

(C) Establish that the requirement has been structured to minimize the use of time-and-materials requirements (e.g., limiting the value or length of the time-and-materials portion of the contract or order; establishing fixed prices for portions of the requirement); and

(D) Describe the actions planned to minimize the use of time-and-materials contracts on future acquisitions for the same requirements.

(ii) For indefinite-delivery contracts, the contracting officer shall—

(A) Structure contracts that authorize time-and-materials orders to also authorize orders on a cost-reimbursement, incentive, or fixed-price basis, to the maximum extent practicable; and

(B) Execute the determination and findings for—

(1) Each order placed on a time-and-materials basis if the indefinite-delivery contract also authorizes orders on a cost-reimbursement, incentive, or fixed-price basis; or

(2) The basic contract if the indefinite-delivery contract only authorizes time-and-materials orders. The determination and findings shall—

(i) Contain sufficient facts and rationale to justify why orders on a cost-reimbursement, incentive, and fixed-price basis are not practicable; and

(ii) Be approved one level above the contracting officer.

* * * * *

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 246, 252 and Chapter 2

RIN 0750-AF88

Defense Federal Acquisition Regulation Supplement; Quality Assurance Authorization of Shipment of Supplies (DFARS Case 2005-D024)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the criteria under which the contract administration office may permit a contractor to release supplies for shipment without Government authorization of the shipping

documents. The proposed changes will enable the Government to provide for the appropriate level of contract quality assurance at source, based on product complexity and criticality and the contractor's record of quality control.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before June 23, 2008, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2005-D024, using any of the following methods:

○ *Federal eRulemaking Portal:*

<http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *E-mail:* dfars@osd.mil. Include

DFARS Case 2005-D024 in the subject line of the message.

○ *Fax:* 703-602-7887.

○ *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, 703-602-0302.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS 246.471 to provide for contractor release of supplies for shipment, without Government authorization of the shipping documents, based on criteria that consider product complexity and criticality and the contractor's record of quality control.

In addition, changes are proposed to DD Form 250, Material Inspection and Receiving Report. Since DoD forms are not published in the **Federal Register** or the Code of Federal Regulations, the proposed changes to DD Form 250 do not appear in the amendatory portion of this proposed rule, but are described as follows: The statements in Blocks 21a and 21b (Contract Quality Assurance) of DD Form 250 are proposed to be changed, from "CQA/ACCEPTANCE of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents", to "CQA/ACCEPTANCE has been subject to Government contract quality assurance surveillance". The proposed changes provide for the representative signing the DD Form 250 at source to affirm that

the appropriate quality assurance activities have been accomplished. The clause at DFARS 252.246-7000, Material Inspection and Receiving Report, is amended to specify that a contractor's submission of a receiving report constitutes the contractor's affirmation that the items listed on the report conform to contract requirements.

The existing DD Form 250 is available at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

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 proposed 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 proposed rule primarily relates to the allocation of Government resources to quality assurance functions. 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 2005-D024.

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 Parts 246 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 246 and 252 and Appendix F to Chapter 2 as follows:

1. The authority citation for 48 CFR parts 246 and 252 and Appendix F to subchapter I continues to read as follows:

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

PART 246—QUALITY ASSURANCE

2. Section 246.471 is amended as follows:

- a. By removing paragraph (a)(4); and
- b. By revising paragraph (b) heading and paragraph (b)(1) to read as follows:

246.471 Authorizing shipment of supplies.

* * * * *

(b) Alternative Procedures-Contractor Release for Shipment.

(1) The contract administration office may authorize, in writing, the contractor to release supplies for shipment when—

(i)(A) Products are non-complex or non-critical;

(B) Conformance will be validated by periodic assessments; and

(C) The contractor has a record of satisfactory quality; or

(ii)(A) Products are complex or critical;

(B) The authorization of the shipping papers by a representative of the contract administration office prevents expediency of shipment;

(C) The Government performs a systematic and continuing evaluation of the contractor's control of quality; and

(D) The contractor has a record of satisfactory quality, including that pertaining to preparation for shipment.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.246–7000 is amended by revising the clause date and adding paragraph (c) to read as follows:

252.246–7000 Material Inspection and Receiving Report.

