “economically unreasonable.”

Conclusion

The comments filed regarding the Proposed Rule reflect stronger support than opposition towards the Rule and demonstrate that the FAR Council has more than adequate legal and policy justification for moving forward to finalization. Careful attention to supporters’ recommended amendments will help ensure that the final rule can be effectively implemented.

Thank you again for your leadership in this area. As always, we welcome opportunities to facilitate further discussions or to assist in organizing dialogues and meetings with regulatory and industry leadership. Please feel free to contact Steven Rothstein <srothstein@ceres.org> and John Kostyack <john@kostyackstrategies.com>.

Appendix A – Key Terms

While the Proposed Rule segments contractors as Major, Significant, or Other, **Ceres** adopted a “Tier 1-3” terminology to outline the different levels of reporting responsibilities. The tiers are defined as:

- **Tier 1 duties**, which apply to all SAM-registered contractors, are simply to complete a representation regarding whether they meet the definition of a significant or major

contractor. Significant contractors are defined as those with \$7.5M to \$50M of federal contract obligations in the prior fiscal year; major contractors are those with more than \$50M of such obligations.

- **Tier 2 duties** apply to two categories of contractors: (1) *significant* contractors that do not fall into one of five exceptions from Tier 2 duties (for tribal entities, higher education institutions, nonprofit research entities, state and local governments, and certain entities with management and operating (M&O) contracts); and (2) *major* contractors that are covered by exceptions from Tier 3 duties afforded to small businesses and nonprofits. These duties are to inventory and disclose scope 1 and 2 greenhouse gas (GHG) emissions.
- **Tier 3 duties** apply to major contractors that are not covered by the exceptions for small businesses and nonprofits. They are to (1) inventory and disclose scope 1 and 2 and “relevant” scope 3 emissions; (2) assess and disclose climate risk information recommended for disclosure by the TCFD and incorporated into a CDP questionnaire; (3) develop and disclose science-based emission-reduction targets; and (4) have the targets validated by the nonprofit Science-Based Targets Initiative (SBTi).

Other key terms used in our analysis are defined as follows:

- € **Opposition:** commenters who reject the entire legal and/or policy justification for the Proposed Rule.
- € **Supporter:** commenters who offer unqualified support as well as those who propose amendments aimed at improving the Proposed Rule’s effectiveness.
- € **Neutral:** commenters as those who do not signal any preference on whether FAR Council should complete its rulemaking but seek an amendment or clarification of a specific provision. Of the 19 neutral organizations, 14 are disability service provider NGOs seeking confirmation that they are not covered by the Proposed Rule.
- € **Carbon-intensive:** describes companies and trade associations in the following sectors with the following business models currently highly dependent on fossil fuels: (1) production/distribution/sale of fossil fuels; (2) utilities; (3) petrochemicals; (4) aviation; (5) maritime shipping; and (6) construction materials (steel, concrete, and asphalt). We included commenters in the “carbon-intensive” category even if they have low-carbon products in a portfolio mostly dependent on fossil fuels. We excluded two commenters from this category—**Arcadia** in the utilities sector and **Joby Aviation** in the aviation sector—because their business models, unlike others from their sectors that filed comments, are entirely focused on delivering low-carbon products.