

received in response to the proposed rule indicated that industry did not support the proposed DFARS revisions.

**FOR FURTHER INFORMATION CONTACT:** Defense Acquisition Regulations Council, Attn: Ms. Melissa D. Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062, (703) 602-0131.

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

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## 48 CFR Parts 242 and 252

### Defense Federal Acquisition Regulation Supplement; Material Management and Accounting Systems (MMAS)

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comment.

**SUMMARY:** The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to raise MMAS disclosure, demonstration, and maintenance threshold requirements; clarify circumstances under which contractors will be subject to MMAS disclosure, demonstration, and maintenance; and clarify MMAS provisions regarding material transfer methodologies and approved loan/pay-back techniques.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before December 15, 1995, to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Mr. R. G. Laysen, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 95-D029 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Laysen, Telephone (703) 602-0131.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The Secretary of Defense recently commissioned a study to assess the effect of DoD regulations on the defense industry, measure the impact of those regulations on defense industry costs, and identify key cost drivers and describe their impact on contractor business processes. The material

management and accounting system (MMAS) standards were among the top ten cost drivers identified in the study report. A working group was formed to evaluate the related findings and determine what actions, if any, might be appropriate to reduce the MMAS cost premium. One MMAS finding pertained to dollar thresholds that determine when MMAS requirements apply to defense contractors, and to criteria that determine the degree of MMAS disclosure and demonstration required. The working group determined that MMAS thresholds appeared to be outdated due to inflation and that disclosure, demonstration, and maintenance criteria could be more objective. Another finding pertained to the language at DFARS 252.242-7004(f)(7) regarding a loan/pay-back technique for material transfers, which appeared susceptible to misinterpretation. This proposed rule implements the working group's recommendations pertaining to MMAS requirements.

##### 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.* Although the proposed rule applies to small business under certain circumstances, only large businesses meeting certain dollar thresholds are required to demonstrate the degree to which their material management and accounting systems conform to the standards contained in the proposed rule. An Initial Regulatory Flexibility Analysis, therefore, has not been performed. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95-D029 in correspondence.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose recordkeeping or information collection requirements which 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 242 and 252

Government procurement.

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

Therefore, 48 CFR Parts 242 and 252 are proposed to be amended as follows:

## PART 242—CONTRACT ADMINISTRATION

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

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

2. Section 242.7202 is amended by revising paragraph (d) to read as follows:

#### 242.7202 Policy.

\* \* \* \* \*

(d) Conforms to the standards at 252.242-7004(f) when the contractor has cost-reimbursement of fixed-price contracts greater than the simplified acquisition threshold in FAR part 13 with progress of other contract financing provisions, except when all of the contracts and subcontracts are awarded under the set-aside or Section 8(a) procedures of FAR part 19.

3. Section 242.7203 is revised to read as follows:

#### 242.7203 MMAS disclosure, demonstration, and maintenance requirements.

(a) A large business contractor is subject to MMAS disclosure, demonstration, and maintenance if in its preceding fiscal year the contractor received DoD prime contracts or subcontracts (including modifications) totaling—

- (1) \$70 million or more; or
- (2) \$30 million or more (but less than \$70 million), and the contracting officer determines it to be in the best interests of the Government (e.g., contractor disclosure, demonstration, or other activities indicate significant MMAS problems exist).

(b) After the administrative contracting officer determines the contractor's MMAS is adequate (see 242.7204(b)), written disclosure will not be required for the next MMAS review unless the contractor's policies, procedures, or practices have changed in the interim period(s). Similarly, once the contractor demonstrates that its MMAS contains no significant deficiencies, demonstration requirements for subsequent reviews may be satisfied if internal audits are reasonably current and contain sufficient transaction tests to demonstrate MMAS compliance with each standard.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 252.242-7004 is amended by revising paragraphs (f)(7)(i) and (f)(7)(iii) introductory text to read as follows:

