

copies of this notice and the posted comments, visit <http://www.ttb.gov/alcohol/rules/index.htm>. Select the "View Comments" link under this notice number to view the posted comments.

### Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

### Drafting Information

Rita Butler of the Regulations and Procedures Division drafted this notice.

### List of Subjects in 27 CFR Part 9

Wine.

### The Proposed Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 9 as follows:

### PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

#### Subpart C—Approved American Viticultural Areas

2. Amend subpart C by adding § 9.\_\_\_\_ to read as follows:

#### § 9.\_\_\_\_ Shawnee Hills.

(a) *Name.* The name of the viticultural area described in this section is "Shawnee Hills". For purposes of part 4 of this chapter, "Shawnee Hills" is a term of viticultural significance.

(b) *Approved Maps.* The United States Geological Survey (USGS) 1:250,000-scale topographic map used to determine the boundary of the Shawnee Hills viticultural area is titled: Paducah: Kentucky-Illinois, Missouri-Indiana, 1:250,000-scale metric topographic map, 1 x 2 degree quadrangle, edition 1987.

(c) *Boundary.* The Shawnee Hills viticultural area is located in southern

Illinois between the Ohio and Mississippi Rivers, and largely within the Shawnee National Forest. The area's boundary is defined as follows—

(1) Beginning at the intersection of State Routes 3 and 150 in the town of Chester (Randolph County), proceed northeast on Route 150 to its intersection with the surveyed boundary line between Township 6 South (T6S) and Township 7 South (T7S); then

(2) Proceed due east along the T6S/T7S boundary line until it becomes the boundary between Perry and Jackson Counties, and continue east along the Perry/Jackson County line to State Route 4; then

(3) Proceed southeast on State Route 4 through the villages of Campbell Hill, Ava, and Oraville to its intersection with State Route 13/127; then

(4) Proceed south on State Route 13/127 to the intersection where State Routes 13 and 127 divide in the town of Murphysboro; then

(5) Proceed east on State Route 13 through the city of Carbondale to State Route 13's intersection with Interstate 57; then

(6) Proceed south on Interstate 57 to its intersection with State Route 148; then

(7) Proceed southeast on State Route 148 to its intersection with State Route 37; then

(8) Proceed south on State Highway 37 to Saline Creek; then

(9) Proceed northeasterly (downstream) along Saline Creek to its confluence with the South Fork of the Saline River, then continue easterly (downstream) along the South Fork of the Saline River to its confluence with the Saline River, then continue easterly and then southeasterly (downstream) along the Saline River to its confluence with the Ohio River near Saline Landing; then

(10) Proceed southwesterly (downstream) along the Ohio River to the Interstate 24 bridge; then

(11) Proceed north on Interstate 24 to its intersection with the New Columbia Ditch (with the towns of Big Bay to the northeast and New Columbia to the northwest); then

(12) Proceed westerly along the New Columbia Ditch to its confluence with the Main Ditch, and continue westerly along the Main Ditch to its confluence with the Cache River (near the Cache River's confluence with the Post Creek Cutoff), approximately 1.5 miles east-northeast of the village of Karnak; then

(13) Proceed westerly (downstream) along the Cache River, passing under Interstate 57 near the village of Ullin, and continue southeasterly along the Cache River to the river's confluence

with Sandy Creek (northeast of the village of Sandusky); then

(14) Proceed westerly (upstream) along Sandy Creek approximately 4 miles to its junction with an unnamed secondary road (known locally as Alexander County Road 4); then

(15) Proceed south along the unnamed secondary road (Alexander County Road 4) to its junction with State Route 3 at the village of Olive Branch; then

(16) Proceed northwest on State Route 3 to its intersection with the Main Ditch (also known locally as Sexton Creek) at the village of Gale; then

(17) Proceed northerly along Main Ditch and Clear Creek Ditch to a light-duty road (known locally as State Forest Road) near the southwest corner of the Trail of Tears State Forest, approximately 3.75 miles east of the village of Wolf Lake; then

(18) Proceed west on the light-duty road (State Forest Road) to its intersection with State Route 3 just south of Wolf Lake; then

(19) Proceed north on State Route 3 to its junction with the Big Muddy River (near the village of Aldridge), and continue north (upstream) along the Big Muddy River to its confluence with Kincaid Creek near the village of Grimsby; then

(20) Continue northerly along Kincaid Creek to its junction with State Route 149; then

(21) Proceed west on State Route 149 to its junction with State Route 3, and then continue northwest along State Route 3 to the beginning point in the town of Chester.

