

pumps handling polymerizing monomers, 2,000 parts per million or greater for pumps in food/medical service or pumps subject to § 63.163(b)(iii)(C), or 500 parts per million or greater for valves, connectors, instrumentation systems, and pressure relief devices is measured, a leak is detected.

\* \* \* \* \*

8. Section 63.181 is amended by redesignating paragraph (b)(9) as paragraph (b)(9)(i), by redesignating paragraph (e)(2) as paragraph (b)(9)(ii), and by reserving paragraph (e)(2).

**§ 63.181 Recordkeeping requirements.**

9. Section 63.182 is amended by adding two sentences to paragraph (d)(1) and by removing and reserving paragraphs (d)(2)(x) and (xii) to read as follows:

**§ 63.182 Reporting requirements.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \* The first periodic report shall cover the first 6 months after the compliance date specified in § 63.100(k)(3) of subpart F. Each subsequent periodic report shall cover the 6 month period following the preceding period.

\* \* \* \* \*

**Subpart I—National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.**

10. Section 63.191 is amended by adding in alphabetical order a definition for “research and development facility” to paragraph (b) to read as follows:

**§ 63.191 Definitions.**

(b) \* \* \*

*Research and development facility* means laboratory and pilot plant operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and is not engaged in the manufacture of products except in a de minimis manner.

\* \* \* \* \*

11. Section 63.192 is amended by redesignating paragraph (b)(6) as paragraph (b)(6)(i) and adding paragraph (b)(6)(ii) to read as follows:

**§ 63.192 Standard.**

\* \* \* \* \*

(b) \* \* \*

(6)(i) \* \* \*

(ii) The operational and maintenance requirements of § 63.6(e). The startup,

shutdown, and malfunction plan requirement of § 63.6(e)(3) is limited to control devices subject to the provisions of subpart H of part 63 and is optional for other equipment subject to subpart H. The startup, shutdown, and malfunction plan may include written procedures that identify conditions that justify a delay of repair.

\* \* \* \* \*

[FR Doc. 95-8198 Filed 4-7-95; 8:45 am]

**BILLING CODE 6560-50-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Public Land Order 7131**

**[NV-930-1430-01; NV-57922]**

**Withdrawal of Public Land to the United States Air Force; Nevada**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order withdraws 3,972.04 acres of public land from surface entry, mining, and mineral leasing until November 6, 2001, for the United States Air Force to provide a safety and security buffer between public land administered by the Bureau of Land Management and withdrawn land under the jurisdiction of the Nellis Air Force Range.

**EFFECTIVE DATE:** April 7, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dennis Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, (702) 785-6507.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), and from leasing under the mineral leasing laws, to provide a safety and security buffer for the United States Air Force at Nellis Range:

**Mount Diablo Meridian**

T. 6 S., R. 56 E., unsurveyed

Sec. 25;

Sec. 36.

T. 7 S., R. 56 E., unsurveyed

Sec. 1;

Sec. 13, W $\frac{1}{2}$ ;

Sec. 24, NW $\frac{1}{4}$ .

T. 6 S., R. 57 E.,

Sec. 30, lots 1 to 4, inclusive, and E $\frac{1}{2}$ W $\frac{1}{2}$ ;

Sec. 31, lots 1 to 4, inclusive, and E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$ .

T. 7 S., R. 57 E.,

Sec. 6, lots 1 to 7, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ .

The area described contains 3,972.04 acres in Lincoln County.

2. This withdrawal will expire on November 6, 2001, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

**Bob Armstrong,**

*Assistant Secretary of the Interior*

[FR Doc. 95-8756 Filed 4-7-95; 8:45 am]

**BILLING CODE 4310-HC-P**

**DEPARTMENT OF ENERGY**

**48 CFR Parts 915, 916 and 970**

**RIN 1991-AB19**

**Acquisition Regulation: Certified Cost or Pricing Data Threshold and Requirements for a Determination and Findings for Use of Cost-Reimbursement Contracts**

**AGENCY:** Department of Energy.

**ACTION:** Interim rule and request for comment.

**SUMMARY:** The Department of Energy is issuing an interim rule increasing the threshold for certified cost or pricing data from \$100,000 to \$500,000 and deleting the requirement for determinations and findings for use of cost reimbursement contracts. These changes are required by the Federal Acquisition Streamlining Act of 1994 and subsequent changes to the Federal Acquisition Regulation (FAR).

**DATES:** *Effective Date:* April 10, 1995.

*Comment Date:* Written comments must be submitted no later than June 9, 1995.

**ADDRESSES:** Comments should be addressed to: Terrence D. Sheppard, Business and Financial Policy Division (HR-521.2), Office of Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:** Terrence D. Sheppard, (202) 586-8174.

