Coast Guard determined that the letter of commitment was no longer a valid requirement.

**DATES:** The meeting will be held September 5, 1995 from 10 a.m. to 12 p.m. Written material must be received not later than September 30, 1995.

**ADDRESSES:** The meeting will be held in room 2415, Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments will become part of this docket and will be available for inspection or copying at room 3406, Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Justine Bunnell, Marine Personnel Division (NMC–4), National Maritime Center, 4200 Wilson Blvd., Suite 510, Arlington, VA 22203–1804, telephone (703) 235–1951.

**SUPPLEMENTARY INFORMATION:** On December 6, 1993, the Coast Guard published a Notice of Proposed Rulemaking entitled ''Proof of Commitment to Employ Aboard U.S. Merchant Vessels'' in the **Federal Register** (58 FR 64278), to amend the regulations covering applicants for merchant mariner's documents to eliminate the requirement that the applicant provide proof of a commitment of employment as a member of a crew of a United States merchant vessel. The comment period ended on February 4, 1994. The Coast Guard received four favorable comments and no unfavorable comments. It published a final rule on June 8, 1994, (59 FR 28791), which became effective on July 5, 1994. The Coast Guard is interested in how the elimination of the requirement for a letter of commitment to employ is affecting the maritime industry, shipping companies and mariners. To determine the impact, the Coast Guard invites comments on the positive or negative effects of the elimination of a letter of commitment. The Coast Guard will evaluate all comments to determine if the regulation will remain in effect or if it is appropriate to reinstitute the requirement for a letter of commitment to employ. Maritime unions, shipping companies, and mariners or mariners' representatives are encouraged to attend the public meeting.

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed above under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted prior to, during, or after the meeting.

Dated: July 28, 1995.

**Joseph J. Angelo,**

*Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 95–19349 Filed 8–4–95; 8:45 am]

**BILLING CODE 4910–14–M**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 95–127, RM–8676]**

### Radio Broadcasting Services; Oro Valley, AZ

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of Rita Bonilla, seeking the allotment of Channel 277A to Oro Valley, Arizona, as that community's second local FM service. Coordinates for this proposal are 32–26–45 and 111–02–54. Oro Valley is located within 320 kilometers (199 miles) of the United States-Mexico border, and therefore, the Commission must obtain concurrence of the Mexican government to this proposal.

**DATES:** Comments must be filed on or before September 25, 1995, and reply comments on or before October 10, 1995.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Esq., Taylor, Thiemann & Aitken, 908 King Street, Suite 300, Alexandria, VA 22314.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–127, adopted July 27, 1995, and released August 2, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**Douglas W. Webbink,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95–19364 Filed 8–4–95; 8:45 am]

**BILLING CODE 6712–01–F**

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 209, 216, 217, 246, and 252

**[DFARS Case 95–D702]**

### Defense Federal Acquisition Regulation Supplement; Contract Award (Proposed)

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

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

**SUMMARY:** This proposed rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994 (''the Act''). The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement concerning contractor qualifications, special contracting methods, and quality assurance as a result of changes made to Title 10 U.S.C. by Sections 1505, 2401, and 2402 of the Act.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before October 6, 1995, to be considered in the formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D702 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melissa D.Rider, DFARS FASTA Implementation Secretariat, at (703) 614–1634. Please cite DFARS case 95–D702.

**SUPPLEMENTARY INFORMATION:**

## A. Background

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103–355 (''the Act''), dated October 13, 1994, provides authorities that streamline the acquisition process and minimize burdensome government-unique requirements. Major changes that can be expected in the acquisition process as a result of the Act's implementation include changes in the areas of Commercial Item Acquisition, Simplified Acquisition Procedures, the Truth in Negotiations Act, and introduction of the Federal Acquisition Computer Network (FACNET).

