

excess of 5 years only if the head of the contracting activity determines, on the basis of a business case analysis (see PGI 217.174 for a business case analysis template and guidance) prepared by the requiring activity, that—

(1) The proposed purchase of electricity under such contract is cost effective; and

(2) It would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of 5 years.

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PART 241—ACQUISITION OF UTILITY SERVICES

■ 8. Section 241.103 paragraph (2) is revised to read as follows:

241.103 Statutory and delegated authority.

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(2) See 217.174 for authority to enter into multiyear contracts for electricity from renewable energy sources.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 236

RIN 0750-AG91

Defense Federal Acquisition Regulation Supplement; Construction and Architect-Engineer Services Performance Evaluation (DFARS Case 2010-D024)

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 the requirement to use DoD-unique forms to prepare contractor performance evaluations for construction and architect-engineer services.

DATES: *Effective Date:* September 20, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, telephone, (703) 602-8383.

SUPPLEMENTARY INFORMATION:

I. Background

This rule removes the requirement to use DoD-unique forms to document

contractor past performance for construction and Architect-Engineer services. On April 19, 2011, DoD published a proposed rule in the **Federal Register** at 75 FR 21851 to delete outdated procedures and references to obsolete DD forms. No public comments were received in response to the proposed rule.

One editorial change is being made to the final rule. The references to “A-E” are revised to read “architect-engineer” in sections 236.102, 236.602-70, 236.606-70, and in 236.609-70.

II. 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, is 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.

III. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows.

DoD is amending the DFARS to reflect the current automated process being used by and delete outdated procedures and references to obsolete DD forms. The objective of this rule is to remove the requirement to use DD Form 2626, Performance Evaluation (Construction), and DD Form 2631, Performance Evaluation (Architect-Engineer), to evaluate contractor performance.

The Contractor Performance Assessment Report System (CPARS) is now the Governmentwide system for electronically collecting past performance data; there is no need to specify separate DoD forms to collect the data. Accordingly, this rule removes the requirement to use DD forms 2626 and 2631 from the DFARS.

On April 19, 2011, DoD published a proposed rule at 75 FR 21851. The period for public comments closed on June 20, 2011. DoD made no changes to the proposed rule because public comments were not received in response to the initial regulatory flexibility analysis.

There are no reporting, recordkeeping, or other compliance requirements associated with this rule. Thus, there are no professional skills necessary on the part of small businesses. In a like manner, there are no direct costs to small entities to comply with this rule other than the cost of internet access should small entities choose to comment on their past performance evaluation entered into CPARS by Government personnel.

There are no known relevant Federal rules that may duplicate, overlap or conflict with this rule. Instead, the rule aligns the DFARS to the Federal Acquisition Regulation (FAR) ensuring that agencies submit past performance reports electronically per FAR 42.15 eliminating the need for paper reports.

No mitigation steps were taken, since the rule does not have a significant adverse economic impact on small entities.

IV. Paperwork Reduction Act

This rule does not impose 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 236

Government procurement.

Mary Overstreet,
Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 236 is amended as follows:

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

■ 1. The authority citation for 48 CFR part 236 continues to read as follows:

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

236.102 [Amended]

- 2. Amend section 236.102 by—
- (a) Removing paragraph designations (1) through (4);
- (b) Redesignating paragraphs (i) and (ii) in the definitions of “Construction activity” as paragraphs (1) and (2); and
- (c) Removing the definition of “A-E”.

236.201 [Removed]

■ 3. Section 236.201 is removed.

236.602-70 [Amended]

- 4. Amend section 236.602-70 by removing “A-E” and adding in its place “architect-engineer”.
- 5. Revise section 236.604 to read as follows:

236.604 Performance evaluation.

Prepare a separate performance evaluation after actual construction of the project. Ordinarily, the evaluating official should be the person most familiar with the architect-engineer contractor's performance.

236.606–70 Statutory fee limitation. [Amended]

■ 6. Amend section 236.606–70(a) to remove “A–E” and add in its place “architect-engineer”.

236.609–70 [Amended]

■ 7. Amend section 236.609–70 as follows—

■ (a) In paragraph (a)(1) introductory text remove “A–E” and add in its place “architect-engineer”.

■ (b) In paragraph (a)(1)(ii) remove “A–E” and add in its place “architect-engineer contractor”.

■ (c) In paragraph (b) introductory text remove “A–E” and add in its place “architect-engineer”.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 101126522–0640–02]

RIN 0648–XA710

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This

action is necessary to prevent exceeding the C season allowance of the 2011 total allowable catch of pollock for Statistical Area 610 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 17, 2011, through 1200 hrs, A.l.t., October 1, 2011.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 C season allowance of the 2011 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 8,729 metric tons (mt) as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011). In accordance with § 679.20(a)(5)(iv)(B) the Administrator, Alaska Region, NMFS (Regional Administrator), hereby decreases the C season pollock allowance by 123 mt to reflect the total amount of pollock TAC that has been caught prior to the C season in Statistical Area 610. Therefore, the revised C season allowance of the pollock TAC in Statistical Area 610 is 8,606 mt (8,729 mt minus 123 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the C season allowance of the 2011 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,506 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with

§ 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

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 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 delay the closure of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 14, 2011.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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: September 15, 2011.

Steven Thur,

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

[FR Doc. 2011–24104 Filed 9–15–11; 4:15 pm]

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