Signed: March 31, 2005.

**John J. Manfreda,**  
*Administrator.*

[FR Doc. 05-6994 Filed 4-7-05; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 2, 7, 34, 42, and 52

[FAR Case 2004-019]

RIN 9000-AJ99

#### Federal Acquisition Regulation; Earned Value Management System (EVMS)

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement earned value management system (EVMS) policy. FAR coverage is essential to help standardize the use of EVMS across the Government. The proposed rule specifically impacts contracting officers, program managers, and contractors with earned value management systems.

**DATES:** Interested parties should submit comments in writing on or before June 7, 2005 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAR case 2004–019 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web Site: <http://www.acqnet.gov/far/ProposedRules/proposed.htm>. Click on the FAR case number to submit comments.
- E-mail: [farcase.2004-019@gsa.gov](mailto:farcase.2004-019@gsa.gov). Include FAR case 2004–019 in the subject line of the message.

- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAR case 2004–019 in all correspondence related to this case.

All comments received will be posted without change to <http://www.acqnet.gov/far/ProposedRules/proposed.htm>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. Please cite FAR case 2004–019.

**SUPPLEMENTARY INFORMATION:****A. Background**

The proposed FAR changes are necessary to implement EVMS requirements in OMB Circular A–11, Part 7, Planning, Budgeting, Acquisition, and Management of Capital Assets, and the supplement to Part 7, the Capital Programming Guide. Title V of the Federal Acquisition Streamlining Act of 1994 (FASA) requires agency heads to approve or define the cost, performance, and schedule goals for major acquisitions and achieve, on

average, 90 percent of the cost, performance and schedule goals established. The Clinger-Cohen Act of 1996 requires the Director of OMB to develop, as part of the budget process, a process for analyzing, tracking, and evaluating the risks and results of all major capital investments for information systems for the life of the system. OMB Circular A–11, Part 7, Planning, Budgeting, Acquisition, and Management of Capital Assets and its supplement, Capital Programming Guide, were written to meet the requirements of FASA and the Clinger-Cohen Act. OMB Circular A–11, Part 7, sets forth the policy, budget justification, and reporting requirements that apply to all agencies of the executive branch of the Government that are subject to executive branch review, for major capital acquisitions.

This rule establishes standard EVMS provisions, a standard clause and a set of guidelines for Governmentwide use. The guidelines include the requirement and timing of an Integrated Baseline Review (IBR), whether prior to or post award. Due to the time and cost of performing IBRs, when IBRs are conducted prior to award, consideration should be given to limiting the competitive range. The concept of conducting the IBR before the contract is awarded is a change from the traditional approach of conducting IBRs only after contract award. We specifically request comments on the feasibility of conducting IBRs before award. Should all contracts require IBRs before award? If not, on what type of contracts should IBRs be conducted before award? Would a modified IBR be a better choice before award? What should be the down-select policy to limit the number of offerors subject to an IBR before award?

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**B. Regulatory Flexibility Act**

The proposed changes to FAR Parts 2, 7, 34, 42, and 52 may 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 rule requires contractors, and subcontractors identified by the contracting officer, to implement earned value management and set up earned value management systems within their organizations to plan and manage the work under major acquisitions. Thus,

small businesses will be required to set up such systems if awarded a major acquisition contract or a large subcontract under a major acquisition. However, an analysis of data in the Federal Procurement Data System (FPDS) on actions and dollars on contracts above \$20 million for supplies and equipments, IT services and construction, areas where EVMS is likely to be applied, indicated that small business only received 3.8 percent of the \$36.8 billion and 5.8 percent of the 345 actions. Because FPDS does not collect data on EVMS use, the data above is only an approximation of the effect on small business. The Councils are seeking comments on the potential impact of having to implement a program management system that meets the EVMS guidelines in ANSI/EIA Standard 748–A.