DFARS Case 95–D702 addresses five defense-unique sections of the Act: Section 1505, Restrictions on Undefinitized Contractual Actions; Section 2401, Clarification of Provision Relating to Quality Control of Certain Spare Parts; Section 2402, Contractor Guarantees Regarding Weapons Systems; Section 3061, Regulations on Procurement, Production, Warehousing, and Supply Distribution Functions; and Section 10004, Data Collection Through the Federal Procurement Data System. A discussion of the changes associated with each section follows:

Section 1505, Restrictions on Undefinitized Contractual Actions—Subsection 1505(a) of the Act requires that the limitation on expenditures be changed to reflect limitations on obligations, for underfinitized contractual actions (UCAs). This was done because the Government cannot control when funds are expended by the contractor but can control when funds are obligated on a contract. Subsection 1505(b) of the Act allows the head of agency to waive the UCA restrictions, if necessary to support a contingency operation. DFARS changes resulting from Subsections 1505 (a) and (b) were published as Item IX of Defense Acquisition Circular 91–7 (60 FR 29491) on June 5, 1995. Therefore, this proposed rule contains no DFARS changes to implement Subsections 1505 (a) and (b), Subsection 1505(c) of the Act exempts contracts within the simplified acquisition threshold from UCA restrictions. This proposed rule implements Subsection 1505(c) at DFARS 217.7402(b). The proposed rule also changes other portions of DFARS Parts 216 and 217 to consolidate requirements involving UCAs. A new DFARS clause, modeled on the clause at FAR 52.216–25, Contract Definitization, is proposed to provide a standard clause for DoD use in all UCAs.

Section 2401, Clarification of Provision Relating to Qualify Control of Certain Spare Parts—This Section of the Act requires that the DoD qualification requirements that were used to qualify an original production part be used on all subsequent acquisitions of that part unless the Secretary determines in writing that other sufficiently similar requirements exist that should be used instead, or that the original requirements were unnecessary. The proposed rule amends DFARS Subpart 209.2, Qualification Requirements, to add this requirement, but allows the requiring activity to make the determination. This is consistent with the approval levels cited in other on-going FAR cases on specifications and standards and qualification requirements (QPL/QSL) and supports, in general, the empowerment of lower echelons of the acquisition workforce, when and where appropriate (in this case the requiring activity).

Section 2402, Contractor Guarantees Regarding Weapons Systems—This Section of the Act requires that acquisition regulations be modified to include guidelines for negotiating reasonable, cost effective contractor guarantees,procedures for administering such guarantees, and guidelines for determining when waivers of requirements for warranties are appropriate. The proposed rule adds language at DFARS 246.770–2(b) that discusses the logical process of constructing a rational warranty for a weapon system. The coverage provides the reader with a good source of detailed information—the DSMC Warranty Guidebook. The proposed rule balances the need for specific guidance with the need to minimize DFARS coverage. This Section of the Act also eliminated Congressional reporting requirements for other than major weapon systems. Therefore, minor changes have been made at DFARS 246.770–8 to delete language pertaining to reporting requirements. The title of the Under Secretary of Defense (Acquisition and Technology) has been corrected at DFARS 246.770–8(a).

Section 3061, Regulations on Procurement, Production, Warehousing, and Supply Distribution Functions—This section of the Act amends 10 U.S.C. 2202 to vest the Secretary of Defense with the authority to prescribe regulations governing the performance within DoD of procurement, production, warehousing, and supply distribution, and related functions. Given that existing FAR coverage of Subpart 1.3 already vests the Secretary of Defense with this authority, especially when one considers that 5 U.S.C. allows agency heads, such as the Secretary of Defense, to structure the internal administrative procedures of his/her agency to support, among other things, the procurement process, no DFARS change has been made to implement this Section of the Act.

Section 10004, Data Collection Through the Federal Procurement Data System. No changes are proposed to implement this Section of the Act in the DFARS. FAR changes associated with this Section were included in FAR Case 94–701, which was published as a proposed rule on January 9, 1995 (60 FR 2472).

## 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 new section at DFARS 209.206–70 pertains to internal Government procedures for determining qualification requirements; the revisions to DFARS Parts 216 and 217 and the new contract clause merely consolidate and standardize existing requirements pertaining to underfinitized contract actions; and the revisions to DFARS 246.770 pertain to internal Government considerations regarding to use of warranties. An initial regulatory flexibility analysis has therefore 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–D702 in correspondence.

## C. The Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule will not impose any additional reporting or record keeping requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Parts 209, 216, 217, 246, and 252**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR 209, 216, 217, 246, and 252 are proposed to be amended as follows:

## PART 209—CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR Parts 209, 216, 217, 246, and 252 is revised to read as follows:

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

2. Section 209.206–70 is added to read as follows:

### 209.206–70 Quality control of critical aircraft and ship spare parts.

In accordance with 10 U.S.C. 2383, a contractor supplying any spare or repair part, that is critical to the operation of an aircraft or ship, is required to provide a part that meets all appropriate qualification and quality requirements as may be specified in the solicitation and made available to prospective offerors. The qualification requirements shall be identical to the DoD qualification requirements that were used to qualify the original production part, unless it is determined by the head of the requiring activity, in writing, that—

(a) There are other requirements sufficiently similar to those requirements that should be used instead; or

(b) Any or all such requirements are unnecessary.

