

times are used only when to achieve the purposes of the exception; and

(B) Include a copy of such congressional certification in the contract file.

■ 8. Add section 234.005 heading to read as follows:

234.005 General requirements.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750-A115

Defense Federal Acquisition Regulation Supplement: Proposal Adequacy Checklist Revision (DFARS Case 2013-D033)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a redundant item from the solicitation provision, Proposal Adequacy Checklist.

DATES: *Effective* January 29, 2014.

FOR FURTHER INFORMATION CONTACT: Susan Williams, telephone 571-372-6092.

SUPPLEMENTARY INFORMATION:

I. Discussion

DoD is revising the DFARS to remove and reserve item 19 of the solicitation provision at DFARS 252.215-7009, Proposal Adequacy Checklist. Item 19 required price analysis for all commercial items offered that are not available to the general public. Through further research and discussion, DOD has determined that item 19 listed on the Proposal Adequacy Checklist is duplicative in nature. DoD has concluded that items proposed with a commercial basis under subcontracts in the proposal require price analysis by the offeror. Furthermore, DoD has also concluded that question 14 under the Material and Service section and question 17 under the Subcontracts section on the Proposal Adequacy Checklist currently address the

requirement for price analysis of the proposed commercial item that is produced or performed by others.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

“Publication of proposed regulations,” 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the changes are not substantive and will not place any additional burden on the public.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the

Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

252.215-7009 [Amended]

- 2. Amend section 252.215-7009 by—
- a. Removing the provision date “(MAR 2013)” and adding “(JAN 2014)” in its place; and
 - b. Removing from the Proposal Adequacy Checklist, item 19—
 - i. Under the “References” column, “FAR 15.408, Table 15-2, Section II, Paragraph A”; and
 - ii. Under the “Submission Item” column, “Does the proposal include a price analysis for all commercial items offered that are not available to the general public?” and adding in its place “[Reserved]”.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. FRA-2011-0058, Notice No. 2]

RIN 2130-AC28

Track Safety Standards; Improving Rail Integrity

Correction

In rule document 2014-01387, appearing on pages 4234-4260 in the issue of Friday, January 24, 2014, make the following correction:

§ 213.113 Defective rails. [Corrected]

On page 4256, the Table titled “REMEDIATION ACTION TABLE”, in Subpart D—Track Structure, of Part 213, is corrected to read as follows:

REMEDIAL ACTION TABLE

Defect	Length of defect (inch(es))		Percentage of existing rail head cross-sectional area weakened by defect		If the defective rail is not replaced or repaired, take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Compound Fissure	..... ..... .....	..... ..... .....	70..... 100.....	5..... 70..... 100.....	B. A2. A.
Transverse Fissure	.....	.....	25	5.....	C.
Detail	.....	.....	60	25.....	D.
Fracture	.....	.....	100	60.....	A2, or [E and H].
Engine Burn	.....	.....	.....	100.....	A, or [E and H].
Fracture	.....	.....	.....	.....	.....
Defective Weld	.....	.....	.....	.....	.....
Horizontal Split Head	.....	.....	.....	.....	.....
Vertical Split Head	.....	.....	.....	.....	.....
Head	1.....	2.....	.....	.....	H and F.
Split Web	2.....	4.....	.....	.....	I and G.
Piped Rail	4.....	.....	.....	.....	B.
Head Web	(¹).....	(¹).....	.....	.....	A.
Separation	.....	.....	.....	.....	.....
Defective Weld	.....	.....	.....	.....	.....
(Longitudinal)	.....	.....	.....	.....	.....
Bolt Hole	1/2.....	1.....	.....	.....	H and F.
Crack	1.....	1 1/2.....	.....	.....	H and G.
	1 1/2.....	.....	.....	.....	B.
	(¹).....	(¹).....	.....	.....	A.
Broken Base	1.....	6.....	.....	.....	D.
	6 (²).....	.....	.....	.....	A, or [E and I].
Ordinary Break	.....	.....	.....	.....	A or E.
Damaged Rail	.....	.....	.....	.....	C.
Flattened Rail	Depth ≥ 3/8 and	.....	.....	.....	H.
Crushed Head	Length ≥ 8.....	.....	.....	.....	.....

(1) Break out in rail head.

(2) Remedial action D applies to a moon-shaped breakout, resulting from a derailment, with length greater than 6 inches but not exceeding 12 inches and width not exceeding one-third of the rail base width.

Notes:

A. Assign a person designated under § 213.7 to visually supervise each operation over the defective rail.

A2. Assign a person designated under § 213.7 to make a visual inspection. After a visual inspection, that person may authorize operation to continue without continuous visual supervision at a maximum of 10 m.p.h. for up to 24 hours prior to another such visual inspection or replacement or repair of the rail.

B. Limit operating speed over the defective rail to that as authorized by a person designated under § 213.7(a), who has at least one year of supervisory experience in railroad track maintenance. The operating speed cannot be over 30 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

C. Apply joint bars bolted only through the outermost holes to the defect within 10 days after it is determined to continue the track in use. In the case of Class 3 through 5 track, limit the operating speed over the defective rail to 30 m.p.h. until joint bars are applied; thereafter, limit the speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower. When a search for internal rail defects is conducted under § 213.237, and defects are discovered in Class 3 through 5 track that require remedial action C, the operating speed shall be limited to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower, for a period not to exceed 4 days. If the defective rail has not been removed from the track or a permanent repair made within 4 days of the discovery, limit operating speed over the defective rail to 30 m.p.h. until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower. When joint bars have not been applied within 10 days, the speed must be limited to 10 m.p.h. until joint bars are applied.

D. Apply joint bars bolted only through the outermost holes to the defect within 7 days after it is determined to continue the track in use. In the case of Class 3 through 5 track, limit operating speed over the defective rail to 30 m.p.h. or less as authorized by a person designated under § 213.7(a), who has at least one year of supervisory experience in railroad track maintenance, until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower. When joint bars have not been applied within 7 days, the speed must be limited to 10 m.p.h. until the joint bars are applied.

E. Apply joint bars to the defect and bolt in accordance with § 213.121(d) and (e).

F. Inspect the rail within 90 days after it is determined to continue the track in use. If the rail remains in the track and is not replaced or repaired, the reinspection cycle starts over with each successive reinspection unless the

reinspection reveals the rail defect to have increased in size and therefore become subject to a more restrictive remedial action. This process continues indefinitely until the rail is removed from the track or repaired. If not inspected within 90 days, limit speed to that for Class 2 track or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower, until it is inspected.

G. Inspect rail within 30 days after it is determined to continue the track in use. If the rail remains in the track and is not replaced or repaired, the reinspection cycle starts over with each successive reinspection unless the reinspection reveals the rail defect to have increased in size and therefore become subject to a more restrictive remedial action. This process continues indefinitely until the rail is removed from the track or repaired. If not inspected within 30 days, limit speed to that for Class 2 track or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower, until it is inspected.

H. Limit operating speed over the defective rail to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

I. Limit operating speed over the defective rail to 30 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563-3148-02]

RIN 0648-XD101

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 feet Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season apportionment of the 2014 Pacific cod total allowable catch

allocated to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), January 24, 2014, through 1200 hours, A.l.t., September 1, 2014.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR Part 600 and 50 CFR Part 679.

The A season apportionment of the 2014 Pacific cod total allowable catch (TAC) allocated to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI is 9,678 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) and inseason adjustment (79 FR 758, January 7, 2014).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season apportionment of the 2014 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 60 feet (18.3 m) LOA using pot gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would