An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. The analysis is summarized as follows:

The proposed FAR changes are necessary to implement earned value management systems (EVMS) requirements in OMB Circular A–11, Part 7, Planning, Budgeting, Acquisition, and Management of Capital Assets, and the supplement to Part 7, the Capital Programming Guide. Currently, only DoD, NASA, and a few other agencies have developed EVMS clauses and policy. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are therefore proposing revising FAR Parts 2, 7, 34, 42, and 52 to include guidance for EVMS. This rule establishes standard EVMS provisions, a standard clause and a set of guidelines for Governmentwide use.

Title V of the Federal Acquisition Streamlining Act of 1994 (FASA) requires agency heads to approve or define the cost, performance, and schedule goals for major acquisitions and achieve, on average, 90 percent of the cost, performance and schedule goals established. The Clinger-Cohen Act of 1996 requires the Director of OMB to develop, as part of the budget process, a process for analyzing, tracking, and evaluating the risks and results of all major capital investments for information systems for the life of the system. OMB Circular A–11, Part 7, Planning, Budgeting, Acquisition, and Management of Capital Assets and its supplement, Capital Programming Guide, were written to meet the requirements of FASA and the Clinger-Cohen Act. OMB Circular A–11, Part 7, sets forth the policy, budget justification, and reporting requirements that apply to all agencies of the executive branch of the Government that are subject to executive branch review, for major capital acquisitions. The proposed FAR changes are necessary to implement EVMS requirements in OMB Circular A–11, Part 7, Planning, Budgeting, Acquisition, and Management of Capital Assets, and the

supplement to Part 7, the Capital Programming Guide.

The impact to small businesses by this rule will be dependent upon the thresholds established by the agencies or identified by OMB as the agencies' major acquisitions/ investments. OMB does not expect EVMS on acquisitions at or below \$20 million total cost. However, OMB or the agency may identify a lower dollar acquisition as a major acquisition for application of EVMS. Therefore the impact for this rule has not been ascertained across all agencies. Small businesses may be impacted by their lack of certification of an EVM System at time of award or the cost of the requirement for an IBR prior to award where an agency does not absorb the cost of the IBR. Likewise, agencies will be affected by the possible cost of IBRs for which they absorb the costs. Therefore, the number of small businesses with EVM Systems is uncertain, based on current information.

This proposed FAR rule will not impose any additional reporting or recordkeeping requirements on offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* The rule provides for the standardization of EVMS across the Government. Contractors are required to maintain EVMS, where applicable. These systems are unique to the contractor. The reporting is specific to the contractor's system and is not the reporting of identical information collected for a public collection. There is no set of identical questions for 10 or more contractors. The rule allows contractors to use a standardized EVMS across Government. The requirements for these systems are usually imposed on high dollar acquisitions. Therefore, only a few small entities would be required to comply with the cost/schedule/performance requirements for these systems.

There are no Federal rules that duplicate, overlap, or conflict with the proposed rule.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 7, 34, 42, and 52 in accordance with 5 U.S.C. 610. Comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2004-019), in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose 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 Parts 2, 7, 34, 42, and 52

Government procurement.

Dated: April 1, 2005.

**Rodney Lantier,**

*Director, Contract Policy Division, General Services Administration.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 7, 34, 42, and 52 as set forth below:

1. The authority citation for 48 CFR parts 2, 7, 34, 42, and 52 are revised to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

### PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 in paragraph (b) by adding, in alphabetical order, the definition "Earned value management system" to read as follows:

#### 2.101 Definitions.

\* \* \* \* \*

(b) \* \* \*

*Earned value management system* means a project management tool that effectively integrates the project scope of work with cost, schedule and performance elements for optimum project planning and control. The qualities and operating characteristics of earned value management systems are described in American National Standards Institute (ANSI)/Electronics Industries Alliance (EIA) Standard-748, Earned Value Management systems. (See OMB Circular A-11, Part 7.)

