

the public hearing. Written comments on the proposed rule must be postmarked by October 14, 2010, 30 days after the September 14, 2010 hearing.

Commenters should notify Ms. Long if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide EPA with a copy of their oral testimony electronically (via e-mail or CD) or in hard copy form.

The hearing schedule, including lists of speakers, will be posted on EPA's Web Site <http://www.epa.gov/nsr>. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking.

EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

How can I get copies of this document and other related information?

The EPA has established a docket for the proposed rule "Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan" under Docket ID No. EPA-HQ-OAR-2010-0107 (available at <http://www.regulations.gov>).

As stated previously, the proposed rule will publish in the near future in the **Federal Register** and is available at <http://www.epa.gov/nsr> and in the rulemaking docket.

Dated: August 24, 2010.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2010-21691 Filed 8-27-10; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 246, and 252

Defense Federal Acquisition Regulation Supplement (DFARS); Warranty Tracking of Serialized Items, DFARS Case 2009-D018

AGENCY: Defense Acquisition Regulations System, 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 implement a policy memorandum of the Undersecretary of Defense for Acquisition, Technology, and Logistics dated February 6, 2007, that required definition of the requirements to track warranties for items subject to Item Unique Identification in the Item Unique Identification registry. This proposed rule stresses that the enforcement of warranties is essential to the effectiveness and efficiency of DoD's material readiness.

DATES: Comments on this proposed rule should be submitted in writing to the address shown below on or before October 29, 2010, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2009-D018, using any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
E-mail: dfars@osd.mil. Include DFARS Case 2009-D018 in the subject line of the message.
Fax: 703-602-0350.

Mail: Defense Acquisition Regulations System, Attn: Mr. Julian E. Thrash, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

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

FOR FURTHER INFORMATION CONTACT: Mr. Julian E. Thrash, 703-602-0310.

SUPPLEMENTARY INFORMATION:

A. Background

The Undersecretary of Defense for Acquisition, Technology, and Logistics issued a policy memorandum dated February 6, 2007, that instructed the Director, Defense Procurement and Acquisition Policy, to define the requirements to track warranties for

items subject to Item Unique Identification (IUID) in the IUID registry. This proposed rule addresses the requirement to more effectively track warranties for IUID items.

The tracking of warranties, from the identification of the requirement to the expiration date of the warranted item, will enhance significantly the ability of DoD to take full advantage of warranties when they are part of an acquisition. Presently, DoD lacks the enterprise capability that would provide visibility and accountability of warranty data associated with acquired goods. The capability to track warranties will result in—

- (a) Reduced costs;
- (b) Ability to recognize benefits included for free;
- (c) Ability to compare performance against Government specified warranties;
- (d) Increased level of insurance for purchased goods;
- (e) Sufficient durations of warranties for specific goods;
- (f) Ability to identify and enforce warranties (e.g., against fraudulent vendors, or for criminal actions).

DoD proposes the following changes:

- Revise DFARS 211.274-2(a)(4), Policy for unique item identification, to add any warranted item.
- Revise the definitions of "acceptance" and "defect," and add a definition for "warranty tracking" at DFARS 246.701.
- Add DFARS 246.710(5) to include provision and clause prescriptions 252.246-70XX and 252.246-70YY.
- Revise DFARS 252.211-7003, Item Identification and Valuation, definition of "issuing agency."
- Add provision 252.246-70XX, Notice of Warranty Tracking of Serialized Items.
- Add clause 252.246-70YY, Warranty Tracking of Serialized Items.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 20, 1993. This is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603 *et seq.* A copy of the analysis may be obtained from the point of contact specified herein. The objective of this rule is for DoD to develop a more effective way to track warranties for items subject to Item Unique Identification (IUID). Presently, DoD lacks the enterprise capability that would provide visibility and accountability of warranty data

associated with acquired goods. The tracking of warranties, from the identification of the requirement to the expiration date of the warranted item, will enhance significantly the ability of DoD to take full advantage of warranties when they are part of an acquisition, resulting in—

- (a) Reduced costs;
- (b) Ability to recognize benefits included for free;
- (c) Ability to compare performance against Government specified warranties;
- (d) Sufficient durations of warranties for specific goods.

DoD will address the requirement to track warranties with the following DFARS provision and clause:

- (1) 252.246–70XX, Notice of Warranty Tracking of Serialized Items;
- (2) 252.246–70YY, Warranty Tracking of Serialized Items.

In FY 2009, DoD issued approximately 16,000 solicitations that use warranty clauses. In response to those solicitations, approximately 76,000 offers would be received (66,000 from small business, 10,000 from other than small business). Of that total, DoD estimates that 50% of the time the Government will provide the required warranty information for 38,000 offers (33,000 small and 5,000 other than small businesses). Therefore, 33,000 small entities would be impacted by the rule.

DoD invites comments from small concerns and other interested parties on the impact of this rule on small entities. DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS case 2009–D018), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies because the proposed rule does contain information collection requirements. DoD invites comments on the following aspects of the proposed rule: (a) Whether the collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The following is a summary of the information collection requirement.

Title: Defense Federal Acquisition Regulation Supplement; Warranty Tracking of Serialized Items.

Type of Request: New collection.

Number of Respondents: 38,000.

Responses per Respondent:

Approximately 1.4.

Annual Responses: 54,000.

Average Burden Per Response: 0.5 hour.

Annual Public Burden Hours: 27,000.

Needs and Uses: DoD needs the information required by 252.246–70XX and 252.246–70YY in order to properly track the warranty of serialized items.

Affected Public: Businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Mr. Julian E. Thrash, OUSD(AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Mr. Julian E. Thrash, OUSD(AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

List of Subjects in 48 CFR Parts 211, 246, and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 211, 246, and 252 as follows:

- 1. The authority citation for 48 CFR parts 211, 246, and 252 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

- 2. Amend section 211.274–2 by revising paragraphs (a)(4)(i) and (a)(4)(ii)

and by adding paragraph (a)(4)(iii) as follows:

§ 211.274–2 Policy for unique item identification.

* * * * *

(a) * * *

(4) * * *

- (i) Any DoD serially managed subassembly, component, or part embedded within a delivered item;
- (ii) The parent item (as defined in 252.211–7003(a)) that contains the embedded subassembly, component, or part; and
- (iii) Any warranted item.

* * * * *

PART 246—QUALITY ASSURANCE

- 3. Revise section 246.701 to read as follows:

§ 246.701 Definitions.

As used in this subpart—

Acceptance, as used in the warranty clauses at FAR 52.246–17, Warranty of Supplies of a Noncomplex Nature; FAR 52.246–18, Warranty of Supplies of a Complex Nature; FAR 52.246–19, Warranty of Systems and Equipment Under Performance Specifications or Design Criteria; and FAR 52.246–20, Warranty of Services, includes the execution of an official document (e.g., DD Form 250, Material Inspection and Receiving Report) by an authorized representative of the Government.

Defect means any condition or characteristic in any supply or service furnished by the contractor under the contract that is not in compliance with the requirements of the contract.

Warranty tracking is defined in the clause 252.246–70YY, Warranty Tracking of Serialized Items.

- 4. Amend section 246.710 by revising the section heading and adding paragraph (5) to read as follows:

§ 246.710 Solicitation provision and contract clauses.

* * * * *

- (5)(i) In addition to 252.211–7003, Item Unique Valuation, which is prescribed in 211.274–5(a), use the following provision and clause in solicitations and contracts when it is anticipated that the resulting contract will include a warranty for serialized items:

(A) 252.246–70XX, Notice of Warranty Tracking of Serialized Items (include only if offerors will be required to enter data with the offer); and

(B) 252.246–70YY, Warranty Tracking of Serialized Items.

- (ii) If the Government specifies a warranty, then the contracting officer shall request the requiring activity to

provide information to ensure that Table I in the clause 252.246–70YY is populated with data specifying the Government's required warranty provision by contract line item number, subline item number, or exhibit line item number prior to solicitation. In such case, do not include 252.246–70XX in the solicitation.

(iii) If the Government does not specify a warranty, include 252.246–70XX in the solicitation. The contractor may offer a warranty and shall then populate Table I in the clause 252.246–70YY, as appropriate, as part of its offer as required by 252.246–70XX.