**SUPPLEMENTARY INFORMATION:**

I. Background

II. Public Comments

III. Procedural Requirements

A. Review Under Executive Order 12866

B. Review Under Executive Order 12778

C. Review Under the Paperwork Reduction Act

D. Review Under the National Environmental Policy Act  
 E. Review Under Executive Order 12612

## I. Background

Pursuant to section 644 of the Department of Energy Organization Act (Pub. L. 95-91, 42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in the Secretary. In accordance with this authority, the Department of Energy Acquisition Regulation (DEAR) (48 CFR Chapter 9) was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984).

The Federal Acquisition Streamlining Act of 1994 (the Act) (Pub. L. 103-355) provides authorities that streamline the acquisition process and minimize burdensome government-unique requirements. This notice announces an interim rule which amends the DEAR based on certain provisions in the Act. In particular, Section 1251 of the Act, which was implemented in the FAR under FAR Case 94-720 (59 FR 62498, December 5, 1994), increases the threshold for obtaining certified cost or pricing data from \$100,000 to \$500,000, and section 1071 of the Act, which was implemented in the FAR under FAR Case 94-700, (59 FR 64784, December 15, 1994), repealed the requirement for a determination and finding regarding use of a cost-type or incentive contract. This interim rule is intended solely to make the changes necessary to implement those limited portions of the Act. More extensive changes to implement other portions of the Act will be made subsequently.

A detailed list of changes follows:

1. The authority for Parts 915 and 916 is restated.

2. Subsection 915.804-70 is amended by deleting the parenthetical "(proposals of \$100,000 or less)." There is no need to specify the new threshold (\$500,000), because it is stated in the FAR and is the same for all federal agencies. In addition, the FAR provides that this threshold will be subject to adjustment effective October 1, 1995 and every five years thereafter.

3. Subsection 916.301-3 is deleted in its entirety as the statutory requirement to prepare a determination and finding has been repealed by Section 1071 of the Act.

4. The authority for Part 970 is amended by deleting the references to 41 U.S.C. 420 and 42 U.S.C. 7256a. The former was repealed by Section 2191 of the Act and the latter is unnecessary in

light of the authority provided by 42 U.S.C. 2201 and 42 U.S.C. 7254.

5. Subsection 970.5204-24 is amended by deleting the specific references to the \$100,000 threshold and replacing it with references to the FAR cost or pricing data threshold established in FAR 15.804-2(a)(1). Affected paragraphs are (a), (a)(2), (c), (d), (f), and NOTE (b).

6. Subsection 970.7104-11 is amended at paragraphs (a)(1)(i) and (ii) by deleting the specific dollar threshold and substituting a reference to the FAR threshold.

## II. Public Comments

The regulatory changes described above are not discretionary with the Department. Accordingly, the Department has not published a general notice of proposed rulemaking. Nevertheless, the Department is providing an opportunity to comment on any relevant matter that may have been overlooked. Interested persons are invited to participate by submitting data, views, or arguments with respect to the interim final Department of Energy Acquisition Regulation amendments set forth in this notice. Three copies of written comments should be submitted to the address indicated in the "ADDRESSES" section of this notice. All comments received will be available for public inspection in the DOE Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. All written comments received by the date indicated in the "DATES" section of this notice and all other relevant information in the record will be carefully assessed and fully considered prior to publication of the final rule. Any information considered to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determination (See 10 CFR 1004.11).

## III. Procedural Requirements

### A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

### B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs agencies to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in Sections 2 (a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's interim final rule meets the requirements of sections 2 (a) and (b) of Executive Order 12778.

### C. Review Under the Paperwork Reduction Act

No new information or recordkeeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

### D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR Part 1021, Subpart D) implementing the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments to the DEAR do not change the environmental effect of the rule being amended (categorical exclusion A5). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

### E. Review Under Executive Order 12612

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment

to be used in all decisions involved in promulgating and implementing a policy action. This interim final rule, when finalized, will revise certain policy and procedural requirements. States which contract with DOE will be subject to this rule. However, DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of the States.

#### **List of Subjects in 48 CFR Parts 915, 916, and 970**

Government procurement.

**Richard H. Hopf,**

*Deputy Assistant Secretary for Procurement and Assistance Management.*

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

1. The authority citations for Parts 915 and 916 continue to read as follows:

**Authority:** 42 U.S.C. 7254; 40 U.S.C. 486(c).

#### **PART 915—CONTRACTING BY NEGOTIATION**

2. Subsection 915.804–70 is revised to read as set forth below:

##### **915.804–70 Uncertified cost or pricing data.**

Anytime an offeror or contractor is not required to submit certified cost or pricing data, the contracting officer may require the offeror or contractor to submit uncertified cost or pricing data. The amount of data required to be submitted should be limited to that data necessary to allow the contracting officer to determine the reasonableness of the price.

