

Buy American Act are not served, or in order to meet a need set forth in 10 U.S.C. 2533. For example, a public interest exception may be appropriate—

(1) If accepting the low domestic offer will involve substantial foreign expenditures, or accepting the low foreign offer will involve substantial domestic expenditures;

(2) To ensure access to advanced state-of-the-art commercial technology; or

(3) To maintain the same source of supply for spare and replacement parts (also see paragraph (b)(iii)(B) of this section)—

(i) For an end item that qualifies as an American good; or

(ii) In order not to impair integration of the military and commercial industrial base.

(C) A determination whether to grant a public interest exception shall be made after consideration of the factors in 10 U.S.C. 2533—

(1) At a level above the contracting officer for acquisitions valued at less than \$100,000;

(2) By the head of the contracting activity for acquisitions valued at \$100,000 or more but less than \$1,000,000; or

(3) By the agency head for acquisitions valued at \$1,000,000 or more.

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48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; Supercomputers

AGENCY: Department of Defense (DoD).
ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFFARS) to reflect a statutory restriction on the acquisition of supercomputers of foreign manufacture.

DATES: *Effective date:* July 3, 1995.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before September 1, 1995, to be considered in the formulation of the final rule

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (AT&T)DP(DAR), IMD 3D139, 3062

Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 95-D301 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim DFARS rule implements Section 8023 of the Fiscal Year 1995 Defense Appropriations Act (Pub. L. 103-335). Section 8023 and comparable sections in prior Defense Appropriations Acts require that any supercomputers acquired with defense funds appropriated in Fiscal Years 1988 through 1995 must be manufactured in the United States, unless the Secretary of Defense certifies to Congress that the supercomputers are for national security purposes and are not available from United States manufacturers.

B. Regulatory Flexibility Act

This interim rule is not expected 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 places restrictions on the acquisition of foreign products. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95-D301 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not impose any new information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This action is necessary to implement Section 8023 of the Fiscal Year 1995 Defense Appropriations Act (Pub. L. 103-335). Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 225 and 252 is revised to read as follows:

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

PART 225—FOREIGN ACQUISITION

2. Sections 225.7023, 225.7023-1, 225.7023-2, and 225.7023-3 are added to read as follows:

225.7023 Restriction on supercomputers.

225.7023-1 Restriction.

In accordance with Section 8101 of Pub. L. 100-202, and similar sections in subsequent Defense Appropriations Acts, do not purchase any supercomputer that is not manufactured in the United States.

225.7023-2 Waiver.

The restriction in 225.7023-1 may be waived by the Secretary of Defense on a case-by-case basis, after the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that—

(a) Adequate U.S. supplies are not available to meet requirements on a timely basis; and

(b) The acquisition must be made in order to acquire capability for national security purposes.

225.7023-3 Contract clause.

Use the clause at 252.225-7011, Restrictions on Acquisition of Supercomputers, in solicitations and contracts for the acquisition of supercomputers.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.225-7011 is added to read as follows:

252.225-7011 Restriction on Acquisition of Supercomputers.

As prescribed in 225.7023-3, use the following clause:

Restriction on Acquisition of Supercomputers (Insert month and year of publication in the **Federal Register**)

The Contractor agrees that any supercomputers furnished under this contract have been manufactured in the United States.

(End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106003-5070-02; I.D. 062695B]

Pacific Halibut Fisheries; Treaty Indian Commercial Fishery in Subarea 2A-1

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes this inseason action pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of Pacific halibut stock in order to help sustain it at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: June 12, 1995, through December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, 907-586-7221; William W. Stelle, Jr., 206-526-6140; or Donald McCaughran, 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by NMFS (60 FR 14651, March 20, 1995). On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

Northwest Treaty Tribes Fishery in Area 2A

Northwest treaty Indian tribes were allocated a total allowable catch of

182,000 lb (82.55 metric tons (mt)) in the subarea 2A-1 (northern Washington coast) in 1995. Of this total, 11,000 lb (4.98 mt) are reserved for ceremonial and subsistence purposes, leaving 171,000 lb (77.56 mt) for the commercial fishery. The commercial catch as of June 12, 1995, in subarea 2A-1 was 175,000 lb (79.37 mt), closing the treaty Indian commercial fishery for the remainder of 1995.

Dated: June 26, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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50 CFR Part 663

[Docket No. 950209046-5167-03; I.D. 011295D]

RIN 0648-AG82

Pacific Coast Groundfish Fishery; Modification of Nontrawl Sablefish Season

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS announces regulations to establish a new season structure for the nontrawl sablefish component of the Pacific Coast Groundfish limited entry fishery off Washington, Oregon, and California. The new regular season for this fishery will begin each year at 12 noon August 6. In addition, both the limited entry and open-access groundfish fisheries are required to remove all fixed gear from the water 72 hours prior to the start of the regular season. This rule is intended to promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing an equitable opportunity for different types of nontrawl gear to harvest the limited entry nontrawl allocation for sablefish, to enhance vessel safety by avoiding a winter opening, to keep the fishery within the annual management target, and to minimize gear conflicts.

EFFECTIVE DATE: August 2, 1995.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140; or Rodney McInnis at 310-980-4040.

SUPPLEMENTARY INFORMATION:

NMFS issues this final rule under the authority of the FMP and the Magnuson Fishery Conservation and Management Act (Magnuson Act). NMFS published a

proposed rule at 60 FR 11062 (March 1, 1995), requesting comments through April 17, 1995, based on a recommendation of the Pacific Fishery Management Council (Council) at its October 1994 meeting. No written comments were received. NMFS concurs with the Council's recommendations, and therefore, this final rule is substantively the same as proposed, with several clarifications explained below. The proposed rule and Environmental Assessment and Regulatory Impact Review (EA/RIR) prepared for this action contain background and rationale.

Clarifications

The proposed rule stated that all nontrawl gear must be out of the water 72 hours before the regular season and sablefish may not be landed during that time. However, a review of the Council's motion revealed that this requirement was intended to apply only to fixed gear (longline, trap or pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear), not all nontrawl gear. Nontrawl gear includes fixed as well as mobile gear. Most at-sea enforcement of the closure will be conducted by over-flights. Because it is difficult to distinguish between the various types of access or limited entry fixed gear, the requirement for gear to be out of the water applies to both open access and limited entry operations. Mobile nontrawl gear catches only small amounts of sablefish, and, since it is not marked with buoys, its use does not complicate aerial enforcement. Therefore, it is unnecessary to require mobile nontrawl gear to be out of the water. In the pink shrimp and spot and ridgeback prawn fisheries, pot (trap) vessels may set their gear as long as groundfish are not retained or landed during the 72-hour period.

To facilitate enforcement, NMFS intends to use 12 noon as the starting and ending times of the regular and mop-up fisheries, whenever practicable. Regarding the length of the mop-up season and amount of the cumulative trip limit, the requirement for the NMFS Regional Director to consult with the Council's "Groundfish Management Team" has been revised to its "designees" to provide flexibility.

The Council confirmed its intent and it is NMFS policy that, as in other groundfish fisheries, a vessel must initiate offloading its catch before the effective time of any closure or reduced trip limit. This ensures that fishers have enough time to come to shore and start offloading their catch, which is well documented because each landing of