

and European foreign governments, see PGI 229.101(d).

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 246

[DFARS Case 2002-D032]

#### Defense Federal Acquisition Regulation Supplement; Government Source Inspection Requirements

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to eliminate requirements for Government contract quality assurance at source for contracts or delivery orders valued below \$250,000, unless certain conditions exist.

**DATES:** *Effective Date:* February 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0311; facsimile (703) 602-0350. Please cite DFARS Case 2002-D032.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule adds policy at DFARS 246.402 and 246.404 to eliminate the requirement for Government contract quality assurance at source for contracts or delivery orders valued below \$250,000, unless (1) mandated by DoD regulation, (2) required by a memorandum of agreement between the acquiring department or agency and the contract administration agency, or (3) the contracting officer determines that certain conditions exist.

DoD published a proposed rule at 68 FR 53946 on September 15, 2003. Thirty-seven respondents submitted comments on the proposed rule. Nine of the respondents were in favor of the rule, noting that the change will result in savings, will expedite deliveries, and is especially appropriate for commercial items. A discussion of comments submitted by the other respondents is provided below:

1. *Comment:* It is unclear as to why the criteria of both 242.402(3)(i) and (ii) must be met. If the Government specifies important technical requirements (through technical documents, specifications, drawings,

etc.), there is adequate justification for Government quality assurance at source. Paragraphs (3)(i) and (ii) should be required to read "(i) Contract technical requirements are significant (e.g., the technical requirements include drawings, test procedures, characteristics that are critical to proper performance of the item are identified, specific concerns have been identified with regard to the contractor's ability to meet technical requirements, etc)".

*DoD Response:* Do not agree with the proposed revision. However, 246.402(3)(ii) has been revised in the final rule for clarity.

2. *Comment:* Section 246.402(3)(iii), addressing manufacturers/producers and non-manufacturers/non-producers, should be eliminated.

*DoD Response:* Do not agree. The delivery of supplies through a non-manufacturer or non-producer affects the ability to perform meaningful quality assurance at sources. The rule is intended to ensure that contracting officers address this issue.

3. *Comment:* Section 246.402(3)(iii) should be clarified to explain its meaning and how it will be defined to apply equally.

*DoD Response:* Do not agree. The terms in paragraph (3)(iii), relating to manufacturers and producers, are sufficiently clear and do not require definition.

4. *Comment:* One respondent posed a question regarding 246.402(3)(ii) and asked about the interpretation of critical product features/characteristics and specific acquisition concerns at the contract administration office level.

*DoD Response:* The final rule revises 246.402(3) to further clarify the requirement for the contracting officer to ensure that critical product features and characteristics are identified, either through contract technical requirements or through other communications with the provider of the Government contract quality assurance at source, and to identify specific concerns. The contract administration office should assist in this identification as appropriate, but is not expected to provide the information absent the contracting officer activities.

5. *Comment:* To minimize confusion that will ensue regarding determinations for the need for source inspection, the phrase "critical product feature" should be clarified.

*DoD Response:* The final rule revises 246.402(3)(ii) for further clarification.

6. *Comment:* The following subparagraphs should be added to 246.402 as exceptions to the proposed rule: (3)(iv)—"The contract will require shipment of material OCONUS"; and (4)—"Contract is in support of a

Security Assistance or Foreign Military Sales case." The comment details additional costs and export licenses associated with free on board (f.o.b.) destination conditions for OCONUS shipments and agreed-to letters of offer and acceptance between the U.S. Government and foreign governments.

*DoD Response:* Do not agree with the recommended change. If the conditions for Government contract quality assurance at source are met, the additional requirements may be communicated by defining them as a specific acquisition concern.

7. *Comment:* Section 246.402(3) should be revised to provide flexibility with regard to the first two criteria and to add a fourth criterion to allow for other circumstances determined by the contracting officer after consultation with quality assurance personnel.

*DoD Response:* Do not agree. Neither an additional criterion nor changes to the existing criteria are needed. However, 246.402(3)(ii) has been revised for further clarity.

8. *Comment:* The text at 246.402 provides differing criteria for Government contract quality assurance at source than that found at FAR 46.404.

*DoD Response:* Do not agree. FAR 46.404 directs the user to FAR 46.402, which is supplemented by this DFARS change.

9. *Comment:* DFARS 246.405 should be reinstated to ensure that subcontract activities parallel the proposed change.