#### **PART 916—TYPES OF CONTRACTS**

##### **916.301–3 [Removed]**

3. Subsection 916.301–3, Limitations, is removed.

#### **PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS**

4. The authority citation for Part 970 is revised to read as follows:

**Authority:** Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254).

5. Subsection 970.5204–24 is amended by revising paragraphs (a), (a)(2), (c), (d), (f), (g), and paragraph (b) following “NOTE” at the end of the clause to read as set forth below:

##### **970.5204–24 Subcontractor cost or pricing data.**

(a) The following clause shall be inserted in all subcontracts where such subcontracts, and any modifications thereto, exceed the cost or pricing data threshold at FAR 15.804–2(a)(1), even though the original amount of the subcontract was below the threshold.

\* \* \* \* \*

(2) Except as provided in (a)(3) of this clause, certified cost or pricing data shall be submitted prior to (i) award of each sub-subcontract, the price of which is expected to exceed the cost or pricing data threshold at FAR 15.804–2(a)(1), and (ii) the negotiation of the price of each change or modification to the sub-subcontract under this subcontract for which the price adjustment is expected to exceed the cost or pricing data threshold at FAR 15.804–2(a)(1).

\* \* \* \* \*

(c) For purposes of verifying that certified cost or pricing data submitted in conjunction with the negotiation of this subcontract change or other modification involving an amount in excess of the cost or pricing data threshold at FAR 15.804–2(a)(1) were accurate, complete, and current, DOE shall, until the expiration of 3 years from the date of final payment under this subcontract, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this subcontract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(d) If the original price of this subcontract exceeds the cost or pricing data threshold at FAR 15.804–2(a)(1) or the price of any change or other modification to this subcontract is expected to exceed the cost or pricing data threshold at FAR 15.804–2(a)(1), the subcontractor agrees to furnish the contractor certified cost or pricing data, using the certificate set forth in paragraph (b) of this clause, unless the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

\* \* \* \* \*

(f) The subcontractor agrees to insert paragraph (c) of this clause, without change, and the substance of paragraphs (a), (b), (d), (e), and (f) of this clause in each sub-subcontract hereunder in excess of the cost or pricing data threshold at FAR 15.804–2(a)(1) and in each sub-subcontract that is less than the threshold when making a change or other modification thereto in excess of the cost or pricing data threshold at FAR 15.804–2(a)(1).

(g) If the prime contractor determines that any price, including profit or fee, negotiated in connection with this subcontract or any cost reimbursable under this subcontract was increased by any significant sum because the subcontractor or any sub-subcontractor, pursuant to this clause or any sub-subcontract clause herein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in the subcontractor's certificate of current cost or pricing data, then such price or cost shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

**Note.** \* \* \*

(b) This clause may also be used for subcontracts in which the amount of the subcontract is less than the cost or pricing data threshold at FAR 15.804–2(a)(1), if a certificate of cost or pricing data is obtained; if so used, the amount stated in the clause should be modified appropriately.

\* \* \* \* \*

6. Subsection 970.7104–11 is amended by revising paragraphs (a)(1)(i) and (ii) to read as set forth below:

##### **970.7104–11 Cost or pricing data.**

(a) \* \* \*

(1) \* \* \*

(i) Award of a negotiated subcontract when the price is expected to exceed the threshold for cost or pricing data at 48 CFR (FAR) 15.804–2(a)(1), or

(ii) Modifications of any subcontract when the price adjustment is expected to exceed the threshold for cost or pricing data at 48 CFR (FAR) 15.804–2(a)(1), unless unrelated and separately priced changes, for which certified cost or pricing data would not otherwise be required, are included.

\* \* \* \* \*

[FR Doc. 95–8748 Filed 4–7–95; 8:45 am]

**BILLING CODE 6450–01–P**

#### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

#### **48 CFR Parts 1802, 1850, and 1852**

##### **Indemnification under Public Law 85–804**

**AGENCY:** Office of Procurement, National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This rule amends the NASA policy and approval process on indemnifying contractors. This revision is part of NASA's efforts to simplify its regulations. The streamlined policy relies more on Federal-wide policies.

**EFFECTIVE DATE:** April 10, 1995.

**FOR FURTHER INFORMATION CONTACT:** Harold Nelson, (202) 358–0436.

##### **SUPPLEMENTARY INFORMATION:**

###### **Background**

NASA is reviewing and rewriting 48 CFR chapter 18, the NASA FAR Supplement, in its entirety in order to implement recommendations of the National Performance Review. During this review, NASA is eliminating reporting requirements and making other changes in order to reduce and simplify the regulation. This final rule 48 CFR parts 1802, 1850, and 1852 for the following reasons.