**252.242-7004 Material management and accounting system.**

\* \* \* \* \*

(f) \* \* \*

(7) \* \* \*

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

(ii) \* \* \*

(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/payback 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 Administrative Contracting Officer. When the technique is used, the Contractor shall have controls to ensure—

\* \* \* \* \*

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 36**

RIN 1018-AD30

**Public Use Regulations for the Alaska Peninsula/Becharof National Wildlife Refuge Complex**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** On July 17, 1995, the Service published a proposed rule in the Federal Register (60 FR 36576), establishing Fish and Wildlife Service regulations and implementing portions of the "Alaska Peninsula/Becharof National Wildlife Refuge Complex Public Use Management Plan." The comment period on that rulemaking closed on September 15, 1995. This rule reopens the comments period for an additional 45 days to allow additional review and comment by interested groups and persons.

**DATES:** Comments and materials will be accepted until October 30, 1995.

**ADDRESSES:** Comments should be addressed to Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503, Attn: Bob Stevens.

**FOR FURTHER INFORMATION CONTACT:** Ronald Hood, Refuge Manager, Alaska Peninsula/Becharof National Wildlife Refuge Complex; telephone: (907) 246-3339.

**SUPPLEMENTARY INFORMATION:** In the July 17, 1995, issue of the Federal Register, 60 FR 36576, the Service published a proposed rulemaking that would allow the Service to manage public uses by adopting regulations addressing off-road vehicles, camping, and temporary facilities. The regulations will provide for continued public use of the refuge complex while protecting refuge resources and resolving conflicts. The Service proposed that the public comment period end on September 15, 1995. Local residents, potentially affected by these regulations are not available during that time to review the document and offer comments. The reopening of the comment period allows the opportunity to conduct public meetings in the local communities at a time when the residents will be present. The comment period is therefore reopened for an additional 45 days.

Dated: September 29, 1995.

George T. Frampton, Jr.,

*Assistant Secretary for Fish and Wildlife and Parks.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 642**

[Docket No. 951005246-5246-01; I.D. 072895B]

RIN 0648-A112

**Fisheries for the Gulf of Mexico and South Atlantic Migratory Groups of King Mackerel; Control Date**

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

**ACTION:** Advance notice of proposed rulemaking; consideration of a control date.

**SUMMARY:** This notice announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) are considering whether there is a need to impose additional management measures limiting entry into the fisheries for the Gulf of Mexico and South Atlantic migratory groups of king mackerel in the exclusive economic zone (EEZ) in the Gulf of

Mexico and South Atlantic, and, if there is a need, what management measures should be imposed. If it is determined that there is a need to impose additional management measures, the Councils may initiate a rulemaking to do so. Possible measures include the establishment of a limited entry program to control participation or effort in the commercial and for-hire (charter and headboat) fisheries for Gulf group king mackerel and for the commercial fisheries for Atlantic group king mackerel. If a limited entry program is established, the Councils are considering October 16, 1995, as a possible control date. Consideration of a control date is intended to discourage new entry into the fisheries based on economic speculation during the Councils deliberation on the issues.

**DATES:** Comments must be submitted by November 15, 1995.

**ADDRESSES:** Comments should be directed to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609 or the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), developed by the Gulf of Mexico and South Atlantic Councils, is implemented through regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act. For management purposes, the FMP recognizes two migratory groups of king mackerel: The Atlantic and Gulf of Mexico groups. The management area for the Gulf of Mexico migratory group (Gulf group) extends from the United States/ Mexico border to the Florida seasonal boundaries: Flagler/Volusia County off Florida's northeast coast from November 1 through March 31 and Collier/Monroe County off Florida's southwest coast from April 1 through October 31. The management area for the Atlantic migratory group (Atlantic group) extends from the Florida seasonal boundaries to the New York/ Connecticut border.

To rebuild overfished stocks, the Gulf Council has recommended implementation of restrictive total allowable catches (TACs) since 1985 to constrain harvest of Gulf group king mackerel. Recently, the South Atlantic Council recommended lowering the TAC for the Atlantic group for the 1995-