

§ 1542.1502 Policy.

EPA contracting officers shall prepare an evaluation of contractor performance for all applicable contracts and orders with a total estimated value greater than the simplified acquisition threshold in accordance with FAR 42.1502. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s). Evaluations shall be completed no later than 120 days after the end of the evaluation period.

§ 1542.1503 Procedures.

(a) *Past Performance Database.* EPA contracting officers shall use the Contractor Performance Assessment Reporting System (CPARS) which has connectivity with the Past Performance Information Retrieval System (PPIRS).

(b) *Frequency and Types of Report.* CPARS includes four types of reports: Initial, Intermediate, Final and Out-of-Cycle.

(1) An initial report is required for new contracts/orders meeting the thresholds in FAR 42.15 with a period of performance greater than 365 days. The initial CPAR must reflect evaluation of at least the first 180 days of performance and may include up to the first 365 days of performance.

(2) Intermediate reports are due every 12 months throughout the entire period of the contract after the initial report and up to the final report. While formal reports are only required every 12 months, contracting officers should discuss past performance with contractors on an ongoing basis.

(3) A final report shall be prepared upon contract completion. Contracts/orders with less than 365 days performance only require a final report. For contracts longer than 365 days, the final report is not cumulative and covers only the period of performance following the last intermediate report. Final past performance reports must be completed prior to contract closeout.

(4) An out-of-cycle report may be prepared when there is a significant change of performance that alters the assessment in one or more evaluation areas. The contractor may request an Out-of-cycle report be prepared; however, the decision of whether or not to do so is at the discretion of the contracting officer. An out-of-cycle report does not alter the annual intermediate reporting requirement.

(c) *Preparing the Evaluation.* The contracting officer's representative shall initiate all reviews and forward to the contracting officer for approval. The content of the evaluations shall be based on objective data supportable by

program and contract management records. Remarks should be tailored to the contract type, size, content, and complexity. Contracting officers should provide their own input on the evaluation as applicable and obtain input from the program office, administrative contracting office, end users of the product or service, and any other technical or business advisor, as appropriate.

(d) *Small Business Subcontracting Plan.* Evaluations shall include an assessment of contractor performance against and efforts to achieve the goals identified in the small business subcontracting plan when the contract includes the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(e) *Novation Agreements/Name Changes.* In cases of novations involving successors-in-interest, a final evaluation of the predecessor contractor's performance must be accomplished. The predecessor contractor's final past performance report shall cover the last 12 months (or less) of contract or order performance. In cases of change-of-name agreements, the system shall be changed to reflect the new contractor's name.

(f) *File Documentation.* Copies of the evaluation, contractor response, and review comments (if any) shall be retained as part of the evaluation, and hard copies shall be contained in contract files.

§ 1542.1504 Clauses.

EPA contracting officers shall insert the contract clause at 1552.242-71 in all solicitations, contracts, and orders requiring past performance reports in accordance with FAR Subpart 42.1502. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s).

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**§ 1552.209-76 [Removed]**

- 4. Remove 1552.209-76.
- 5. Add 1552.242-71 to read as follows:

§ 1552.242-71 Contractor performance evaluations.

As prescribed in section 1542.1504, insert the following clause in all applicable solicitations and contracts.

Contractor Performance Evaluations

In accordance with Federal Acquisition Regulation (FAR) Subpart 42.15 and EPAAR 1542.15, the EPA will prepare and submit past performance evaluations to the Past Performance Information Retrieval System (PPIRS). Evaluation reports will be

documented not later than 120 days after the end of an evaluation period by using the Contractor Performance Assessment Reporting System (CPARS) which has connectivity with PPIRS. Contractors must register in CPARS in order to view/comment on their past performance reports.

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DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Parts 383 and 384**

[Docket No. FMCSA-2007-27659]

RIN 2126-AB02

Commercial Driver's License Testing and Commercial Learner's Permit Standards; Corrections

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; correction.

SUMMARY: FMCSA published a final rule in the **Federal Register** on Monday, May 9, 2011, that will be effective on July 8, 2011. This final rule amends the commercial driver's license (CDL) knowledge and skills testing standards and establishes new minimum Federal standards for States to issue the commercial learner's permit (CLP). Since the final rule was published, FMCSA identified minor discrepancies regarding section references in the regulatory text of the final rule. This document corrects those section references.

DATES: Effective July 8, 2011.

FOR FURTHER INFORMATION CONTACT: Robert Redmond, Office of Safety Programs, Commercial Driver's License Division, telephone (202) 366-5014 or e-mail robert.redmond@dot.gov. Office hours are from 8 a.m. to 4:30 p.m.

