

amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2015, to require offerors bidding on DoD military construction contracts to provide opportunity for competition to American steel producers, fabricators, and manufacturers; and restrict use of military construction funds in certain foreign countries, including countries that border the Arabian Gulf.

**DATES:** Effective August 26, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Julie Hammond, telephone 571-372-6174.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD published an interim rule in the **Federal Register** at 80 FR 15909 on March 26, 2015, to implement sections 108, 111, and 112 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2015 (division I of the Consolidated and Further Continuing Resolution Appropriations Act, 2015, Pub. L. 113-235), enacted December 16, 2014.

**II. Discussion and Analysis**

There were no public comments submitted in response to the interim rule. The interim rule has been converted to a final rule, without change.

**III. 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, was 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.

**IV. 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:

This rule is necessary to require offerors bidding on DoD military

construction contracts to provide opportunity for competition to American steel producers, fabricators, and manufacturers, and implement the preference for award only to U.S. firms when awarding certain military construction and architect-engineer contracts to be performed in countries bordering the Arabian Gulf.

The objective of this rule is to implement sections 108, 111, and 112 of the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2015 (division I of Pub. L. 113-235). This rule extends the applicability of the requirement to provide opportunity for competition to American steel producers, fabricators, and manufacturers, and revises the preference for award to U.S. firms of military construction contracts that have an estimated value greater than \$1,000,000 and the restriction requiring award only to U.S. firms for architect-engineer contracts that have an estimated value greater than \$500,000, to make it applicable to contracts to be performed in a country bordering the Arabian Gulf, rather than a country bordering the Arabian Sea (as required in earlier statutes).

No comments were received from the public relative to the publication of the initial regulatory flexibility analysis in the interim rule.

Section 108 will benefit any small business entities involved in producing, fabricating, or manufacturing steel products to be used in military construction. Sections 111 and 112 will only apply to a very limited number of small entities—those entities that submit offers in response to solicitations for military construction contracts that have an estimated value greater than \$1,000,000 and architect-engineer contracts that have an estimated value greater than \$500,000, when the contracts are to be performed in countries bordering the Arabian Gulf.

The rule does not impose any additional reporting, recordkeeping, and other compliance requirements.

No alternatives were identified that will accomplish the objectives of the statutes and the rule.

**V. Paperwork Reduction Act**

The rule does not contain 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 Parts 225 and 236**

Government procurement.

**Jennifer L. Hawes,**

*Editor, Defense Acquisition Regulations System.*

Accordingly, the interim rule amending 48 CFR parts 225 and 236, which was published at 80 FR 15909 on March 26, 2015, is adopted as a final rule without change.

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**BILLING CODE 5001-06-P**

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 225 and 252**

[Docket No. 2015-0010]

**RIN 0750-AI45**

**Defense Federal Acquisition Regulation Supplement: Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (DFARS Case 2014-D023)**

**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 provide updates and clarifications regarding requirements for contractor personnel supporting U.S. Armed Forces deployed outside the United States.

**DATES:** Effective August 26, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Julie Hammond, Telephone 571-372-6174.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD published a proposed rule in the **Federal Register** at 80 FR 4850 on January 29, 2015, to update the DFARS clause at 252.225-7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States. No public comments were submitted in response to the proposed rule.

**II. Discussion and Analysis**

No changes are made to the substance of the final rule. Subsequent to the publication of the proposed rule, however, DFARS subpart 225.74 was redesignated as DFARS 225.3 (see 80 FR

36900 published on June 26, 2015) to align with the coverage in the Federal Acquisition Regulation subpart 25.3. This final rule is updated accordingly to reflect these baseline changes.

### III. 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, was 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.

### IV. 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:

The rule is needed make the following updates to the clause at the Defense Federal Acquisition Regulation Supplement (DFARS) 252.225-7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States—

- Remove “humanitarian assistance operations” from the list of applicable operations covered by the clause because it is a subset of “peace operations”;
- Clarify that both contractors authorized to accompany the Force (CAAF) and non-CAAF personnel must be made aware of information related to sexual assault offenses;
- Clarify that the section on reporting alleged crimes does not create any rights or privileges that are not authorized by law or DoD policy;
- Update the reference for special area, country, and theater clearance requirements for deploying personnel;
- Update the form used to show vaccinations are current;
- Update the SPOT Web address; and,
- Add the title of DoD Instruction 3020.41.

