

## Alternate II (NOV 2009)

As prescribed in 227.7103–6(b)(2), add the following paragraphs (a)(16) and (b)(7) to the basic clause:

(a)(16) “Vessel design” means the design of a vessel, boat, or craft, and its components, including the hull, decks, superstructure, and the exterior surface shape of all external shipboard equipment and systems. The term includes designs covered by 10 U.S.C. 7317, and designs protectable under 17 U.S.C. 1301, *et seq.*

(b)(7) *Vessel designs.* For a vessel design (including a vessel design embodied in a useful article) that is developed or delivered under this contract, the Government shall have the right to make and have made any useful article that embodies the vessel design, to import the article, to sell the article, and to distribute the article for sale or to use the article in trade, to the same extent that the Government is granted rights in the technical data pertaining to the vessel design.

■ 8. Section 252.227–7015 is amended in the introductory text by removing “227.7102–3” and adding in its place “227.7102–3(a)(1)”; and adding Alternate I to read as follows:

**252.227–7015 Technical data—Commercial items.**

\* \* \* \* \*

## Alternate I (NOV 2009)

As prescribed in 227.7102–3(a)(2), add the following paragraphs (a)(5) and (b)(3) to the basic clause:

(a)(5) “Vessel design” means the design of a vessel, boat, or craft, and its components, including the hull, decks, superstructure, and the exterior surface shape of all external shipboard equipment and systems. The term includes designs covered by 10 U.S.C. 7317, and designs protectable under 17 U.S.C. 1301, *et seq.*

(b)(3) *Vessel designs.* For a vessel design (including a vessel design embodied in a useful article) that is developed or delivered under this contract, the Government shall have the right to make and have made any useful article that embodies the vessel design, to import the article, to sell the article, and to distribute the article for sale or to use the article in trade, to the same extent that the Government is granted rights in the technical data pertaining to the vessel design.

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## DEPARTMENT OF DEFENSE

## Defense Acquisition Regulations System

## 48 CFR Part 252

[DFARS Case 2009–D010]

**Defense Federal Acquisition Regulation Supplement; World Trade Organization Government Procurement Agreement Designated Country**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add Taiwan as a designated country to the list of World Trade Organization Government Procurement Agreement designated countries in the trade agreements provisions and clauses in part 252, due to the accession of Taiwan to the World Trade Organization Government Procurement Agreement.

**DATES:** *Effective Date:* November 23, 2009.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before January 22, 2010, to be considered in the formulation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2009–D010, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2009–D010 in the subject line of the message.

○ *Fax:* 703–602–7887.

○ *Mail:* Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, 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.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone 703–602–0328; facsimile 703–602–7887. Please cite DFARS Case 2009–D010.

## SUPPLEMENTARY INFORMATION:

## A. Background

On July 15, 2009, Taiwan became a party to the World Trade Organization Government Procurement Agreement. This interim rule adds Taiwan to the list of World Trade Organization Government Procurement Agreement countries in the definition of “designated country” in the trade agreements provisions and clauses in part 252.

Taiwan is known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei). In accordance with 22 U.S.C. 3303(b)(1), it is appropriate to treat Taiwan as a country for purposes of this regulation.

This rule was 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.* Although the rule opens up Government procurement to the products of Taiwan, DoD does not believe there will be a significant economic impact on U.S. small businesses. DoD only applies the trade agreements to acquisitions of those non-defense items listed at DFARS 225.401–70, and acquisitions of supplies that are set aside for small businesses are exempt. 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 2009–D010.

## C. Paperwork Reduction Act

Although this rule does not make any direct change to the provision at DFARS 252.225–7020, this interim rule does affect the certification and information collection requirements in that provision, which is currently approved under Office of Management and Budget Control Number 0704–0229. DFARS 252.225–7020(a) references the definition of “designated country” in the clause at DFARS 252.225–7021, which has been changed by this rule to include Taiwan. The impact, however, is negligible.