## PART 216—TYPES OF CONTRACTS

3. Section 216.603–4 is revised to read as follows:

### 216.603–4 Contract clauses.

(b)(2) See 217.7405(a) for additional guidance regarding use of the clause at FAR 52.216–24, Limitation of Government Liability.

(3) Use the clause at 252.217–XXXX, Contract Definitization, in accordance with its prescription at 217.7405(b), instead of the clause at FAR 52.216–25, Contract Definitization.

4. Section 216.703 is amended by revising paragraph (c) to read as follows:

### 216.703 Basic ordering agreements.

(c) *Limitations.* The period during which orders may be placed against a basic ordering agreement may not exceed three years. The contracting officer, with the approval of the chief of the contracting office, may grant extensions for up to two years. No single extension shall exceed one year. See subpart 217.74 for additional limitations on the use of undefinitized orders under basic ordering agreements.

* * * * *

## PART 217—SPECIAL CONTRACTING METHODS

5. Section 217.202 is amended by adding paragraph (3) to read as follows:

### 217.202 Use of options.

* * * * *

(3) See subpart 217.74 for limitations on the use of undefinitized options.

6. Section 217.7402 is amended by revising paragraph (b) to read as follows:

### 217.7402 Exceptions.

* * * * *

(b) Purchases at or below the simplified acquisition threshold;

* * * * *

### 217.7404–3 [Amended]

7. Section 217.7404–3 is amended in the introductory text of paragraph (a) by revising the word ''earliest'' to read ''earlier.''

8. Section 217.7405 is revised to read as follows:

### § 217.7405 Contract clauses.

(a) Use the clause at FAR 52.216–24, Limitation of Government Liability, in all UCAs, solicitations associated with UCAs, basic ordering agreements, indefinite delivery contracts, and any other type of contract providing for the use of UCAs.

(b) Use the clause at DFARS 252.217–XXXX, Contract Definitization, in all UCAs, solicitations associated with UCAs, basic ordering agreements, indefinite delivery contracts, and any other type of contract providing for the use of UCAs. Insert the applicable information in paragraphs (a), (b), and (d) of the clause. If, at the time of entering into the UCA, the contracting officer knows that the definitive contract action will be based on adequate price competition or otherwise will meet the criteria of FAR 15.804–3 for not requiring submission of cost or pricing data, the words ''and cost or pricing data'' may be deleted from paragraph (a) of the clause.

## PART 246—QUALITY ASSURANCE

9. Section 246.770–2 is amended by redesignating paragraphs (b) and (c) as (c) and (d), respectively, by adding a new paragraph (b), and by revising newly designated paragraph (c) to read as follows:

### 246.770–2 Policy.

* * * * *

(b) Contracting officers and program managers shall consider the following when developing and negotiating weapon system warranty provisions:

(1) Warranties may not be appropriate in all situations, and a waiver should be sought if a warranty would not be cost-effective or would otherwise be inconsistent with the national defense. In drafting warranty provisions, the drafters must ensure they understand the planned operational, maintenance, and supply concepts of the weapon system to be fielded, and must structure a warranty that matches those concepts. A warranty plan should be prepared in consonance with development of the warranty provisions early in the weapon system's life cycle. The plan should contain program warranty strategy, terms of the warranty, administration and enforcement requirements, and should be coordinated with the user and support activities.

(2) A cost/benefit analysis must be accomplished in support of each warranty (see 246.770–7). The cost/benefit analysis compares all costs associated with the warranty to the expected benefits. An estimate shall be made of the likelihood of defects and the estimated cost of correcting such defects. Also, if substantive changes are required to the planned operational, maintenance, or supply concepts, any increased costs should be weighed against the expected benefits in deciding whether a warranty is cost-effective.

(3) The Warranty Guidebook prepared by the Defense Systems Management College, Fort Belvoir, VA 22060–5426, is a valuable reference that can assist in the development, negotiation, and administration of an effective weapon system warranty.

(c) Contracting officers may require warranties that provide greater coverage and remedies than specified in paragraph (a) of this subsection.