(iv) All warranty tracking information that is indicated with a single asterisk (*) in Table I in the clause 252.246–70YY shall be completed prior to award. Data indicated with two asterisks (**) may be completed on or after the time of award, but no later than the time of delivery.

(v) The contractor shall provide warranty repair source instructions (Table II in the clause 252.246–70YY) no later than the time of delivery.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 252.211–7003 by revising the clause date to read “(XXX 2010)” and, at paragraph (a), by revising the definition of “issuing agency” to read as follows:

§ 252.211–7003 Item Identification and Valuation.

* * * *

(a) * * *

* * * *

Issuing agency means an organization responsible for assigning a non-repeatable identifier to an enterprise (e.g., Dun & Bradstreet's Data Universal Numbering System (DUNS) Number, GS1 Company Prefix, Allied Committee 135 NATO Commercial and Government Entity (NCAGE)/Commercial and Government Entity (CAGE) Code, or the Coded Representation of the North American Telecommunications Industry Manufacturers, Suppliers, and Related Service Companies (ATIS–0322000) Number), European Health Industry Business Communication Council (EHIBCC) and Health Industry Business Communication Council (HIBCC), as indicated in the Register of Issuing Agency Codes for ISO/IEC 15459, located at <http://www.nen.nl/web/Normen-ontwikkelen/ISOIEC-15459-Issuing-Agency-Codes.htm>.

6. Add section 252.246–70XX to read as follows:

§ 252.246–70XX Notice of Warranty Tracking of Serialized Items.

As prescribed in 246.710(5)(i)(A), use the following provision:

Notice of Warranty Tracking of Serialized Items (XXX 2010)

(a) *Definition*. “Unique item identifier” and “warranty tracking” are defined in the clause at 252.246–70YY, Warranty Tracking of Serialized Items.

(b) *Reporting of data for warranty tracking and administration*. The offeror shall provide the information required by Table I in the clause at 252.246–70YY (indicated by a single asterisk (*)), on each contract line item number (CLIN), subline item number (SLIN), or exhibit line item number (ELIN) for warranted items. The offeror shall provide all information required by Table II no later than when the warranted items are presented for receipt and/or acceptance. The “Warranty Item Unique Item Identifier (UII)” data category may also be completed in conjunction with Table II. The offeror shall submit the data for warranty tracking to the Contracting Officer.

(End of provision)

7. Add section 252.246–70YY to read as follows:

As prescribed in 246.710(5)(i)(B), use the following clause:

Warranty Tracking of Serialized Items (XXX 2010)

(a) *Definitions*. As used in this clause—
DoD Item Unique Identification (IUID) Registry means the central repository for IUID information that serves as an acquisition gateway to identify what the uniquely identified tangible item is, how and when it was acquired, the initial Government unit cost of the item, current custody (Government or Contractor), and how it is marked.

Duration means the warranty period. This period may be a stated period of time, amount of usage, or the occurrence of a specified event, after formal acceptance of delivery, for the Government to assert a contractual right for the correction of defects.

Enterprise means the entity (e.g., a manufacturer or vendor) responsible for granting the warranty and/or assigning unique item identifiers to serialized warranty items.

Enterprise identifier means a code that is uniquely assigned to an enterprise by an issuing agency.

First use means the initial or first time use of a product by the Government.

Fixed expiration means the date the warranty expires and the Contractor's obligation to provide for a remedy or corrective action ends.

Installation means the date a unit is inserted into a higher level assembly in order to make it operational.

Issuing agency means an organization responsible for assigning a non-repeatable identifier to an enterprise (e.g., Dun & Bradstreet's Data Universal Numbering System (DUNS) Number, GS1 Company Prefix, Allied Committee 135 NATO

Commercial and Government Entity (NCAGE)/Commercial and Government Entity (CAGE) Code, or the Coded Representation of the North American Telecommunications Industry Manufacturers, Suppliers, and Related Service Companies (ATIS–0322000) Number), European Health Industry Business Communication Council (EHIBCC) and Health Industry Business Communication Council (HIBCC), as indicated in the Register of Issuing Agency Codes for ISO/IEC 15459, located at <http://www.nen.nl/web/Normen-ontwikkelen/ISOIEC-15459-Issuing-Agency-Codes.htm>.

Item type means a coded representation of the description of the item being warranted, consisting of the codes C—component procured separate from end item, S—subassembly procured separate from end item or subassembly, E—embedded in component, subassembly or end item parent, and P—parent end item.

Starting event means the event or action that initiates the warranty.

Serialized item means each item produced is assigned a serial number that is unique among all the collective tangible items produced by the enterprise, or each item of a particular part, lot, or batch number is assigned a unique serial number within that part, lot, or batch number assignment within the enterprise identifier. The enterprise is responsible for ensuring unique serialization within the enterprise identifier or within the part, lot, or batch numbers, and that serial numbers, once assigned, are never used again.

Unique item identifier means a set of data elements marked on an item that is globally unique and unambiguous.

Usage means the quantity and an associated unit of measure that specifies the amount-of a characteristic subject to the contractor's obligation to provide for remedy or corrective action such as a number of miles, hours, or cycles.

Warranty administrator means the organization specified by the guarantor for managing the warranty.

Warranty guarantor means the enterprise that provides the warranty under the terms and conditions of a contract.

Warranty repair source means the organization specified by a warranty guarantor for receiving and managing warranty items that are returned by a customer.

Warranty tracking means the ability to trace a warranted item from delivery through completion of the effectivity of the warranty.

(b) *Reporting of data for warranty tracking and administration*. The Contractor shall provide the following information (see Table I) on each contract line item number (CLIN), subline item number (SLIN), or exhibit line item number (ELIN) for warranted items. The Contractor shall provide all information required by Table II no later than when the warranted items are presented for receipt and/or acceptance. The “Warranty Item Unique Item Identifier (UII)” data category may also be completed in conjunction with Table II. The Contractor shall submit the data for warranty tracking to the Contracting Officer with a copy to the requiring activity and the Contracting Officer Representative.

TABLE I—WARRANTY TRACKING INFORMATION

CLIN, SLIN, OR ELIN *	Item type ** (a)	Warranty item UII **	Warranty term						Warranty adminis- trator en- terprise identifier code type (f) **	Warranty adminis- trator en- terprise identifier (g) **	Warranty guarantor enterprise identifier code type (h) **	Warranty guarantor enterprise identifier code type (i) **
			Starting event (b) *	Usage (c)*		Duration (d)*		Fixed expiration (e)				
				Quantity *	Unit *	Quantity *	Unit *	Date *				

* To be completed by the requiring activity, if warranty is specified by the Government. Otherwise, all offerors are to complete as part of their offers.

** To be completed by the Contractor at the time of award (if known), otherwise at the time of delivery.

Notes:

(a) Item type—

C—component procured separate from end item

S—subassembly procured separate from end item or subassembly

E—embedded in component, subassembly or end item parent

P—parent end item

(b) Starting event—

Acceptance (A)

Installation (I)

First use (F)

Other (O)

Warranty term—Choose one of the following:

(c) Usage (for warrantees where effectivity is in terms of operating time or cycles)

(d) Duration (for warrantees that expire after a set period of time)

(e) Date (for warrantees with a fixed expiration date)

(f) Warranty administrator enterprise identifier code type—

0—9—GS1 Company Prefix

D—CAGE

LB—ATIS—0322000

LH—EHIBCC

RH—HIBCC

UN—DUNS

(g) Warranty administrator enterprise identifier—A non-repeatable identifier code assigned to an enterprise by an issuing agency [e.g., Dun & Bradstreet's Data Universal Numbering System (DUNS)]

Number, GS1 Company Prefix, Allied Committee 135 NATO Commercial and

Government Entity (NCAGE)/Commercial and Government Entity (CAGE) Code, or the Coded Representation of the North American Telecommunications Industry Manufacturers, Suppliers, and Related Service Companies (ATIS—0322000) Number, European Health Industry Business Communication Council (EHIBCC) and Health Industry Business Communication Council (HIBCC).