*DoD Response:* Do not agree. The provisions of FAR 46.405 adequately address required Government quality assurance activity at the subcontract level.

10. *Comment:* FAR 52.213-4(d) and FAR 52.246-2 should not be used concurrently in the same contract.

*DoD Response:* The comment is outside the scope of this case. However, it is noted that FAR 46.302 specifically allows for inclusion of the clause at FAR 52.246-2 in contracts below the simplified acquisition threshold when it is in the Government's best interest.

11. *Comment:* The threshold of \$250,000 could be twice that amount.

*DoD Response:* DoD considers a threshold of \$250,000 to be appropriate at this time.

12. *Comment:* The dollar threshold should be eliminated on the basis that it is irrelevant and appears arbitrary in nature. Technical description, complexity, and criticality are the FAR 46.203 criteria for establishment of contract quality requirements.

*DoD Response:* DoD recognizes that cost is not the indicator of requirements for Government contract quality assurance at source. Therefore, the

conditions for Government contract quality assurance at source as described in the rule are of primary importance. The establishment of a dollar threshold is a means for ensuring that contracting offices apply the conditions as a matter of course.

13. *Comment:* The words "and delivery orders" should be deleted from the introductory sentence of 246.402 to support Air Force Material Command strategic contracts.

*DoD Response:* Do not agree. Delivery orders under strategic contracts must meet the conditions described in the rule in order to receive Government contract quality assurance at source.

14. *Comment:* The rule should explicitly address indefinite delivery/ indefinite quantity contracts used through corporate contracts that may mix source and destination inspection/ acceptance requirements on the same contract.

*DoD Response:* Do not agree. The rule already addresses delivery orders. For delivery orders under \$250,000, only contract line items that meet the conditions specified in the rule qualify for Government contract quality assurance at source.

15. *Comment:* Contracting offices are not capable of providing critical characteristics.

*DoD Response:* Do not agree. A basic responsibility of the contracting office, per FAR 46.103, is to provide technical requirements and any specifications for inspection, testing, and other contract quality requirements essential to ensure the integrity of the supplies or services.

16. *Comment:* The contracting officer receives quality assurance requirements from the technical activity (FAR 46.103) and is not adequately trained to determine whether technical requirements are significant and to identify critical product features/ characteristics.

*DoD Response:* The technical activity provides quality assurance requirements to the contracting officer, including inspection and testing requirements, which are conveyed to the contractor and the contract administration activity by the contracting officer.

17. *Comment:* DFARS 213.402, Conditions for Use of Fast Payment Procedures, should be changed to accommodate direct vendor delivery awards exceeding the \$25,000 threshold for use of fast payment procedures, and awards that combine contract line items being shipped to stock not meeting the fast payment conditions, as well as direct vendor delivery contract line items that do; and to provide for instances when the best value is conditional on f.o.b. origin shipment

terms. Additionally, conflict with FAR 47.305-5 and 47.304-1(d) may be resolved by amending DFARS 213.402 further by adding (a)(vi)—"When the sole reason for designating inspection and acceptance at source would be because f.o.b. origin is required in accordance with FAR 47.305-5 and 47.304-1(d)."

*DoD Response:* The recommended changes are outside the scope of this case.

18. *Comment:* Instead of this new language, allow "good" contractors to deliver with limited Government contract quality assurance at source, since adequate tools are available to the Government quality assurance representative (*i.e.*, alternative release procedures, certificates of conformance, and fast pay).

*DoD Response:* Do not agree. The intent of the change is to alleviate Government contract quality assurance at source for those procurements that typically are limited to the assessments of kind, count, and condition. With the exception of certificates of conformance, the tools described in this comment do not alleviate quality assurance activities at source. The tools will remain available for use as appropriate.

19. *Comment:* The change to 246.402 is too broad. It should be applied to commercial items and non-commercial items delivered via certificate of conformance.

*DoD Response:* Do not agree. The scope of the rule is appropriate. The conditions for Government contract quality assurance at source as described are of primary importance.

20. *Comment:* Contractors approved for alternative release procedures should be allowed to continue to conduct their own origin inspections and designate contracts to approved contractors for continued origin inspection.

*DoD Response:* Do not agree. The comment expresses a misapplication of the alternative release provision as defined by DFARS 246.471(b).

