

DEPARTMENT OF DEFENSE**48 CFR Parts 225 and 249**

[DFARS Case 2003–D046]

Defense Federal Acquisition Regulation Supplement; Contract Termination**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 termination of contracts. 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 September 12, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2003–D046, 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. Include DFARS Case 2003–D046 in the subject line of the message.
- Fax: (703) 602–0350.

• Mail: Defense Acquisition Regulations Council, Attn: Ms. Deborah Tronic, 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. Deborah Tronic, (703) 602–0289.

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 DFARS changes—

- Relocate text on termination of Canadian Commercial Corporation contracts, from Part 225, Foreign Acquisition, to a more appropriate location in Part 249, Termination of Contracts;
- Delete unnecessary cross-references; and
- Delete text on preparation of contract termination status reports, completion of forms to document termination settlements, preparation of settlement negotiation memoranda, and congressional notification of significant contract terminations. 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–D046.

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 Parts 225 and 249

Government procurement.

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

Therefore, DoD proposes to amend 48 CFR parts 225 and 249 as follows:

1. The authority citation for 48 CFR parts 225 and 249 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

2. Section 225.870–6 is revised to read as follows:

225.870–6 Termination procedures.

When contract termination is necessary, follow the procedures at 249.7000.

PART 249—TERMINATION OF CONTRACTS

3. Sections 249.105–1 and 249.105–2 are revised to read as follows:

249.105–1 Termination status reports.

Follow the procedures at PGI 249.105–1 for reporting status of termination actions.

249.105–2 Release of excess funds.

See PGI 249.105–2 for guidance on recommending the release of excess funds.

249.106 through 249.108–4 [Removed]

4. Sections 249.106 through 249.108–4 are removed.

5. Sections 249.109–7 and 249.110 are revised to read as follows:

249.109–7 Settlement by determination.

Follow the procedures at PGI 249.109–7 for settlement of a convenience termination by determination.

249.110 Settlement negotiation memorandum.

Follow the procedures at PGI 249.110 for preparation of a settlement negotiation memorandum.

6. Section 249.7000 is amended by revising paragraph (a)(3) and adding paragraphs (e) through (g) to read as follows:

249.7000 Terminated contracts with Canadian Commercial Corporation.

(a) * * *

(3) The Canadian Supply Manual, Chapter 11, Section 11.146, available at <http://www.pwgscc.gc.ca/acquisitions/text/sm/sm-e.html>.

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(e) The Canadian Commercial Corporation will continue administering contracts that the U.S. contracting officer terminates.

(f) The Canadian Commercial Corporation will settle all Canadian subcontracts in accordance with the policies, practices, and procedures of the Canadian Government.

(g) The U.S. agency administering the contract with the Canadian Commercial Corporation shall provide any services required by the Canadian Commercial Corporation, including disposal of inventory, for settlement of any subcontracts placed in the United States. Settlement of such U.S. subcontracts will be in accordance with this regulation.

7. Section 249.7001 is revised to read as follows:

249.7001 Congressional notification on significant contract terminations.

Congressional notification is required for any termination involving a reduction in employment of 100 or more contractor employees. Proposed terminations must be cleared through department/agency liaison offices before release of the termination notice, or any information on the proposed termination, to the contractor. Follow the procedures at PGI 249.7001 for congressional notification and release of information.

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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 on a Petition To List a Distinct Population Segment of the Roundtail Chub in the Lower Colorado River Basin and To List the Headwater Chub as Endangered or Threatened With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list a distinct population segment of the roundtail chub (*Gila robusta*) in the Lower Colorado River basin, and to list the headwater chub (*G. nigra*) as endangered or threatened under the Endangered Species Act of 1973, as

amended (Act). We find that the petition presented substantial scientific and commercial data indicating that these listings may be warranted. Therefore, we are initiating a status review to determine if listing these species is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding these species. The petition also asked the Service to designate critical habitat for these species. The Act does not allow petitions for designation of critical habitat. However, any determinations on critical habitat will be made if and when a listing action is initiated for these species.

DATES: The finding announced in this document was made on June 30, 2005. To be considered in the 12-month finding for this petition, comments and information should be submitted to us by September 12, 2005.

ADDRESSES: Data, information, comments, or questions concerning this petition and our finding should be submitted to the Field Supervisor, Arizona Ecological Services Office, 2321 West Royal Palm Drive, Suite 103, Phoenix, Arizona. The petition, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, Arizona Ecological Services Office at the above address (telephone 602-242-0210; facsimile 602-242-2513).

SUPPLEMENTARY INFORMATION:

Public Information Solicited

When we make a finding that substantial information is presented to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on the roundtail and headwater chubs. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning the status of the roundtail and headwater chubs. We are seeking information regarding the two species' historical and current status and distribution, their biology and ecology, ongoing conservation measures for the species and their habitat, and threats to the species and their habitat.

If you wish to comment or provide information, you may submit your comments and materials concerning this finding to the Field Supervisor (*see ADDRESSES*).

Our practice is to make comments and materials provided, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your submission. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the address provided under **ADDRESSES**.

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

In making this finding, we relied on information provided by the petitioners and evaluated that information in accordance with 50 CFR 424.14(b). Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether