of PAN carbon fiber from foreign sources. DoD conducted a review of the administratively imposed restrictions, evaluating DoD applications for PAN carbon fiber, key domestic and foreign suppliers, supply and demand market information, potential impacts on DoD and key suppliers, and potential national security issues. As a result, DoD is proposing to phase out the restrictions over the five-year period ending May 31, 2005. The phased elimination will minimize short-term risks to both DoD and current domestic suppliers and will allow for a gradual introduction of competition that will encourage innovation and emphasize affordability. This action is consistent with DoD's interest in promoting vigorous competition in defense markets while ensuring that industrial capabilities essential to national defense are preserved.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 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 there are no known domestic small business manufacturers of PAN carbon fiber. 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 subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D017.

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 225

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 225 as follows:

1. The authority citation for 48 CFR Part 225 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

2. Section 225.7103–1 is revised to read as follows:

§ 225.7103–1 Policy.

DoD has imposed restrictions on the acquisition of PAN carbon fiber from foreign sources. DoD is phasing out the restrictions over the five-year period ending May 31, 2005. Contractors with contracts that contain the clause at 252.225–7022 must use U.S. or Canadian manufacturers or producers for all PAN carbon fiber requirements.

3. Section 225.7103–3 is revised to read as follows:

§ 225.7103–3 Contract clause.

Use the clause at 252.225–7022, Restriction on Acquisition of Polyacrylonitrile (PAN) Carbon Fiber, in solicitations and contracts for major systems as follows:

(a) In solicitations and contracts issued on or before May 31, 2003, if—

(1) The system is not yet in production (milestone III as defined in DoD 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPS) and Major Automated Information System (MAIS) Acquisition Programs); or

(2) The clause was used in prior program contracts.

(b) In solicitations and contracts issued during the period beginning June 1, 2003, and ending May 31, 2005, if the system is not yet in engineering and manufacturing development (milestone II as defined in DoD 5000.2–R).

[FR Doc. 00–16639 Filed 6–30–00; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 242 and 252

[DFARS Case 2000–D003]

Defense Federal Acquisition Regulation Supplement; Material Management and Accounting Systems

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the criteria for determining when review of a contractor's material management and accounting system (MMAS) is needed. The rule also replaces the current requirement for an MMAS ''demonstration'' with a requirement for the contractor to provide adequate evidence that it has conducted internal audits to ensure compliance with its MMAS policies, procedures, and operating instructions.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before September 1, 2000, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Mr. Rick Layser, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted via the Internet should be addressed to dfars@acq.osd.mil

Please cite DFARS Case 2000–D003 in all correspondence related to this proposed rule. E-mail correspondence should cite DFARS Case 2000–D003 in the subject line.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, (703) 602–0293.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule makes the following changes to the DFARS:

1. Revises the prescription for use of the clause at 252.242–7004, Material Management and Accounting System.

a. The DFARS presently requires inclusion of the clause in fixed-price contracts with progress payments or other Government financing, regardless of whether the financing provisions are based on cost. The proposed rule requires inclusion of the clause in only those fixed-price contracts that contain progress payments based on cost or other financing provisions based on cost.

b. The DFARS presently exempts small businesses, educational institutions, and nonprofit organizations from the major MMAS requirements of disclosure, demonstration, and maintenance, but still requires inclusion of the clause in contracts with these entities. The proposed rule eliminates the requirement for inclusion of the clause in contracts with small businesses, educational institutions, and nonprofit organizations.

2. Revises the clause at 252.242–7004 to replace the requirement for an MMAS ''demonstration'' with a requirement for the contractor to have policies, procedures, and operating instructions that adequately describe its MMAS, and to provide adequate evidence that it has conducted internal audits to ensure compliance with its MMAS policies, procedures, and operating instructions.

The requirement for a demonstration has caused significant confusion, because the DFARS does not define the term or describe what constitutes an adequate demonstration. The proposed rule revises the MMAS requirements to be consistent with the documentation and testing requirements of other system reviews such as accounting and purchasing. The Government does not require demonstrations of these systems, but instead performs risk-based reviews that focus on contractor practices and the implementation of those practices, including testing the system when and where necessary. This revision does not eliminate the requirement for contractor compliance with the ten MMAS standards or alter the level of audit access to which the Government is entitled.