**D. Determination To Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements the accession of Taiwan to the World Trade Organization Government Procurement Agreement. This action is necessary because the designation of Taiwan under the World Trade Organization Government Procurement Agreement took effect on July 15, 2009. Comments received in response to this interim rule will be considered in the formation of the final rule.

**List of Subjects in 48 CFR Part 252**

Government procurement.

**Amy G. Williams,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 252 is amended as follows:

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

1. The authority citation for 48 CFR part 252 continues to read as follows:

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

**252.212-7001 [Amended]**

2. Section 252.212-7001 is amended as follows:

- a. By revising the clause date to read "(NOV 2009)"; and
b. In paragraph (b)(11) by removing "(12JUL 2009)" and adding in its place "(NOV 2009)".

3. Section 252.225-7021 is amended by revising the clause date and paragraph (a)(3)(i) to read as follows:

**252.225-7021 Trade Agreements.**

\* \* \* \* \*

**TRADE AGREEMENTS (NOV 2009)**

- (a) \* \* \*
(3) \* \* \*
(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as "the Separate Customs Territory of Taiwan, Penghu, Kinmen, and

Matsu" (Chinese Taipei)), or the United Kingdom);

\* \* \* \* \*

- 4. Section 252.225-7045 is amended as follows:
a. By revising the clause date; and
b. In paragraph (a), in the definition of "Designated country", by revising paragraph (1) to read as follows:

**252.225-7045 Balance of Payments Program—Construction Material Under Trade Agreements.**

\* \* \* \* \*

**BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL UNDER TRADE AGREEMENTS (NOV 2009)**

(a) \* \* \*
"Designated country" means—
\* \* \* \* \*

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as "the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu" (Chinese Taipei)), or the United Kingdom);

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

[Docket No. 0907231161-91399-02]

RIN 0648-AY08

**International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions in the Longline and Purse Seine Fisheries in the Eastern Pacific Ocean in 2009, 2010, and 2011**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is issuing regulations under the Tuna Conventions Act of 1950 (Act) to implement a decision of the Inter-American Tropical Tuna Commission (IATTC). That decision requires, among other things, that

members of the IATTC, including the United States, ensure that catches in the eastern Pacific Ocean (EPO) of bigeye tuna (*Thunnus obesus*) by longline vessels greater than 24 meters in length do not exceed specified levels in each of the years 2009, 2010, and 2011, and that purse seine vessels class size 4-6 do not fish in the EPO during established closure periods. This action is necessary for the United States to satisfy its obligations under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission (Convention), to which it is a Contracting Party.

**DATES:** These regulations become effective on November 21, 2009.

**ADDRESSES:** Copies of supporting documents that were prepared for this final rule, including the environmental assessment (EA) and proposed rule, are available via the Federal e-Rulemaking portal, at <http://www.regulations.gov>. Those documents are also available from the Regional Administrator, Rodney R. McInnis, NMFS Southwest Regional Office, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The initial regulatory flexibility analysis (IRFA) and final regulatory flexibility analysis (FRFA) prepared for this rule are included in the proposed rule and this final rule, respectively.

**FOR FURTHER INFORMATION CONTACT:** Heidi Hermsmeyer, NMFS SWR, 562-980-4036.

**SUPPLEMENTARY INFORMATION:**

On October 19, 2009, NMFS published a proposed rule in the **Federal Register** (74 FR 53455) that would revise regulations at 50 CFR part 300, subpart C, in order to implement certain decisions of the IATTC. The proposed rule was open to public comment through November 9, 2009.

As a Contracting Party to the Convention and a Member of the IATTC, the United States is legally bound to implement the decisions of the IATTC. The Act (16 U.S.C. 951-961 and 971 *et seq.*) authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard (USCG) is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the IATTC. The authority to promulgate regulations has been delegated to NMFS.

At its Eightieth Meeting, in June 2009, the IATTC adopted the Resolution on a Multiannual Program for the Conservation of Tuna in the Eastern