21. *Comment:* Language should be added to provide for Government contract quality assurance at source due to adverse manufacturer past performance; significant changes to the supplier's quality assurance program, manufacturing environment, or supplier base; or the previous receipt of nonconforming material for same or similar items.

*DoD Response:* The events described by the respondent may necessitate the requirement for Government contract quality assurance at source. Circumstances such as these are adequately covered by the provision for

specific acquisition concerns at 246.402(3)(ii)(C).

22. *Comment:* Instead of the dollar value, the clause should be designed to reduce Government contract quality assurance at source for ISO-certified suppliers.

*DoD Response:* Do not agree. Currently, DoD does not require certification to international standards as a contract condition, opting to require compliance with associated contract quality requirements. Although ISO certification/compliance is a risk management tool considered while performing Government contract quality assurance, the comment is not supported by current acquisition regulations and policies.

23. *Comment:* The change ignores the relationship with the f.o.b. point.

*DoD Response:* Do not agree. The rule affects the f.o.b. point as specified by FAR 47.302(c)(2). However, there is no conflict. The provisions of FAR 47.302 state that the place of performance of Government acquisition quality assurance actions and the place of acceptance shall not control the delivery term, except when acceptance is at destination.

24. *Comment:* Contracts will need to be modified to account for additional cost burden associated with the f.o.b. point based on the change, per FAR 47.302. Additional costs will be incurred through contractor liability for delivery, storage, demurrage, and other costs prior to actual delivery; duplicate packaging and marking by the contractor and the Government; and liability for loss/damage before shipment receipt.

*DoD Response:* Do not agree. The rule affects the f.o.b. point as specified by FAR Part 47 and, as such, will require contractors to consider those costs when proposing on future contracts. However, current contracts will not require modification, because this change is not retroactive.

25. *Comment:* The f.o.b. points for both solicitations and contracts (FAR 47.305-5(a)(1) and 47.302(c)(1)) conflict with the rule, particularly when shipping to foreign military sales customers and Naval vessels.

*DoD Response:* Do not agree. The rule affects the f.o.b. point as specified by FAR 47.302(c)(2); however, there is no conflict. The provisions of FAR 47.302 state that the place of performance of Government acquisition quality assurance actions and the place of acceptance shall not control the delivery term, except when acceptance is at destination. Additionally, solicitation provisions are available to the contracting officer with regard to FAR

47.305-5(b)(2) when destinations are unknown that would not result in a conflict.

26. *Comment:* The phrase “for contracts assigned administration to the Defense Contract Management Agency” should be added to allow for the conduct of Government contract quality assurance at source when conditions are not met by the contracting agency.

*DoD Response:* Do not agree. The initiative to reduce Government contract quality assurance at source unless appropriate conditions exist should not be applicable to only one DoD agency. The conditions described allow for effective Government contract quality assurance at source for all involved in DoD acquisition and make the best use of resources throughout DoD.

27. *Comment:* The rule should exempt contractor plants with in-plant Defense Contract Management Agency offices. It is not cost-effective to have hardware delivered, subjected to process assessment at the plant level, then inspected at another location. If non-exempt, assure that the rule is only applied to future contracts.

*DoD Response:* The rule will result in Government contract quality assurance at source for only those supplies that meet the conditions of the rule. The rule is not retroactive to include current contracts.

28. *Comment:* The Government quality assurance representative provides assistance in interpreting contract requirements and facilitates corrections.

*DoD Response:* Agree. The revision does not preclude Government quality assurance representatives from providing assistance to contractors in support of Government contract interpretation as appropriate and facilitating corrections with the contracting office.

29. *Comment:* The Government quality assurance representative provides deterrence with regard to fraudulent activities.

*DoD Response:* Not applicable. Government contract quality assurance is not intended to detect fraudulent activities. It is incumbent upon all involved in Government acquisition to identify and report any potentially fraudulent activities.

30. *Comment:* The Government quality assurance representative at source rejects nonconforming parts based on more than defined critical characteristics.

*DoD Response:* Agree. The revision does not preclude the rejection of nonconforming parts based solely on critical characteristics at destination or,

when the conditions of the proposed change exist, at source.

31. *Comment:* The rule should address instances where no Government inspection is required, especially when in-process system activities are performed.

*DoD Response:* Do not agree. Government contract quality assurance activities, whether at source or destination, are required to perform the Government acceptance function and subsequent transfer of title. In-process assessments are a form of Government contract quality assurance at source. At times, the quality assurance activities may be extremely limited, such as when quality assurance is limited to kind, count, and condition assessments (inspections); however, they nonetheless occur.

32. *Comment:* DoD should implement fast payment procedures for all contracts that require inspection at Government facilities.

*DoD Response:* Not applicable. Conditions for use of fast payment procedures are outside the scope of this case.

33. *Comment:* Recommend acceptance at source with inspection at destination, which will increase the fast payment procedure threshold and the expanded use of certificates of conformance to allow invoicing at shipment.

*DoD Response:* Do not agree. DoD regulations and policy do not allow for acceptance prior to Government contract quality assurance activities. Fast payment provisions are outside the scope of this case. The conditions for use of certificates of conformance are not being modified, and the certificate of conformance continues to be a valuable acquisition tool.

34. *Comment:* DoD should implement a joint contractor-Government process approach to the appropriate oversight level, with sampling techniques or self-oversight.

*DoD Response:* Do not agree. Presently, Government contract quality assurance at source activities may be performed jointly with the contractor. The rule does not affect this activity.

35. *Comment:* Will surplus contracts continue to be administered by the Defense Contract Management Agency?

*DoD Response:* The comment is outside the scope of this case. Assignment of contract administration by the contracting activity is in accordance with FAR Part 42 and DFARS Part 242. Contract administration represents more than quality assurance services and is dependent on the terms of the individual contract.

36. *Comment:* Will surplus contractors be required to re-package and re-label items prior to shipping? If so, how will DoD ensure traceability back to the original DoD contract and conformance to the surplus certification?

*DoD Response:* Not applicable. Packaging and traceability requirements specified by individual contracts are outside the scope of this case.

37. *Comment:* The rule should be amended to clearly state that it does not impose or otherwise change the inspection criteria currently adhered to by surplus contractors via 52.211-9000, Government Surplus Material DLAD (APR 2002).

*DoD Response:* Do not agree. The DFARS applies to DoD as a whole. Unique department and agency implementation activities are outside the scope of the case.

38. *Comment:* The memorandum of agreement provisions should be changed to allow negotiation at the contracting activity level instead of the department or agency.

*DoD Response:* Do not agree. Departments and agencies may issue their own procedures to identify the appropriate authority for approval of a memorandum of agreement.

39. *Comment:* Inspection locations should be specified in the solicitation.

*DoD Response:* Not applicable. Terms of individual solicitations are outside the scope of this case. However, it is the obligation of the contracting officer to specify the terms and conditions that apply to a contract.

40. *Comment:* The rule should be amended to require the Government to inspect material no later than 30 days following receipt and that payment be made no later than 60 days regardless of inspection occurrence.

*DoD Response:* Not applicable. The comment relates to payment terms, which are outside the scope of this case.

41. *Comment:* Provide the date when the new electronic payment system will be implemented.

*DoD Response:* There is no new electronic payment system. However, if the respondent is referring to the new Wide Area WorkFlow-Receipt and Acceptance (WAWF-RA) system, it is available now and has already been widely deployed. Many DoD locations are already registered in WAWF-RA, and more are being continually added. However, because submission under a particular contract is dependent on the acceptance point designated for that contract being registered in WAWF-RA, availability may vary. If a company is unsure whether a particular DoD location is registered in WAWF-RA,

they should contact that activity to confirm WAWF-RA status.

42. *Comment:* Implementation of the policy should be deferred until WAWF-RA is fully deployed by DoD; or the rule should be phased in to provide for destination acceptance for locations participating in WAWF-RA to limit invoicing delays. Some companies would be adversely affected by delays in payment and the current cycle time (estimated as 45 days for paper invoices and 37 electronically) could increase by 10 days or more.

*DoD Response:* Sufficient guidance is presently available to facilitate Government contract quality assurance at destination to include acceptance. Achieving department-wide implementation of WAWF-RA, although anticipated to increase efficiencies, is not necessary to implement this rule.

43. *Comment:* DoD should develop detailed metrics to accumulate real savings associated with the change.

*DoD Response:* Do not agree. Development of metrics is outside the scope of this case.

44. *Comment:* The rule should be based on unit costs instead of contract value.