3. Makes the dollar threshold for conducting an MMAS review consistent with the threshold for conducting a Contractor Insurance/Pension Review at DFARS Subpart 242.73. The DFARS presently requires an MMAS review every 3 years for contractors that receive total annual DoD awards in excess of $70 million, unless the administrative contracting officer (ACO) specifies otherwise. The proposed rule eliminates the requirement for an MMAS review every 3 years; raises the minimum dollar threshold for MMAS review from $30 million to $40 million; requires the ACO to make a case-by-case determination of the need for an MMAS review; and revises the basis for the dollar threshold, replacing ''prior year DoD contract and subcontract awards'' with the definition of ''qualifying sales'' from DFARS Subpart 242.73.

4. Clarifies the responsibilities of the ACO and the MMAS team members.

This rule was not subject to Office of Management and Budget review under executive Order 12866, dated September 30, 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 the DFARS already exempts small business concerns from the major MMAS requirements. 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 2000–D003.

C. Paperwork Reduction Act

The proposed rule will eliminate the requirement for contractors to demonstrate their material management and accounting systems, and will reduce the number of contractors that must disclose their systems to the Government. Therefore, this rule will reduce the paperwork burden hours approved under Office of Management and Budget Control Number 0704–0250.

List of Subjects in 48 CFR Parts 242 and 252

Government procurement.

Michele P. Peterson,

Executive Editor,

Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 242 and 252 as follows:

1. The authority citation for 48 CFR Parts 242 and 252 continues to read as follows:

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

2. Subpart 242.72 is revised to read as follows;

Subpart 242.72—Contractor Material Management and Accounting System

Sec.

242.7200 Scope of subpart.
242.7201 Definitions.
242.7202 Policy.
242.7203 Review procedures.
242.7204 Contract clause.

242.7200 Scope of subpart.

(a) This subpart provides policies, procedures, and standards for use in the evaluation of a contractor's material management and accounting system (MMAS).

(b) The policies, procedures, and standards in this subpart—

(1) Apply only when the contractor has contracts exceeding the simplified acquisition threshold that are not for the acquisition of commercial items and are either—

(i) Cost-reimbursement contracts; or

(ii) Fixed-price contracts with progress payments based on cost or other financing provisions based on cost; and

(2) Do not apply to small businesses, educational institutions, or nonprofit organizations.

242.7201 Definitions.

Material management and accounting system and *valid time-phased requirements* are defined in the clause at 252.242–7004, Material Management and Accounting System.

242.7202 Policy.

DoD policy is for its contractors to have an MMAS that conforms to the standards in paragraph (e) of the clause at 252.242–7004, so that the system—

(a) Reasonably forecasts material requirements;

(b) Ensures the costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements; and

(c) Maintains a consistent, equitable, and unbiased logic for costing of material transactions.

242.7203 Review procedures.

(a) *Criteria for conducting reviews.* Conduct an MMAS review when—

(1) A contractor has $40 million of qualifying sales to the Government during the contractor's preceding fiscal year; and

(2) The administrative contracting officer (ACO), with advice from the auditor, determines an MMAS review is needed based on a risk assessment of the contractor's past experience and current vulnerability.

(b) *Qualifying sales.* Qualifying sales are sales for which cost or pricing data were required under 10 U.S.C. 2306a, as implemented in FAR 15.403, or that are contracts priced on other than a firm-fixed-price or fixed-price with economic price adjustment basis. Sales include prime contracts, subcontracts, and modifications to such contracts and subcontracts.

(c) *System evaluation.* Cognizant contract administration and audit activities must jointly establish and manage programs for evaluating the MMAS systems of contractors and must annually establish a schedule of contractors to be reviewed. In addition, they must—

(1) Conduct reviews as a team effort.

