

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

(2) Provide to the Administrative Contracting Officer (ACO), upon request, the results of the internal reviews that it has conducted to ensure compliance with established MMAS policies, procedures, and operating instructions; and

(3) Disclose significant changes in its MMAS to the ACO at least 30 days prior to 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 (or such other date as may be mutually agreed to by the ACO and the Contractor), state its agreement in writing; and

(B) Within 60 days (or such other date as may be mutually agreed to by the ACO and the Contractor), 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 (or such other date as may be mutually agreed to by the ACO and the Contractor), 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) There 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) Regardless of the provisions of 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 reviews to ensure compliance with established policies and procedures.

(End of clause)

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 250

[DFARS Case 2000-D025]

#### Defense Federal Acquisition Regulation Supplement; Authority to Indemnify Against Unusually Hazardous or Nuclear Risks

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

**SUMMARY:** The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the authority of the Under Secretary of Defense (Acquisition, Technology, and Logistics) to indemnify a contractor against unusually hazardous or nuclear risks.

**EFFECTIVE DATE:** December 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Layser, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0293; facsimile (703) 602-0350. Please cite DFARS Case 2000-D025.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends DFARS Part 250, Extraordinary Contractual Actions, to clarify that the Under Secretary of Defense (Acquisition, Technology, and Logistics) may indemnify a contractor against unusually hazardous or nuclear risks, in accordance with the acquisition

authority provided the Under Secretary at 10 U.S.C. 133.

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

### B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2000-D025.

### 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 250

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 250 is amended as follows:

1. The authority citation for 48 CFR Part 250 continues to read as follows:

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

#### PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS

2. Section 250.201 is revised to read as follows:

##### 250.201 Delegation of authority.

(b) Authority under FAR subpart 50.4 to approve actions obligating \$50,000 or less may not be delegated below the level of the head of the contracting activity.

(d) In accordance with the acquisition authority of the Under Secretary of Defense (Acquisition, Technology, and Logistics (USD (AT&L))) under 10 U.S.C. 133, in addition to the Secretary of Defense and the Secretaries of the military departments, the USD (AT&L) may exercise authority to indemnify against unusually hazardous or nuclear risks.

3. Section 250.201-70 is amended by revising paragraphs (b)(1) and (c) to read as follows:

##### 250.201-70 Delegations.

\* \* \* \* \*

(b) \* \* \*

(1) Requests to obligate the Government in excess of \$50,000 must be submitted to the USD (AT&L) for approval.

\* \* \* \* \*

(c) *Approvals.* The Secretary of the military department or the agency director must approve any delegations in writing.

[FR Doc. 00-31604 Filed 12-12-00; 8:45 am]

**BILLING CODE 5000-04-M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 000211040-0040-01; I.D. 120800B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Hook-and-line in the Bering Sea and Aleutian Islands

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher processor vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2000 total allowable catch (TAC) of Pacific cod allocated for catcher processor vessels using hook-and-line gear in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), December 9, 2000, until 2400 hrs, A.l.t., December 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands 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 share of the 2000 TAC of Pacific cod allocated to catcher processor vessels using hook-and-line gear in the BSAI was established by the Revision of the 2000 BSAI Pacific cod Harvest Specifications of Groundfish for the BSAI (65 FR 51553, August 24, 2000) and subsequent reallocation (65 FR 65272, November 1, 2000) as a directed fishing allowance of 81,958 mt. See § 679.20(c)(3)(iii) and § 679.20(a)(7)(i)(A)&(C).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2000 TAC of Pacific cod allocated to catcher processor vessels using hook-and-line gear as a directed fishing allowance in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod for vessels using hook-and-line and pot gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

#### Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the 2000 TAC of Pacific cod allocated to catcher processor vessels using hook-and-line gear in the BSAI. NMFS finds that the prevention of overharvesting of Pacific cod constitutes good cause to waive the requirement for prior notice and comment pursuant to 5 U.S.C 553(b)(B) as such procedures are contrary to the public interest. The Pacific cod directed fishing allowance established for catcher processor vessels using hook-and-line gear will soon be reached. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: December 8, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 00-31733 Filed 12-8-00; 4:44 pm]

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