*DoD Response:* Do not agree. Cost is not the indicator of requirements for Government contract quality assurance at source. Therefore, the conditions for Government contract quality assurance at source as described in the rule are of primary importance.

45. *Comment:* Discontinuing source inspections under \$250,000 sends a clear signal that low risk equates to low value.

*DoD Response:* Do not agree. This change does not signal a direct relationship between dollar value and risk, since it recognizes that Government contract quality assurance may be necessary and appropriate for items of any dollar value. The established criteria for accomplishment of Government contract quality assurance at source are intended to drive the decision.

46. *Comment:* One respondent remarked that it will not bid on contracts with inspection/acceptance at destination, due to the criticality of obtaining acceptance documentation to permit invoicing and the difficulty of obtaining this documentation when acceptance is at destination.

*DoD Response:* Sufficient guidance is currently available to facilitate Government contract quality assurance at destination to include acceptance. Full operational capability of Wide Area WorkFlow-Receipt and Acceptance is

expected to increase efficiencies, but is not necessary to implement this rule.

47. *Comment:* The change will result in the delivery of nonconforming material and increase the administrative burden of buying activities.

*DoD Response:* Do not agree. There is no evidence to support this assertion. Contractual obligations to provide conforming material are not lessened by this change. Contracting offices are obligated to ensure that contractors are responsive and responsible prior to contracting for supplies.

48. *Comment:* The change increases the burden on the destination point without the required manpower, expertise, or equipment to perform destination inspection and acceptance.

*DoD Response:* Do not agree. The destination quality assurance activities anticipated as a result of this revision should consist of the assessment of item kind, count, and physical condition. Destination activities normally assess kind, count, and condition of items delivered to them, even when this assessment has already been performed at source. If the exceptions described in the DFARS rule exist, Government contract quality assurance at source should be designated.

49. *Comment:* Inspection at source decreases instances of improper completion of DD Forms 250.

*DoD Response:* Do not agree. The Government quality assurance representative provides valuable assistance in these matters; however, accurate completion of DD Form 250 is the obligation of the contractor, in accordance with DFARS Appendix F. There is no evidence to indicate that instances of improper completion will increase as a result of this change.

50. *Comment:* The integrity of higher-level packaging will be destroyed at destination inspection.

*DoD Response:* Contracting offices will need to assess the effect regarding the integrity of higher-level packaging when determining where Government contract quality assurance will be performed and will need to adjust contract terms accordingly. If the packaging is unique to a supplier, or if the integrity of the packaging would be in question, this may constitute a specific acquisition concern that would meet the exception in the rule at 246.402(3)(ii)(C).

51. *Comment:* The change will result in the closure of Defense Contract Management Agency offices, thus reducing activities associated with subcontractor surveillance.

*DoD Response:* Do not agree. There is no evidence to support the assertion that this change will result in the

closure of Defense Contract Management Agency offices or adversely impact abilities associated with the surveillance of subcontractor activities.

52. *Comment:* The change will result in increased costs to the Government receipt point.

*DoD Response:* Do not agree. Overall DoD costs will be reduced, because duplicate "kind, count, and condition" inspections will be eliminated. The only additional responsibilities imposed on destination activities are those associated with the execution and distribution of the DD Form 250. DoD deployment of Wide Area WorkFlow-Receipt and Acceptance should greatly relieve this burden.

53. *Comment:* Delays in inspection will delay delivery to the military user.

*DoD Response:* Do not agree. There is no evidence to support the assertion.

54. *Comment:* Defense Contract (Criminal) Investigative Services should be solicited to review small-dollar contractors under investigation for fraudulent activities.

*DoD Response:* The comment is outside the scope of this case.

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 has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. The analysis is summarized below. A copy of the analysis may be obtained from the point of contact specified herein.

This final rule amends the DFARS to eliminate requirements for Government contract quality assurance at source for contracts or delivery orders valued below \$250,000 unless: (1) Mandated by DoD regulation; (2) required by a memorandum of agreement between the acquiring department or agency and the contract administration agency; or (3) the contracting officer determines that certain conditions exist that make contract quality assurance at source necessary. The objective of the rule is to reduce lower-risk contract quality assurance workload, allowing for redirection of limited labor resources to higher-risk work, while providing flexibility for exceptions where special attention is needed. Several respondents expressed concern about delays in payment that might be experienced due to the reduction in the number of source inspections. DoD implementation of Wide Area WorkFlow-Receipt and Acceptance, a web-based system for electronic invoicing, receipt, and acceptance, will significantly speed up

the acceptance and payment process and should offset any delays due to reductions in source inspections. Many DoD locations are already registered in Wide Area WorkFlow-Receipt and Acceptance, and more are being continually added. Since Wide Area WorkFlow-Receipt and Acceptance is well on the way toward full implementation, DoD believes that any economic impact on small entities will be minimal.