\* \* \* \* \*

### PART 7—ACQUISITION PLANS

3. Amend section 7.105 by adding a sentence to the end of paragraph (b)(10) to read as follows:

#### 7.105 Contents of written acquisition plans.

\* \* \* \* \*

(b) \* \* \*

(10) \* \* \* If an earned value management system is to be used, discuss the methodology the Government will employ to analyze and use the earned value data to assess and monitor contract performance. In addition, discuss how the offeror's/contractor's EVMS will be verified for compliance with the American National Standards Institute/Electronics Industries Alliance (ANSI/EIA) standard, and the timing and conduct of Integrated Baseline Reviews (whether prior to or post award). See 34.202.

\* \* \* \* \*

### PART 34—MAJOR SYSTEM ACQUISITION

4. Revise section 34.000 to read as follows:

#### 34.000 Scope of part.

This part describes acquisition policies and procedures for use in acquiring major systems consistent with OMB Circular No. A-109; and the use of earned value management systems in acquisitions designated as major acquisitions consistent with OMB Circular A-11.

5. Amend section 34.005-2 by adding paragraph (b)(6) to read as follows:

#### 34.005-2 Mission-oriented solicitation.

\* \* \* \* \*

(b) \* \* \*

(6) Require the use of an earned value management system that meets the guidelines of ANSI/EIA Standard-748 (current version at time of solicitation) (see 42.1106) for earned value management systems and reporting requirements).

\* \* \* \* \*

6. Add subpart 34.X to read as follows:

### Subpart 34.X—Earned Value Management Systems

Sec.

34.X01 Policy.

34.X02 Integrated Baseline Reviews.

34.X03 Solicitation provisions and contract clause.

#### 34.X01 Policy.

(a) Earned value management system (EVMS) is required in acquisitions designated, in accordance with agency procedures, as major acquisitions subject to OMB Circular A-11.

(b) When EVMS is required, the agency shall consider the use of an Integrated Baseline Review (IBR).

#### 34.X02 Integrated Baseline Reviews.

(a) The Integrated Baseline Review (IBR) is meant to verify the technical content and the realism of the related performance budgets, resources, and schedules. It should provide a mutual understanding of the inherent risks in offerors'/contractors' performance plans and the underlying management control systems, and it should formulate a plan to handle these risks.

(b) The IBR is a joint assessment by the offeror or contractor, and the Government, of the—

(1) Ability of the project's technical plan to achieve the objectives of the scope of work;

(2) Adequacy of the time allocated for performing the defined tasks to successfully achieve the project schedule objectives;

(3) Ability of the Performance Measurement Baseline (PMB) to successfully execute the project and attain cost objectives, recognizing the relationship between budget resources, funding, schedule, and scope of work;

(4) Availability of personnel, facilities, and equipment when required, to perform the defined tasks needed to execute the program successfully; and

(5) The degree to which the management process provides effective and integrated technical/schedule/cost planning and baseline control.

(c) Conduct the IBR in accordance with agency procedures.

#### **34.X03 Solicitation provisions and contract clause.**

(a) The contracting officer shall insert a provision that is substantially the same as the provision at 52.234–X1, Notice of Earned Value Management System, in solicitations for contracts that require the contractor to use an earned value management system (EVMS) and for which the Government may require an Integrated Baseline Review (IBR) after contract award. When an offeror is required to provide an EVMS plan as part of its proposal, the contracting officer shall forward a copy of the plan to the cognizant Administrative Contracting Officer (ACO) or responsible Federal department or agency and obtain their assistance in determining the adequacy of the proposed EVMS plan.

(b) The contracting officer shall insert a provision that is substantially the same as the provision at 52.234–X2, Notice of Earned Value Management System-Pre-Award IBR, in solicitations for contracts that require the contractor to use an EVMS and for which the Government will require an IBR prior to contract award. When an offeror is required to provide an EVMS plan as part of its proposal, the contracting officer shall forward a copy of the plan to the cognizant ACO or responsible Federal department or agency and obtain their assistance in determining the adequacy of the proposed EVMS plan.