* * * * *

Material Inspection and Receiving Report (XXX 2008)

* * * * *

(c) When submitting the receiving report (whether using DD Form 250 or WAWF), the Contractor is affirming that the items listed on the report conform to contract requirements, except as otherwise noted on the report.

Appendix F—Material Inspection and Receiving Report

4. Appendix F to chapter 2 is amended in Part 3, Section F–301, by revising paragraphs (b)(21)(i) and (ii), paragraph (b)(21)(iv)(A) introductory text, and paragraph (b)(21)(v)(B) introductory text to read as follows:

F–301 Preparation instructions.

* * * * *

(b) * * *

(21) * * *

(i) The words “subject to Government contract quality assurance surveillance” contained in the printed statements in Blocks 21a and 21b relate to quality and to the quantity of the items on the report. Do not modify the statements. Enter notes taking exception in Block 16 or on attached supporting documents with an appropriate block cross-reference.

(ii) When a shipment is authorized under alternative release procedures (see

246.471(b)), the contractor shall attach or include the appropriate signed certificate on the top copy of the DD Form 250 copies distributed to the payment office or attach or include the appropriate contractor certificate on the contract administration office copy when contract administration (Block 10 of the DD Form 250) is performed by the Defense Contract Management Agency (DCMA).

* * * * *

(iv) * * *

(A) The authorized Government representative shall—

* * * * *

(v) * * *

(B) When CQA and acceptance or acceptance is at destination, the authorized Government representative shall—

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 070920529–8571–02]

RIN 0648–AW05

Magnuson-Stevens Act Provisions; Limited Access Privilege Programs; Individual Fishing Quota Referenda Guidelines and Procedures for the New England Fishery Management Council and Gulf of Mexico Fishery Management Council

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

ACTION: Proposed guidelines and procedures; request for comments.

SUMMARY: In accordance with the Magnuson-Stevens Fishery Conservation and Management Act, as amended (Magnuson-Stevens Act), NMFS proposes guidelines and procedures for the New England Fishery Management Council (NEFMC), the Gulf of Mexico Fishery Management Council (GMFMC) (collectively the Councils), and NMFS to follow in determining procedures and voting eligibility requirements for referenda on Individual Fishing Quota (IFQ) program proposals. The intended effect of these procedures and guidance is to ensure IFQ program referenda are fair and equitable.

DATES: Comments must be submitted in writing on or before June 23, 2008.

ADDRESSES: Copies of the Regulatory Impact Review/Initial Regulatory

Flexibility Analysis (RIR/IRFA) prepared for this action, may be obtained from the mailing address listed here or by calling Robert Gorrell, NMFS–SF, 1315 East-West Highway, Silver Spring, MD 20910. You may submit comments, identified by 0648–AW05, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- Fax: 301–713–1193, Attn: Robert Gorrell.

- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, NMFS, Attn: IFQ Referenda Guidelines, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Robert Gorrell, at 301–713–2341 or via e-mail at robert.gorrell@noaa.gov.

SUPPLEMENTARY INFORMATION: Section 303A of the Magnuson-Stevens Act specifies general requirements for Limited Access Privilege (LAP) programs implemented in U.S. marine fisheries. A LAP is defined as a Federal limited access permit that provides a person the exclusive privilege to harvest a specific portion of a fishery's total allowable catch. This definition encompasses exclusive harvesting privileges allocated to participants under IFQ programs.

Section 303A(c)(6)(D) of the Magnuson-Stevens Act outlines specific requirements for IFQ program proposals developed by the NEFMC and GMFMC. Specifically, the Magnuson-Stevens Act requires such program proposals be approved through referenda before they may be submitted for review and implementation by the Secretary of Commerce (Secretary). Additionally, the Magnuson-Stevens Act requires the Secretary publish guidelines and procedures to determine procedures and voting eligibility requirements for IFQ program referenda and to conduct such referenda in a fair and equitable manner.