**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 246**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR Part 246 is amended as follows:

■ 1. The authority citation for 48 CFR Part 246 continues to read as follows:

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

**PART 246—QUALITY ASSURANCE**

■ 2. Section 246.402 is added to read as follows:

**246.402 Government contract quality assurance at source.**

Do not require Government contract quality assurance at source for contracts or delivery orders valued below \$250,000, unless—

- (1) Mandated by DoD regulation;
- (2) Required by a memorandum of agreement between the acquiring department or agency and the contract administration agency; or
- (3) The contracting officer determines that—

(i) Contract technical requirements are significant (*e.g.*, the technical requirements include drawings, test procedures, or performance requirements);

- (ii) The product being acquired—
  - (A) Has critical characteristics;
  - (B) Has specific features identified that make Government contract quality assurance at source necessary; or
  - (C) Has specific acquisition concerns identified that make Government contract quality assurance at source necessary; and

(iii) The contract is being awarded to—

- (A) A manufacturer or producer; or
- (B) A non-manufacturer or non-producer and specific Government verifications have been identified as necessary and feasible to perform.

■ 3. Section 246.404 is added to read as follows:

**246.404 Government contract quality assurance for acquisitions at or below the simplified acquisition threshold.**

Do not require Government contract quality assurance at source for contracts or delivery orders valued at or below the simplified acquisition threshold unless the criteria at 246.402 have been met.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 041221358-4358-01; I.D. 021405B]

**Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter I Fishery for Loligo Squid**

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

**ACTION:** Closure.

**SUMMARY:** NMFS announces that the directed fishery for *Loligo* squid in the Exclusive Economic Zone (EEZ) will be closed effective 0001 hours, February 20, 2005. Vessels issued a Federal

permit to harvest *Loligo* squid may not retain or land more than 2,500 lb (1,134 kg) of *Loligo* squid per trip for the remainder of the quarter (through March 31, 2005). This action is necessary to prevent the fishery from exceeding its Quarter I quota and to allow for effective management of this stock.

**DATES:** Effective 0001 hours, February 20, 2005, through 2400 hours, March 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jason Blackburn, Fishery Management Specialist, 978-281-9326, Fax 978-281-9135.

**SUPPLEMENTARY INFORMATION:** Regulations governing the *Loligo* squid fishery are found at 50 CFR part 648. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, domestic annual harvest (DAH), domestic annual processing, joint venture processing, and total allowable levels of foreign fishing for the species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The procedures for setting the annual initial specifications are described in § 648.21.

The regulations at § 648.21(d)(1) allow for the previous year's annual specifications to remain in effect if the annual specifications for the new fishing year are not published in the **Federal Register** prior to the start of the fishing year. The 2004 annual quota for *Loligo* squid was 16,872.4 mt, with 5,606.7 mt allocated to Quarter I (69 FR 4861, February 2, 2004).

The annual quota in 2005 is not proposed to change from the 2004 value, but because the proposed 2005 Research Set-Aside (RSA) is greater than the 2004 RSA allocation, the individual Quarterly quotas are minimally different. The proposed rule for the 2005 annual specifications published on January 10, 2005 (70 FR 1686), with a comment period open through February 9, 2005. The proposed 2005 annual quota for *Loligo* squid is 16,744.9 mt. This amount is proposed to be allocated by quarter, as shown below.

TABLE 1.—*Loligo* SQUID QUARTERLY ALLOCATIONS.

Quarter	Percent	Metric Tons <sup>1</sup>	Research Set-aside
I (Jan-Mar)	33.23	5,564.3	N/A
II(Apr-Jun)	17.61	2,948.8	N/A
III(Jul-Sep)	17.3	2,896.9	N/A
IV(Oct-Dec)	31.86	5,334.9	N/A
Total	100	16,744.9	255.1

<sup>1</sup>Quarterly allocations after 255.1 mt research set-aside deduction.