(c) The contracting officer shall insert a clause that is substantially the same as the clause at 52.234–X3, Earned Value Management System, in solicitations and contracts that require a contractor to use an earned value management system (EVMS).

#### **PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

7. Amend section 42.1106 by adding paragraph (d) to read as follows:

##### **42.1106 Reporting requirements.**

\* \* \* \* \*

(d) For major acquisitions contracting officers shall require contractors to submit earned value management

system monthly reports (*see* subpart 34.2 and OMB Circular A–11, part 7, section 1H4, Exhibit 300).

#### **PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

8. Add sections 52.234–X1, 52.234–X2, and 52.234–X3 to read as follows:

##### **52.234–X1 Notice of Earned Value Management System.**

As prescribed in 34.X03(a) use the following provision:

Notice of Earned Value Management System (Date)

(a) The offeror shall provide documentation that the cognizant Administrative Contracting Officer (ACO) or a Federal department or agency has recognized that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard–748 (current version at time of solicitation).

(b) If the offeror proposes to use a system that does not meet the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall—

(i) Describe the EVMS the offeror intends to use in performance of the contracts;

(ii) Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;

(iii) Describe the management system and its application in terms of the EVMS guidelines;

(iv) Describe the proposed procedure for administration of the guidelines, as applied to subcontractors; and

(v) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(3) The Government will review the offeror's plan for EVMS before contract award.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontractors have not been selected, planned for application of the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS guidelines.

(End of provision)

##### **52.234–X2 Notice of Earned Value Management System—Pre-Award IBR.**

As prescribed in 34.X03(b), use the following provision:

Notice of Earned Value Management System, Pre-Award IBR (Date)

(a) The offeror shall provide documentation that the cognizant Administrative Contracting Officer (ACO) or a Federal department or agency has recognized that the proposed earned value

management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard–748 (current version at time of solicitation).

(b) If the offeror proposes to use a system that does not meet the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall—

(i) Describe the EVMS the offeror intends to use in performance of the contracts;

(ii) Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;

(iii) Describe the management system and its application in terms of the EVMS guidelines;

(iv) Describe the proposed procedure for administration of the guidelines, as applied to subcontractors; and

(v) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(3) The Government will review and approve the offeror's plan for EVMS before contract award.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontractors have not been selected subject to the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS guidelines.

(d) The Government will conduct an Integrated Baseline Review (IBR), as designated by the agency, prior to contract award. The objective of the IBR is for the Government and the Contractor to jointly assess technical areas, such as the Contractor's planning, to ensure complete coverage of the contract requirements, logical scheduling of the work activities, adequate resources, methodologies for earned value (budgeted cost for work performed (BCWP)), and identification of inherent risks.

(End of provision)

##### **52.234–X3 Earned Value Management System.**

As prescribed in 34.X03(c), insert the following clause:

Earned Value Management System (Date)

(a) In the performance of this contract the Contractor shall use an earned value management system (EVMS) to manage the contract that at the time of contract award has been recognized by the cognizant Administrative Contracting Officer (ACO) or a Federal department or agency as compliant with the guidelines in ANSI/EIA Standard–748 (current version at time of award) and the Contractor will submit reports in accordance with the requirements of this contract.

(b) If, at the time of award, the Contractor's EVMS has not been recognized by the cognizant ACO or a Federal department or agency as complying with EVMS guidelines (or the Contractor does not have an existing cost/schedule control system that is

compliant with the guidelines in ANSI/EIA Standard-748 (current version at time of award)), the Contractor shall apply the system to the contract and shall be prepared to demonstrate to the ACO that the EVMS complies with the EVMS guidelines referenced in paragraph (a) of this clause.

(c) Agencies may conduct Integrated Baseline Reviews (IBR). If a pre-award IBR has not been conducted, such a review shall be scheduled as early as practicable after contract award, but not later than 180 days after award. The Contracting Officer may also require an IBR at (1) exercise of significant options or (2) incorporation of major modifications. Such reviews will normally be scheduled before award of the contract action.