(i) The ACO—

(A) Appoints a team leader; and

(B) Ensures that the team includes appropriate functional specialists (*e.g.,* industrial specialist, engineer, property administrator, auditor).

(ii) The team leader—

(A) Advises the ACO and the contractor of findings during the review and at the exit conference.

(B) Makes every effort to resolve differences regarding questions of fact during the review.

(iii) The contractor auditor—

(A) Participates as a member of the MMAS team or serves as the team leader (see paragraph (c)(1)(i) of this section); and

(B) Issues an audit report for incorporation into the MMAS report based on an analysis of the contractor's books, accounting records, and other related data.

(2) Tailor reviews to take full advantage of the day-to-day work done by both organizations.

(3) Prepare the MMAS report.

(d) *Disposition of evaluation team findings.* The team leader must document the evaluation team findings and recommendations in the MMAS report to the ACO. If there are any significant MMAS deficiencies, the report must provide an estimate of the adverse impact on the Government resulting from those deficiencies.

(1) *Initial notification to the contractor.* The ACO must provide a copy of the report to the contractor immediately upon receipt from the team leader.

(i) The ACO must notify the contractor in a timely manner if there are no deficiencies.

(ii) If there are any deficiencies, the ACO must request the contractor to provide a written response within 30 days (or such other date as may be mutually agreed to by the ACO and the contractor) from the date of initial notification.

(iii) If the contractor agrees with the report, the contractor has 60 days (or such other date as may be mutually agreed to by the ACO and the contractor) to correct any identified deficiencies or submit a corrective action plan showing milestones and actions to eliminate the deficiencies.

(iv) If the contractor disagrees with the report, the contractor must provide rationale in the written response.

(2) *Evaluation of the contractor's response.* The ACO, in consultation with the auditor, evaluates the contractor's response and determines whether—

(i) The MMAS contains any deficiencies and, if so, any corrective action is needed;

(ii) The deficiencies are significant enough to result in the reduction of progress payments or disallowance of costs on vouchers; and

(iii) Proposed corrective actions (if the contractor submitted them) are adequate to correct the deficiencies.

(3) *Notification of ACO determination.*

(i) The ACO must notify the contractor in writing (copy to auditor and functional specialists) of—

(A) Any deficiencies and the necessary corrective action;

(B) Acceptability of the contractor's corrective action plan (if one was submitted) or the need for a corrective action plan; and

(C) Any decision to reduce progress payments or disallow costs on vouchers.

(ii) The Government does not approve or disapprove the contractor's MMAS. ACO notifications should avoid any such implications.

(iii) From the time the ACO determines that there are any significant MMAS deficiencies until the time the deficiencies are corrected, all field pricing reports for that contractor must contain a recommendation relating to proposed adjustments necessary to protect the Government's interests.

(iv) The ACO should consider the effect of any significant MMAS deficiencies in reviews of the contractor's estimating system (see 215.407–5).

(4) *Reductions or disallowances.*

(i) When the ACO determines the MMAS deficiencies have a material impact on Government contract costs, the ACO must reduce progress payments by an appropriate percentage based on affected costs (in accordance with FAR 32.503–6) and/or disallow costs on vouchers (in accordance with FAR 42.803). The reductions or disallowances must remain in effect until the ACO determines that—

(A) The deficiencies are corrected; or

(B) The amount of the impact is immaterial.

(ii) The maximum payment adjustment is the adverse material impact to the Government as specified in the MMAS report. The ACO should use the maximum adjustment when the contractor did not submit a corrective action plan with its response, or when the plan is unacceptable. In other cases, the ACO should consider the quality of the contractor's corrective action plan in determining the appropriate percentage.

(iii) As the contractor implements its accepted corrective action plan, the ACO should reinstate a portion of withheld amounts commensurate with the contractor's progress in making corrections. However, the ACO must not fully reinstate withheld amounts until the contractor corrects the deficiencies, or until the impact of the deficiencies become immaterial.