No comments were received from the public in response to the initial regulatory flexibility analysis.

DoD does not expect this proposed 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.* The rule updates DFARS clause 252.225-7040, which is required for use in contracts that authorize contractor personnel to support U.S. Armed Forces deployed outside the United States in: (1) Contingency operations; (2) peace operations consistent with Joint Publication 3-07.3; or (3) other military operations or military exercises, when designated by the combatant commander or as directed by the Secretary of Defense.

According to the Federal Procurement Data System (FPDS), DoD awarded 506 contracts in fiscal year 2013 requiring performance overseas in support of contingency, humanitarian or peace operations. Of the 506 contracts, only 76 contracts (15%) were awarded to small businesses. At this time, there is no way of estimating how many contracts may be awarded requiring performance outside the United States in support of other military operations or exercises, when designated by the Combatant Commander. However, the number of small businesses awarded such contracts is expected to be minimal.

The rule does not impose any additional reporting, recordkeeping, and other compliance requirements. DoD did not identify any alternatives that could meet the objectives of the rule.

### V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35); however, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704-0460, entitled Synchronized Predeployment and Operational Tracker (SPOT) System.

### List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

- 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

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

### PART 225—FOREIGN ACQUISITION

#### 252.371-5 [Amended]

- 2. Amend section 252.371-5 by removing paragraph (a)(2) and redesignating paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3), respectively.

### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 3. Amend section 252.225-7040 by—
  - a. Removing the clause date “(JUN 2015)” and adding “(AUG 2015)” in its place;
  - b. Removing paragraph (b)(1)(ii) and redesignating paragraphs (b)(1)(iii) and (iv) as paragraphs (b)(1)(ii) and (iii), respectively;
  - c. In paragraph (d)(3) introductory text, removing “CAAF are aware” and adding “CAAF and non-CAAF are aware” in its place;
  - d. In paragraph (d)(3)(i), removing “DoDD 6495.01” and adding “DoD Directive 6495.01” in its place;
  - e. Adding paragraph (d)(5)(ii);
  - f. Revising paragraph (e)(1)(ii)(C)(3);
  - g. In paragraph (e)(1)(iv), removing “DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54-G, DoD Foreign Clearance Guide” and adding “DoD Directive 4500.54E, DoD Foreign Clearance Program” in its place;
  - h. In paragraph (g)(2), removing “<https://spot.altess.army.mil/privacy.aspx>” and adding “<https://spot.dmdc.mil>” in its place;
  - i. In paragraph (j)(1), removing “DoD Instruction 3020.41” and adding “DoD Instruction 3020.41, Operational Contractor Support” in its place;
  - j. In paragraph (j)(2), removing “will-notify” and adding “will notify” in its place; and
  - k. Removing paragraph (q)(2) and redesignating paragraphs (q)(3) and (4) as paragraphs (q)(2) and (3), respectively.

The addition and revision read as follows:

#### 252.225-7040 Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States.

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*

(iii) That this section does not create any rights or privileges that are not authorized by law or DoD policy.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(C) \* \* \*

(3) All CAAF and selected non-CAAF, as specified in the statement of work, shall bring to the designated operational area a copy of the U.S. Centers for Disease Control and Prevention (CDC) Form 731, International Certificate of Vaccination or Prophylaxis as Approved by the World Health Organization, (also known as “shot record” or “Yellow Card”) that shows vaccinations are current.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No: 110907562–5681–03]

RIN 0648–BB40

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Omnibus Amendment To Simplify Vessel Baselines

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

**ACTION:** Final rule.

**SUMMARY:** This final rule announces the approval of the Omnibus Amendment to the Fishery Management Plans of the Northeastern United States and implements the amendment’s approved management measures to simplify vessel baselines. The Baseline Amendment eliminates the one-time limit on vessel upgrades and removes gross and net tonnages from the vessel baseline specifications that NMFS considers when determining a vessel’s baseline for replacement purposes. Implementing these measures reduces the administrative burden to permit holders and NMFS and has little effect on fleet capacity.

