

**DEPARTMENT OF DEFENSE****48 CFR Part 243****[DFARS Case 2003–D024]****Defense Federal Acquisition Regulation Supplement; Contract Modifications****AGENCY:** Department of Defense (DoD).**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to contract modifications. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before May 23, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003–D024, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003–D024 in the subject line of the message.

- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Michele Peterson, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, (703) 602–0311.

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

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR

authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes—

- Delete unnecessary text at DFARS 243.102, 243.105(a)(ii), 243.107, and 243.204–71.
- Delete obsolete text at DFARS 243.105(a)(i).
- Update text at DFARS 243.107–70 for consistency with the requirements of the clause at DFARS 252.249–7002, Notification of Anticipated Contract Termination or Reduction.
- Clarify procedures at DFARS 243.204–70 for determining if a request for equitable contract adjustment meets the dollar threshold for requiring contractor certification.
- Delete text at DFARS 243.170, 243.171, and 243.204 containing procedures for identification of foreign military sales requirements, for obligation or deobligation of contract funds, and for review and definitization of contract change orders. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

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

**B. Regulatory Flexibility Act**

DoD does not expect this rule 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 rule makes no significant change to DoD contracting policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D024.

**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 243**

Government procurement.

**Michele P. Peterson,***Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR part 243 as follows:

1. The authority citation for 48 CFR part 243 continues to read as follows:

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

**PART 243—CONTRACT MODIFICATIONS****243.102, 243.105, and 243.107 [Removed]**

2. Sections 243.102, 243.105, and 243.107 are removed.

3. Section 243.107–70 is amended by revising the second sentence to read as follows:

**243.107–70 Notification of substantial impact on employment.**

\* \* \* The clause prescribed at 249.7003(c) requires that the contractor notify its employees, its subcontractors, and State and local officials when a contract modification will have a substantial impact on employment.

4. Sections 243.170 and 243.171 are revised to read as follows:

**243.170 Identification of foreign military sale (FMS) requirements.**

Follow the procedures at PGI 243.170 for identifying contract modifications that add FMS requirements.

**243.171 Obligation or deobligation of funds.**

Follow the procedures at PGI 243.171 when obligating or deobligating funds.

5. Section 243.204 is revised to read as follows:

**243.204 Administration.**

Follow the procedures at PGI 243.204 for review and definitization of change orders.

6. Section 243.204–70 is amended by revising paragraph (b) to read as follows:

**243.204–70 Certification of requests for equitable adjustment.**

\* \* \* \* \*

(b) To determine if the dollar threshold for requiring certification is met, add together the absolute value of each cost increase and each cost decrease. See PGI 243.204–70(b) for an example.

\* \* \* \* \*

**243.204-71 [Removed]**

7. Section 243.204-71 is removed.  
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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No.050317076-5076-01; I.D. 030405C]

RIN 0648-AT01

**Atlantic Highly Migratory Species;  
Atlantic Bluefin Tuna Quota  
Specifications and General Category  
Effort Controls**

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

**ACTION:** Proposed rule; request for comments; notice of public hearings.

**SUMMARY:** NMFS proposes initial 2005 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established domestic fishing categories and to set General category effort controls. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS will hold public hearings to receive comments on these proposed actions.

**DATES:** Written comments must be received on or before April 18, 2005.

The public hearing dates are:

1. April 8, 2005, from 3 p.m. to 4:30 p.m. in Gloucester, MA.
2. April 11, 2005, from 7 p.m. to 8:30 p.m. in Morehead City, NC.

**ADDRESSES:** Comments may be submitted through any of the following methods:

- Email: [05BFTSPECS@noaa.gov](mailto:05BFTSPECS@noaa.gov).
- Federal e-Rulemaking Portal: <http://www.regulations.gov>.
- Mail: Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930.

• Fax: 978-281-9340.

The public hearing locations are:

1. Northeast Regional Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930.

2. Crystal Coast Civic Center, 3500 Arendell Street, Morehead City, NC 28557.

Supporting documents including the environmental assessment, initial Regulatory Flexibility Act analysis, and regulatory impact review are available by sending your request to Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930; fax: 978-281-9340.

**FOR FURTHER INFORMATION CONTACT:** Dianne Stephan at (978) 281-9260.

**SUPPLEMENTARY INFORMATION:** Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

**Background**

On May 28, 1998, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP).

In November 2002, ICCAT recommended a Total Allowable Catch (TAC) of BFT for the United States in the western Atlantic management area of 1,489.6 metric tons (mt), effective beginning in 2003 and continuing in subsequent fishing years until revised by ICCAT. Also in the 2002 recommendation, ICCAT allocated 25 mt annually to account for incidental catch of BFT by pelagic longline fisheries directed on other species "in the vicinity of the management boundary area." This area was defined in the 2003 BFT annual specification rulemaking process as the Northeast Distant statistical area (NED) (68 FR 56783, October 2, 2003). The TAC of 1,489.6 mt is inclusive of the annual 25 mt pelagic longline set-aside in the NED. The initial specifications within this proposed rule are published in accordance with the 1999 FMP and are necessary to implement the 2002 ICCAT quota recommendation, as required by ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act.

This proposed rule would: (1) establish initial quota specifications consistent with the BFT rebuilding program as set forth in the 1999 FMP by

allocating the 2002 ICCAT-recommended quota for the 2005 fishing year (June 1, 2005—May 31, 2006); and (2) establish the General category effort controls, including time-period subquotas and restricted fishing days (RFDs), for the 2005 fishing season.

NMFS is also seeking public comment on options for achieving ICCAT's recommended four-year average 8 percent tolerance on harvest of school BFT. As a method for limiting fishing mortality on school size BFT, ICCAT adopted an annual 8 percent tolerance limit in 1991, and in the 1998 rebuilding plan modified the tolerance to be calculated as a four-year average. The 2005 fishing year is the third year in the current four year period. Landings of school BFT in 2003 were approximately 138 mt, which is approximately 9.3 percent of the base quota for that year, and preliminary figures for 2004 indicate that school landings were greater than 2003 school landings. Since landings of school BFT for the first half of the four year period have exceeded 8 percent, landings for the second half must be less than 8 percent to achieve an overall average of 8 percent or below. NMFS is considering options other than providing the full school subquota for the 2005 fishery, and requests public comment on potential options for achieving the 8 percent target, including the following: (1) defer any action until the final year of the four year period (2006); (2) reallocate all or a portion of the 2005 school subquota to the large school/small medium subquota for 2005; (3) maintain the default Angling category retention limit of one fish (in any recreational size class, i.e., school, large school/small medium) per vessel per day for the entire 2005 season; or (4) prohibit landing of school BFT in 2005 and carry over the subquota to 2006.

After consideration of public comment, NMFS will issue final initial quota specifications and effort controls and publish them in the **Federal Register**, along with NMFS' response to those comments. The specifications and effort controls may subsequently be adjusted during the course of the fishing year, consistent with the provisions of the 1999 FMP, and will be published in the **Federal Register**.

NMFS acknowledges that a number of other issues regarding the domestic management of BFT have been discussed during recent years. For instance, adjustment of domestic quota allocation percentages and General category time-period subquotas were raised as issues in a Petition for Rulemaking submitted by the North Carolina Division of Marine Fisheries