(d) Unless a waiver is granted by the ACO or Federal department or agency, Contractor proposed EVMS changes require approval of the ACO or Federal department or agency, prior to implementation. The ACO or Federal department or agency, shall advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the ACO or Federal department or agency, the Contractor shall disclose EVMS changes to the ACO or Federal department or agency at least 14 calendar days prior to the effective date of implementation.

(e) The Contractor agrees to provide access to all pertinent records and data requested by the Contracting Officer or a duly authorized representative. Access is to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.

(f) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause: *[Insert list of applicable subcontractors.]*

(End of clause)

[FR Doc. 05-6864 Filed 4-7-05; 8:45 am]

BILLING CODE 6820-EP-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[Docket No. 041029298-5084-02; I.D. 052004A]

RIN 0648-AS38

#### Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Pacific Coast Groundfish Fishery; California, Washington, and Oregon Fisheries for Coastal Dungeness Crab and Pink Shrimp; Industry Fee System for Fishing Capacity Reduction Loan

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS re-proposes regulations to implement an industry fee system for repaying a \$35,662,471 Federal loan. The loan financed most of the cost of a fishing capacity reduction program in the Pacific Coast groundfish fishery. The industry fee system imposes fees on the value of future groundfish landed in the trawl portion (excluding whiting catcher-processors) of the Pacific Coast groundfish fishery. It also imposes fees on coastal Dungeness crab and pink shrimp landed in the California, Washington, and Oregon fisheries for coastal Dungeness crab and pink shrimp. This action's intent is to implement the industry fee system.

**DATES:** Written comments on this proposed rule must be received by May 9, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [0648-AS38@noaa.gov](mailto:0648-AS38@noaa.gov). Include in the subject line the following identifier: Pacific Coast Groundfish Buyback RIN 0648-AS38. E-mail comments, with or without attachments, are limited to 5 megabytes.

- Federal e-Rulemaking Portal: <http://www.regulations.gov>.

- Mail: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282.

- Fax: (301) 713-1306.

Comments involving the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule should be submitted in writing to Michael L. Grable, at the above address, and to David Rostker, Office of Management and Budget (OMB), by e-mail at

[David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or by fax to 202-395-7285.

Copies of the Environmental Assessment, Regulatory Impact Review (EA/RIR) and Initial Regulatory Flexibility Analysis (IRFA) for the fee collection system may be obtained from Michael L. Grable, at the above address.

#### FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, (301) 713-2390.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 312(b)-(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b) through (e)) (Magnuson-Stevens Act) generally authorized fishing capacity reduction programs. In particular, section 312(d) of the Magnuson-Stevens Act authorized industry fee systems for repaying fishing capacity reduction loans which finance program costs.

Subpart L of 50 CFR part 600 contains the framework regulations (framework regulations) generally implementing sections 312(b)-(e) of the Magnuson-Stevens Act.

Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g), generally authorized fishing capacity reduction loans.

Section 212 of Division B, Title II, of Public Law 108-7 (section 212) specifically authorized a \$46 million program (groundfish program) for that portion of the limited entry trawl fishery under the Pacific Coast Groundfish Fishery Management Plan whose permits, excluding those registered to whiting catcher-processors, were endorsed for trawl gear operation (reduction fishery). Section 212 also authorized a fee system for repaying the reduction loan partially financing the groundfish program's cost. The fee system includes both the reduction fishery and the fisheries for California, Washington, and Oregon coastal Dungeness crab and pink shrimp (fee-share fisheries). Section 501(c) of Division N, Title V, of Public Law 108-7 (section 501(c)) appropriated \$10 million to partially fund the groundfish program's cost. Public Law 107-206 authorized a reduction loan with a ceiling of \$36 million to finance the groundfish program's cost.

Section 212 required NMFS to implement the groundfish program by a public notice in the **Federal Register**. NMFS published the groundfish program's initial public notice on May 28, 2003 (68 FR 31653) and final notice on July 18, 2003 (68 FR 42613). Background information on the groundfish program are published in these notices.