

submitted a report to the Defense Acquisition Regulations Council.

This proposed rule reflects the conclusion of the working group that references to flexible progress payments as a method of contract financing should be removed from the DFARS. This financing method is administratively complex and burdensome, and may be replaced with the less cumbersome financing method of performance-based payments in some situations. In addition, as indicated in Table 32-1 at DFARS 232.502-1-71, flexible progress payments currently are not permitted for use for contracts awarded as a result of solicitations issued on or after November 11, 1993.

B. Regulatory Flexibility Act

The proposed 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 most contracts awarded to small entities have a dollar value less than the simplified acquisition threshold, and, therefore, do not use the flexible progress payments method of financing. In addition, flexible progress payments currently are not permitted for use for contracts awarded as a result of solicitations issued on or after November 11, 1993. 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 also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite 5 U.S.C. 601, *et seq.* (DFARS Case 98-D400), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any information collection requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

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

Therefore, 48 CFR Parts 232 and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 232 and 252 continues to read as follows:

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

PART 232—CONTRACT FINANCING

2. Section 232.501 is revised to read as follows:

§ 232.501 General.

§ 232.501-1 [Amended]

3. Section 232.501-1 is amended by removing paragraph (a)(iii).

§ 232.501-2 [Amended]

4. Section 232.501-2 is amended in the second sentence by revising the parenthetical "(232.171)" to read "(see 232.071)".

§ 232.502-1-71 [Removed]

5. Section 232.502-1-71 is removed.

§ 232.502-4-70 [Amended]

6. Section 232.502-4-70 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

§ 252.232-7003 [Removed and Reserved]

7. Section 252.232-7003 is removed and reserved.

8. Section 252.232-7004 is amended by revising the introductory text to read as follows:

§ 252.232-70004 DoD progress payment rates.

As prescribed in 232.502-4-70(b), use the following clause:

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 082698D]

RIN 0648-AK05

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 9

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management

Council (Council) has submitted Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before November 9, 1998.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 9, which includes a final supplemental environmental impact statement, an initial regulatory flexibility analysis, a regulatory impact review, and a social impact/fishery impact statement, should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; Phone: 843-571-4366; Fax: 843-769-4520.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 727-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to the Secretary of Commerce for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Amendment 9 would: increase the minimum size for red porgy, black sea bass, gag, and black grouper for all participants; increase the minimum size for vermilion snapper for a person subject to the bag limit; establish bag limits for red porgy and black sea bass; during March and April, prohibit harvest and possession in excess of the bag limit and prohibit purchase and sale of red porgy, gag grouper, and black grouper; for greater amberjack, reduce the bag limit, establish a commercial quota and trip limit, prohibit sale of greater amberjack caught under the bag limit when the commercial fishery is closed, prohibit harvest and possession in excess of the bag limit during April, change the beginning of the fishing year to May 1, and prohibit coring (removal of the head from the carcass); restrict possession of gag and black grouper within the aggregate grouper bag limit; establish an aggregate bag limit for all

snapper-grouper species currently not under a bag limit (excluding tomate and blue runner); require escape vents and escape panels with degradable hinges and fasteners in black sea bass pots; and specify that a vessel with longline gear on board may only possess certain deep-water species of snapper-grouper.

A proposed rule to implement Amendment 9 has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with Amendment 9, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish it in the **Federal Register** for public review and comment.

Comments received by November 9, 1998 whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 9. Comments received after that date will not be considered by NMFS in this decision. All comments on Amendment 9 or on the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 1, 1998.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 98-24032 Filed 9-4-98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980826225-8225-01 ; I.D. 081498C]

RIN 0648-AL50

Fisheries of the Exclusive Economic Zone Off Alaska; Extension of the Interim Groundfish Observer Program through December 31, 2000

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to extend the current groundfish observer coverage requirements and implementing regulations for the North Pacific Groundfish Observer Program

(Observer Program) that expire December 31, 1998. This action is necessary to assure uninterrupted observer coverage through December 31, 2000.

This action is intended to accomplish the objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs).

DATES: Comments on this proposed rule must be received by October 8, 1998.

ADDRESSES: Comments should be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for the 1997 Interim Groundfish Observer Program, the RIR/FRFA prepared for the 1998 Interim Groundfish Observer Program, and the RIR/Initial Regulatory Flexibility Analysis (IRFA) prepared for this proposed regulatory action also may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Sue Salvesson, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska and the Bering Sea and Aleutian Islands management area in the Exclusive Economic Zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

In 1996, the Council adopted and NMFS implemented the Interim Groundfish Observer Program. The Interim Groundfish Observer Program superseded the North Pacific Fisheries Research Plan and extended the 1996 mandatory groundfish observer requirements through 1997 (61 FR 56425, November 1, 1996) and again through 1998 (62 FR 67755, December 30, 1997). The intent of the Interim Observer Program is to provide for the collection of observer data necessary to manage the Alaska groundfish fisheries while a long-term program is being developed to address concerns about

observer data integrity, observer compensation and working conditions, and equitable distribution of observer coverage costs. During 1997 and 1998, NMFS attempted to address the first two concerns through the development of a joint partnership agreement (JPA). The JPA would be an agreement with a third party organization that would be implemented by 1999 for that organization to provide observer procurement services for the Alaska groundfish industry. The Pacific States Marine Fisheries Commission (PSMFC) expressed a willingness to serve as the third party organization to provide these services under a JPA. Throughout 1997 and 1998, NMFS consulted with the Council on the progress toward development of a JPA between NMFS and PSMFC.

At its December 1997 meeting, the Council further requested NMFS to address the observer coverage cost distribution issue through either reconsideration of the North Pacific Fisheries Research Plan that was repealed in 1995 (61 FR 56425, November 1, 1996), or the development of an alternative funding mechanism. The Council intended that options to address the cost distribution issue be developed concurrently with the JPA, although the implementation schedule of the JPA and of measures to address industry cost concerns were anticipated to differ.

During late spring 1998, NMFS became aware of two issues that forestalled the ability of PSMFC to go forward with the JPA concept as endorsed by the Council and conceptualized by NMFS. First, the authorities and respective roles of NMFS and PSMFC under a JPA could subject the agreement to the Services Contract Act (SCA). While it would be possible to develop a JPA under the SCA, under the SCA's wage provisions costs of observer services under the JPA would likely increase beyond those negotiated under union settlement and envisioned by the Council for this program.

Second, the role envisioned for PSMFC under the JPA would increase PSMFC's exposure to potential lawsuits. PSMFC determined this exposure to be too high. Furthermore, NMFS could not sufficiently indemnify PSMFC against legal challenge because (1) no statutory authority for such indemnification exists, and (2) the Anti-Deficiency Act precludes open-ended indemnification. Regulations developed to implement the JPA could deflect potential lawsuits away from PSMFC to NMFS.