(5) *Monitoring contractor's corrective action.* The ACO and the auditor must monitor the contractor's progress in correcting deficiencies. When the ACO determines the deficiencies have been corrected, the ACO must notify the contractor in writing. If the contractor fails to make adequate progress, the ACO must take further action. The ACO may—

(i) Elevate the issue to higher level management;

(ii) Further reduce progress payments and/or disallow costs on vouchers;

(iii) Notify the contractor of the inadequacy of the contractor's cost estimating system and/or cost accounting system; and

(iv) Issue cautions to contracting activities regarding the award of future contracts.

242.7204 Contract clause.

Use the clause at 252.242–7004, Material Management and Accounting System, in all solicitations and contracts exceeding the simplified acquisition threshold that are not for the acquisition of commercial items and—

(a) Are not awarded to small businesses, educational institutions, or nonprofit organizations; and

(b) Are either—

(1) Cost-reimbursement contracts; or

(2) Fixed-price contracts with progress payments based on cost or other financing provisions based on cost.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.242–7004 is revised to read as follows:

252.242–7004 Material Management and Accounting System.

As prescribed in 242.7204, use the following clause.

Material Management and Accounting System (XXX 2000)

(a) *Definitions.* As used in this clause—

(1) ''Material management and accounting system (MMAS)'' means the Contractor's system or systems for planning, controlling, and accounting for the acquisition, use, issuing, and disposition of material. Material management and accounting systems may be manual or automated. They may be stand-alone systems or they may be integrated with planning, engineering, estimating, purchasing, inventory, accounting, or other systems.

(2) ''Valid time-phased requirements'' means material that is—

(i) Needed to fulfill the production plan, including reasonable quantities for scrap, shrinkage, yield, *etc.;* and

(ii) Charged/billed to contracts or other cost objectives in a manner consistent with the need to fulfill the production plan.

(3) ''Contractor'' means a business unit as defined in section 31.001 of the Federal Acquisition Regulation (FAR).

(b) *General.* The Contractor shall—

(1) Maintain an MMAS that—

(i) Reasonably forecasts material requirements;

(ii) Ensures that costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements; and

(iii) Maintains a consistent, equitable, and unbiased logic for costing of material transactions; and

(2) Assess its MMAS and take reasonable action to comply with the MMAS standards in paragraph (e) of this clause.

(c) *Disclosure and maintenance requirements.* The Contractor shall—

(1) Have policies, procedures, and operating instructions that adequately describe its MMAS;

(2) Provide to the Administrative Contracting Officer (ACO) adequate evidence that it has conducted internal audits to ensure compliance with established MMAS policies, procedures, and operating instructions; and

(3) Disclose significant changes in its MMAS to the ACO within 30 days of implementation.

(d) *Deficiencies.*

(1) If the Contractor receives a report from the ACO that identifies any deficiencies in its MMAS, the Contractor shall respond as follows:

(i) If the Contractor agrees with the report findings and recommendations, the Contractor shall—

(A) Within 30 days, state its agreement in writing; and

(B) Within 60 days, correct the deficiencies or submit a corrective action plan showing milestones and actions to eliminate the deficiencies.

(ii) If the Contractor disagrees with the report findings and recommendations, the Contractor shall, within 30 days, state its rationale for each area of disagreement.

(2) The ACO will evaluate the Contractor's response and will notify the Contractor in writing of the—

(i) Determination concerning any remaining deficiencies;

(ii) Adequacy of any proposed or completed corrective action plan; and

(iii) Need for any new or revised corrective action plan.

(3) When the ACO determines the MMAS deficiencies have a material impact on Government contract costs, the ACO must reduce progress payments by an appropriate percentage based on affected costs (in accordance with FAR 32.503–6) and/or disallow costs on vouchers (in accordance with FAR 42.803) until the ACO determines that—

(i) The deficiencies are corrected; or

(ii) The amount of the impact is immaterial.

(e) *MMAS standards.* The MMAS shall have adequate internal controls to ensure system and data integrity, and shall—

(1) Have an adequate system description including policies, procedures, and operating instructions that comply with the FAR and Defense FAR Supplement;

(2) Ensure that costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements as impacted by minimum/economic order quantity restrictions.