SUPPLEMENTARY INFORMATION:**Corrections**

In the final rule published on May 9, 2011 (FR Doc. 2011-10510, 76 FR 26854), the following corrections are made:

- a. On page 26893, in the third column, redesignate paragraphs (f) and (g) of § 383.153 as paragraphs (g) and (h); and
- b. On page 26896, in the third column, correct amendatory instruction number 52 and its regulatory text to read:
 - 52. Amend § 384.301 by adding a new paragraph (f) to read as follows:

§ 384.301 Substantial compliance—general requirements.

* * * * *

(f) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of July 8, 2011, as soon as practical but, unless otherwise specifically provided in this part, not later than July 8, 2014.

Issued on: June 27, 2011.

William Bronrott,

Deputy Administrator.

[FR Doc. 2011-16683 Filed 7-1-11; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 110210132-1275-02]

RIN 0648-BA65

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quotas and Atlantic Tuna Fisheries Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS is modifying Atlantic bluefin tuna (BFT) base quotas for all domestic fishing categories; establishing BFT quota specifications for the 2011 fishing year; reinstating pelagic longline target catch requirements for retaining BFT in the Northeast Distant Gear Restricted Area (NED); amending the Atlantic tunas possession-at-sea and landing regulations to allow removal of Atlantic tunas tail lobes; and clarifying the transfer-at-sea regulations for Atlantic tunas. 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).

DATES: The amendments to § 635.27 are effective July 5, 2011. The 2011 quota specifications are effective July 5, 2011 through December 31, 2011. The amendments to §§ 635.23, 635.29, and 635.30 are effective August 4, 2011.

ADDRESSES: Supporting documents, including the Environmental Assessment, Regulatory Impact Review,

and Final Regulatory Flexibility Analysis (EA/RIR/FRFA), are available from Sarah McLaughlin, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930. These documents and others, such as the Fishery Management Plans described below, also may be downloaded from the HMS Web site at <http://www.nmfs.noaa.gov/sfa/hms/>.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION: Atlantic bluefin tuna, bigeye tuna, albacore tuna, yellowfin tuna, and skipjack tuna (hereafter referred to as “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, NMFS.

Background

Background information about the need for modification of the BFT base quotas for all domestic fishing categories, the 2011 BFT quota specifications, and amendment of the Atlantic tuna fisheries management measures was provided in the preamble to the proposed rule (76 FR 13583, March 14, 2011) and is not repeated here.

Changes From the Proposed Rule

The total amount of available annual quota is determined by the ICCAT-recommended U.S. baseline BFT quota after consideration of overharvest/underharvest from the previous fishing year and any accounting for estimated dead discards of BFT. At the time the proposed rule was prepared, NMFS used the 2009 estimate of 160 mt as a proxy for potential 2011 dead discards because the BFT dead discard estimate for 2010 was not yet available. The 2010 dead discard estimate, 122.3 mt, became available from the NMFS Southeast Fisheries Science Center during the comment period. Estimates of dead discards are only available for the Longline category at this time. Estimates from other BFT gear types and fishing sectors that are not observed at sufficient levels for estimation and that do not report via a logbook are not included in this calculation. Use of the

2010 estimate as a proxy for estimated 2011 dead discards in the final rule is appropriate because it is the best available and most complete information NMFS currently has regarding dead discards.

In the proposed rule, under each baseline quota alternative, NMFS also set out its calculation of “available” annual quota and its proposed allocation of that available quota among the commercial and recreational domestic fishing categories (*i.e.*, quota specifications), and its proposed methodology for handling dead discards. NMFS proposed a calculation and allocation methodology consistent with the 2006 Consolidated HMS FMP and implementing regulations, but different than the methodology used for the past 4 years. NMFS received comments on the proposed allocation methodology both at public hearings and in writing during the public comment period. NMFS considered the comments (summarized in the Response to Comments section below) and the updated (2010) dead discard estimate, and after public discussion and input has decided to account for dead discards in a different manner to establish the 2011 BFT quota specifications as described below. Note that these considerations are for the 2011 quota specifications only.

To set the final 2011 BFT quota specifications, NMFS has decided to account up front (*i.e.*, at the beginning of the fishing year) for half of the estimated dead discards, using the recent 2010 estimate rather than the 2009 estimate used at the proposed rule stage. In the proposed rule, NMFS had proposed to subtract from the overall quota all of the estimated dead discards up front and then allocate the remaining quota among the fishery categories, even though the United States is not required by ICCAT or current regulations to account for the total amount of dead discards until the end of the fishing season. In the final rule, NMFS is accounting for half of the estimated pelagic longline dead discards up front and deducting that portion of expected longline discards directly from the Longline category quota. Accounting for dead discards in the Longline category in this way may provide some incentive for pelagic longline fishermen to reduce those interactions that may result in dead discards. Also in response to public comment, NMFS is applying half of the 94.9 mt of 2010 underharvest that is allowed to be carried forward to 2011 to the Longline category and maintaining the other half in the Reserve category. NMFS intends to maintain this underharvest in the