

B. Regulatory Flexibility Act

DoD certifies that this final rule will not 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 application of the rule is limited to contracts for environmental remediation services at military installations or sites formerly used by DoD. Before using the multiyear contracting authority provided by the rule, the head of the agency must determine that certain conditions exist, to include a determination that use of a multiyear contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operations.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 217

Government procurement.

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

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR Part 217, which was published at 68 FR 43332 on July 22, 2003, is adopted as a final rule without change.

[FR Doc. 04-10881 Filed 5-12-04; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE**48 CFR Parts 225 and 252**

[DFARS Case 2003-D099]

Defense Federal Acquisition Regulation Supplement; Berry Amendment Changes

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Sections 826 and 827 of the National Defense Authorization Act for Fiscal Year 2004. Sections 826 and 827 provide exceptions to the domestic source requirements of the Berry Amendment. Section 826 applies to the acquisition of

food, specialty metals, and hand or measuring tools needed to support contingency operations or to fulfill other urgent requirements. Section 827 applies to the acquisition of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives.

DATES: Effective date: May 13, 2004.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before July 12, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcom>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003-D099 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D099.

At the end of the comment period, interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0328.

SUPPLEMENTARY INFORMATION:**A. Background**

DFARS 225.7002-1 contains requirements for the acquisition of certain items from domestic sources in accordance with the Berry Amendment (10 U.S.C. 2533a). DFARS 225.7002-2 provides exceptions to these requirements. This interim rule adds new exceptions to DFARS 225.7002-2 to implement Sections 826 and 827 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Section 826 applies to the acquisition of food, specialty metals, and hand or measuring tools when needed to support contingency operations or when the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency. Section 827 applies to the acquisition of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives. A corresponding change is made to the clause at DFARS 252.225-7012.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule 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 exceptions to domestic source requirements authorized by the rule are limited to acquisitions of items needed to support contingency operations, to fulfill requirements that are of unusual and compelling urgency, or to produce propellants and explosives. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D099.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget 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 urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Sections 826 and 827 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Sections 826 and 827 provide exceptions to the domestic source requirements of the Berry Amendment (10 U.S.C. 2533a). Section 826 applies to the acquisition of food, specialty metals, and hand or measuring tools needed to support contingency operations or to fulfill other urgent requirements. Section 827 applies to the acquisition of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives. Sections 826 and 827 became effective on November 24, 2003. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 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 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

- 2. Section 225.7002–2 is amended as follows:
 - a. Redesignating paragraphs (f) through (i) and (j) through (m) as paragraphs (g) through (j) and (l) through (o), respectively; and
 - b. By adding new paragraphs (f) and (k) to read as follows:

225.7002–2 Exceptions.

- * * * * *
- (f) Acquisitions of food, specialty metals, or hand or measuring tools—
 - (1) In support of contingency operations; or
 - (2) For which the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency in accordance with FAR 6.302–2.
- * * * * *

- (k) Acquisitions of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives.
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PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

- 3. Section 252.212–7001 is amended as follows:
 - a. By revising the clause date to read “(MAY 2004)”; and
 - b. In paragraph (b), in entry “252.225–7012”, by removing “(FEB 2003)” and adding in its place “(MAY 2004)”.
- 4. Section 252.225–7012 is amended as follows:
 - a. By revising the clause date to read “(MAY 2004)”; and
 - b. By redesignating paragraphs (c)(3) through (5) as paragraphs (c)(4) through (6), respectively; and
 - c. By adding a new paragraph (c)(3) to read as follows:

252.225–7012 Preference for Certain Domestic Commodities.

* * * * *

(c) * * *

(3) To waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives;

* * * * *

[FR Doc. 04–10880 Filed 5–12–04; 8:45 am]

BILLING CODE 5001–08–P

- b. In paragraph (d), in the first sentence, by removing “225.7019–3” and adding in its place “225.7009–3”.

[FR Doc. 04–10882 Filed 5–12–04; 8:45 am]

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DEPARTMENT OF DEFENSE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040112010–4114–02 ; I.D. 050604B]

Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Commercial Haddock Harvest

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

ACTION: Removal of haddock trip limit.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), is eliminating the daily and maximum haddock trip limits for the groundfish fishery specified at 50 CFR 648.86(a) for the remainder of the 2004 fishing year, through April 30, 2005. Accordingly, there is no trip limit on the amount of haddock that can be harvested or landed for the rest of the fishing year for vessels subject to these regulations. The Regional Administrator has projected that less than 75 percent of the haddock target total allowable catch (TAC) will be harvested for the 2004 fishing year under the restrictive daily possession and trip limits. This action is intended to allow fishermen to catch the haddock TAC, without exceeding the TAC.

DATES: Effective May 7, 2004 through April 30, 2005.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, Fishery Policy Analyst, 978–281–9141.

SUPPLEMENTARY INFORMATION:

Framework Adjustment 33 to the NE Multispecies Fishery Management Plan (FMP), which became effective May 1, 2000, implemented the current haddock trip limit regulations (65 FR 21658, April 24, 2000). To ensure that haddock landings do not exceed the appropriate target TAC, Framework 33 established a haddock trip limit of 3,000 lb (1,360.8 kg) per NE multispecies day-at-sea (DAS) fished and a maximum trip limit of 30,000 lb (13,608 kg) of haddock for the period May 1 through September 30; and 5,000 lb (2,268 kg) of haddock per DAS and 50,000 lb (22,680 kg) per trip from October 1 through April 30.

DEPARTMENT OF DEFENSE

48 CFR Part 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement to update clause dates and references.

EFFECTIVE DATE: May 13, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

- Therefore, 48 CFR Part 252 is amended as follows:

- 1. The authority citation for 48 CFR Part 252 continues to read as follows:

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

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

- 2. Section 252.212–7001 is amended as follows:

- a. In paragraph (b), in entry “252.225–7016”, by removing “(APR 2003)” the first place it appears and adding in its place “(MAY 2004)”; and

- b. In paragraph (b), in entry “252.232–7003”, by removing “(DEC 2003)” and adding in its place “(JAN 2004)”.

252.225–7016 [Amended]

- 3. Section 252.225–7016 is amended as follows:

- a. By revising the clause date to read “MAY 2004”; and