(i) A 98 percent bill of material accuracy and a 95 percent master production schedule accuracy are desirable as a goal in order to ensure that requirements are both valid and appropriately time-phased.

(ii) If systems have accuracy levels below these, the Contractor shall provide adequate evidence that—

(A) There is no material harm to the Government due to lower accuracy levels; and

(B) The cost to meet the accuracy goals is excessive in relation to the impact on the Government;

(3) Provide a mechanism to identify, report, and resolve system control weaknesses and manual override. Systems should identify operational exceptions such as excess/residual inventory as soon as known;

(4) Provide audit trails and maintain records (manual and those in machine readable form) necessary to evaluate system logic and to verify through transaction testing that the system is operating as desired;

(5) Establish and maintain adequate levels of record accuracy, and include reconciliation of recorded inventory quantities to physical inventory by part number on a periodic basis. A 95 percent accuracy level is desirable. If systems have an accuracy level below 95 percent, the Contractor shall provide adequate evidence that—

(i) Three is no material harm to the Government due to lower accuracy levels; and

(ii) The cost to meet the accuracy goal is excessive in relation to the impact on the Government;

(6) Provide detailed descriptions of circumstances that will result in manual or system generated transfers of parts;

(7) Maintain a consistent, equitable, and unbiased logic for costing of material transactions as follows:

(i) The Contractor shall maintain and disclose written policies describing the transfer methodology and the loan/pay-back technique.

(ii) The costing methodology may be standard or actual cost, or any of the inventory costing methods in 48 CFR 9904.411–50(b). The Contractor shall maintain consistency across all contract and customer types, and from accounting period to accounting period for initial charging and transfer charging.

(iii) The system should transfer parts and associated costs within the same billing period. In the few instances where this may not be appropriate, the Contractor may accomplish the material transaction using a loan/pay-back technique. The ''loan/pay-back technique'' means that the physical part is moved temporarily from the contract, but the cost of the part remains on the contract. The procedures for the loan/pay-back technique must be approved by the ACO. When the technique is used, the Contractor shall have controls to ensure—

(A) Parts are paid back expeditiously;

(B) Procedures and controls are in place to correct any overbilling that might occur;

(C) Monthly, at a minimum, identification of the borrowing contract and the date the part was borrowed; and

(D) The cost of the replacement part is charged to the borrowing contract;

(8) Where allocations from common inventory accounts are used, have controls (in addition to those in paragraphs (e)(2) and (7) of this clause) to ensure that—

(i) Reallocations and any credit due are processed no less frequently than the routine billing cycle;

(ii) Inventories retained for requirements that are not under contract are not allocated to contracts; and

(iii) Algorithms are maintained based on valid and current data;

(9) Notwithstanding FAR 45.505–3(f)(1)(ii), have adequate controls to ensure that physically commingled inventories that may include material for which costs are charged or allocated to fixed-price, cost-reimbursement, and commercial contracts do not compromise requirements of any of the standards in paragraphs (e)(1) through (8) of this clause. Government-furnished material shall not be—

(i) Physically commingled with other material; or

(ii) Used on commercial work; and

(10) Be subjected to periodic internal audits to ensure compliance with established policies and procedures.

(End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 000616183–0183–01; I.D. 053000E]

RIN 0648–AN35

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Special Management Zones

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

ACTION: Proposed rule; request for comments.

SUMMARY: In accordance with the framework procedure of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), NMFS proposes to establish 12 new special management zones (SMZs) at the sites of artificial reefs (ARs) in the exclusive economic zone (EEZ) off Georgia; to revise the boundaries of the 7 existing SMZs that are in the EEZ off Georgia; to restrict fishing in the new and revised SMZs to rod and reel and spearfishing gear, including powerheads; and within these SMZs, to limit the harvest and possession of South Atlantic snapper-grouper taken by powerheads to the applicable bag limits. NMFS also proposes establishing a 30-day deadline for resolving deficiencies related to an application and a 60-day deadline for correcting deficiencies regarding automatic renewals of permits. The intended effects are to promote orderly use of the fishery resources on and around the ARs and SMZs, to reduce