This rule also removes the requirement for vessels to send in negative fishing reports (*i.e.*, “did not fish” reports) during months or weeks when vessels were inactive. NMFS no longer needs these reports due to improved trip-level matching. Therefore, NMFS removes this requirement to simplify the regulations and reduce reporting burdens for the industry.

**DATES:** Effective August 26, 2015.

**ADDRESSES:** NMFS developed an environmental assessment (EA) for this action that describes the action and other considered alternatives and provides a thorough analysis of the impacts of these measures. Copies of the Amendment, the EA, and the small entity compliance guide are available upon request from John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, or available on the Internet at: [http://www.greateratlantic.fisheries.noaa.gov/mediacenter/ongoing/omnibus\\_amendment\\_to\\_simplify\\_vessel\\_baselines.html](http://www.greateratlantic.fisheries.noaa.gov/mediacenter/ongoing/omnibus_amendment_to_simplify_vessel_baselines.html).

**FOR FURTHER INFORMATION CONTACT:** Travis Ford, Fishery Policy Analyst, 978–281–9233.

#### SUPPLEMENTARY INFORMATION:

##### Background

The New England and Mid-Atlantic Fishery Management Councils submitted the Baseline Amendment to NMFS for approval at their November 18, 2014, and October 8, 2014, meetings, respectively. We prepared the amendment on behalf of the Councils. We reviewed and finalized the amendment document to ensure consistency with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the fishery management plans that have vessel baseline requirements, and other applicable laws. NMFS has approved the Baseline Amendment in its entirety.

Baseline regulations currently require that a replacement vessel or an upgrade made to an existing vessel with a limited access permit be within 10 percent of the size (*i.e.*, length, gross tonnage, and net tonnage) and 20 percent of the horsepower of the permit’s baseline vessel. In addition, regulations limit permit holders to a one-time upgrade of the vessel size and horsepower specifications.

This final rule eliminates gross and net tonnage from the baseline specifications that NMFS considers when determining a vessel’s baseline for replacement purposes. Both the Councils and NMFS consider tonnages the most variable of vessel baseline specifications and; therefore, they have little effect on limiting vessel capacity when compared to length and horsepower restrictions. Eliminating tonnages simplifies the vessel baseline verification and replacement process. In addition, it could reduce the cost burden on the industry if vessel owners only need horsepower verification because eliminating the tonnage

baselines will eliminate the need for owners to get a marine survey of their vessel prior to any permit replacement or upgrade transactions.

This final rule removes the one-time limit on vessel upgrades. Eliminating the one-time upgrade limit will provide more flexibility for vessel owners in the selection of replacement vessels and upgrades to existing vessels. Eliminating the one-time limit will also simplify the baseline verification and vessel replacement process for vessel owners and NMFS by eliminating the need to research and document whether a vessel owner used the one-time upgrade during the vessel’s entire limited access history.

The Baseline Amendment implemented by this final rule does not modify any other baseline specifications or measures.

This final rule also removes the requirement for vessels to send in negative fishing reports (*i.e.*, “did not fish” reports) during months or weeks when vessels are inactive. This change in reporting requirements was not part of the Baseline Amendment. We are removing this requirement under the Secretary’s authority at section 305(d) of the Magnuson-Stevens Act to promulgate regulations necessary to carry out Councils’ amendments consistently with the Act. Eliminating this requirement simplifies the regulations and reduces reporting burdens for the industry. In the past, these negative fishing reports were necessary to aid in data matching and quota monitoring. In recent years, we updated our monitoring systems at the Greater Atlantic Regional Fisheries Office and these negative fishing reports are no longer necessary. Vessels that fish will still be required to report all trips on a monthly or weekly basis, depending on permits that they retain. Comments and Responses

NMFS received two comment letters in response to the proposed rule from the Atlantic Offshore Lobstermen’s Association and Lund’s Fisheries Incorporated. We provide responses below to the issues these commenters raised. NMFS may only approve, disapprove, or partially approve measures in the Baseline Amendment, and cannot substantively amend, add, or delete measures beyond what is necessary under section 305(d) of the Magnuson-Stevens Act to discharge its responsibility to carry out such measures.

*Comment 1:* Atlantic Offshore Lobstermen’s Association was supportive of this action, but it was concerned that the changes in the Baseline Amendment could encourage