10. Section 246.770–8 is amended by removing paragraph (b)(2), redesignating paragraph (b)(3) as (b)(2), and revising the introductory texts of paragraphs (a), (c), and (c)(2) to read as follows:

### 246.770–8 Waiver and notification procedures.

(a) The Secretary of Defense has delegated waiver authority within the limits specified in 10 U.S.C. 2403. The waiving authority for the defense agencies is the Under Secretary of Defense (Acquisition and Technology). Submit defense agency waiver requests to the Director, Defense Procurement, for processing. The waiving authority

for the military department is the Secretary of the department with authority to redelegate no lower than an Assistant Secretary. The waiving authority may waive one or more of the weapons system warranties required by 246.770–2 if—

* * * * *

(c) Departments and agencies shall issue procedures for processing waivers and notifications to Congress.

* * * * *

(2) Notifications shall include—

* * * * *

## PART 252—CONTRACT CLAUSES

### 252.217–7027 [Removed]

11. Section 252.217–7027 is removed.

12. Section 252.217–XXXX is added to read as follows:

### 252.217–XXXX Contract Definitization.

As prescribed in 217.7405(b), use the following clause:

Contract Definitization (XXX XXXX)

(a) A (*insert specific type of contract action*) is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the undefinitized contract action, (2) all clauses required by law on the date of execution of the definitive contract action, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a (*insert type of proposal; e.g., fixed-priced or cost-and-fee*) proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract action is as follows (*insert target date for definitization of the contract action and dates for submission of proposal, beginning of negotiations, and, if appropriate, submission of the make-or-buy and subcontracting plans and cost or pricing data*):

_____

_____

_____

_____

(c) If agreement on a definitive contract action to supersede this undefinitized contract action is not reached by the target date in paragraph (b) of this clause, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with subpart 15.8 and part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by—

(i) All clauses required by the FAR on the date of execution of this undefinitized contract action for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with subparagraph (c)(1) of this clause, all clauses, terms, and conditions including included in this undefinitized contract action shall continue in effect, except those that by their nature apply only to an undefinitized contract action.

(d) The definitive contract resulting from this undefinitized contract action will include a negotiated (*insert ''cost/price ceiling '' or ''firm-fixed price''*) in no event to exceed (*insert the not-to-exceed amount*).

(End of Clause)

[FR Doc. 95–19318 Filed 8–4–95; 8:45 am]

BILLING CODE 5000–04–M

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Eagle Lake Rainbow Trout and Designate Critical Habitat

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

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** The Fish and Wildlife Service (Service) announces the 90-day finding on a petition to list the Eagle Lake rainbow trout (*Oncorhynchus mykiss aquilarum*) under the Endangered Species Act (Act) of 1973, as amended. The Service finds that the petition did not present substantial information indicating that the petitioned actions may be warranted.

**DATES:** The finding announced in this document was made on July 25, 1995.

**ADDRESSES:** Information, data, comments, or questions concerning this finding should be submitted to the U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1803, Sacramento, California 95825–1846. The petition, petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Diane Windham, staff biologist, at the above address or telephone 916–979–2725.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1533 *et seq.*) (Act), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**. If the finding is that substantial information was presented, the Service also is required to commence a review of the status of the species.

The Service has made a 90-day finding on a petition to list the Eagle Lake rainbow trout (*Oncorhynchus mykiss aquilarum*). The petition, dated April 25, 1994, was submitted by John F. Bosta, of Susanville, California, and was received by the Service on April 28, 1994. The petition requested the Eagle Lake rainbow trout be listed as threatened or endangered, that critical habitat be designated, and that a recovery plan be developed. The petitioner provided some life history information for the Eagle Lake rainbow trout and material related to the fish passage problems, habitat degradation, and lack of natural reproduction. Recommendations for correcting habitat problems were included with the petition.

The Eagle Lake rainbow trout is a species of concern to the Service (November 15, 1994; 59 FR 58982). Such taxa are typically those for which some information indicates threats to the species exit but sufficient information on biological vulnerability and threats is not currently available indicating that listing as endangered or threatened is warranted.

Eagle Lake rainbow trout are endemic to Eagle Lake, Lassen County, California. Although they have been planted in numerous waters, no known self-sustaining populations of genetically pure Eagle Lake rainbow trout in waters exist outside of its native habitat. With the annual stocking of 200,000 Eagle Lake trout, the subspecies has been sustained almost entirely by California Department of Fish and Game's hatchery production since 1950. The petition and referenced literature