(h) Warranty guarantor enterprise identifier code type—

0—9—GS1 Company Prefix

D—CAGE

LB—ATIS—0322000

LH—EHIBCC

RH—HIBCC

UN—DUNS

TABLE II—WARRANTY REPAIR SOURCE INSTRUCTIONS

Contract Number:

Warranty repair source enterprise identifier code type (j) **	Warranty re- pair source enterprise identifier (k) **	Shipping address for warranty returns							Instructions (r) **
		Name (l) **	Address line 1 (m) **	Address line 2 **	City/ county (n) **	State/ province (o) **	Postal code (p) **	Country (q) **	

For each warranty repair source enterprise identifier listed above, include the shipping address for returning warranty items, or include instructions for accessing a Web site to obtain prepaid shipping labels for returning warranty items to the designated source of warranty repair.

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** To be completed by the Contractor at the time of award and/or at the time of delivery.

(j) Warranty repair source enterprise identifier code type—

0—9—GS1 Company Prefix

D—CAGE

LB—ATIS—0322000

LH—EHIBCC

RH—HIBCC

UN—DUNS

(k) Warranty repair source enterprise

identifier—A non-repeatable identifier code assigned to an enterprise by an issuing agency [e.g., Dun & Bradstreet's Data

Universal Numbering System (DUNS) Number, GS1 Company Prefix, Allied Committee 135 NATO Commercial and Government Entity (NCAGE)/Commercial and Government Entity (CAGE) Code, or the Coded Representation of the North American Telecommunications Industry Manufacturers, Suppliers, and Related Service Companies (ATIS-0322000) Number, European Health Industry Business Communication Council (EHIBCC) and Health Industry Business Communication Council (HIBCC).

(c) *Reservation of Rights.* The terms of this clause shall not be construed to limit the Government's rights or remedies under any other contract clause.

(End of clause))

[FR Doc. 2010-21358 Filed 8-27-10; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 100618274-0377-01]

RIN 0648-AY92

Fisheries in the Western Pacific; Hawaii Bottomfish and Seamount Groundfish; Management Measures for Hancock Seamounts to Rebuild Overfished Armorhead

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would continue a moratorium on fishing for bottomfish and seamount groundfish at the Hancock Seamounts until the overfished U.S. stock of pelagic armorhead (*Pseudopentaceros wheeleri*) is rebuilt. This proposed rule would also reclassify the management area around the Hancock Seamounts as an ecosystem management area. The intent of the continued moratorium is to facilitate rebuilding of the armorhead stock, and the intent of the ecosystem management area is to facilitate research on armorhead and other seamount groundfish.

DATES: Comments on the amendment must be received by October 14, 2010.

ADDRESSES: Comments on the proposed rule, identified by 0648-AY92, may be sent to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov; or

- Mail: Mail written comments to Michael D. Tosatto, Acting Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700.

Instructions: Comments must be submitted to one of these two addresses to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. Comments will be posted for public viewing after the comment period has closed. All comments received are a part of the public record and will generally be posted to www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "NA" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Amendment 2 to the Fishery Ecosystem Plan for the Hawaiian Archipelago contains an environmental assessment and background information, and is available from www.regulations.gov and from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, or web site www.wpcouncil.org.

FOR FURTHER INFORMATION CONTACT:

Jarad Makaiau, NMFS PIR Sustainable Fisheries, 808-944-2108.

SUPPLEMENTARY INFORMATION: This document is also available at www.gpoaccess.gov/fr.

Fishing for pelagic armorhead is managed under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP). Armorhead are overfished as a result of over-exploitation by foreign vessels in international waters, dating back to at least the 1970s. Although there has never been a U.S. fishery targeting this fish, continued exploitation outside the U.S. Exclusive Economic Zone (EEZ) by foreign fleets has kept the stock in an overfished condition.

The Hancock Seamounts are the only known armorhead habitat within the EEZ. These seamounts lie west of 180° W. and north of 28° N., to the northwest of Kure Atoll in the Northwestern Hawaiian Islands. The Council and NMFS have responded to the overfished condition of armorhead with a series of

four, 6-year domestic fishing moratoria at the Hancock Seamounts, beginning in 1986. The current 6-year moratorium expires on August 31, 2010. Although there would be a short time period between the expiration of the current moratorium and implementation of this rule, if approved, the likelihood of a new Hawaii-based domestic armorhead fishery developing is discountable. The Hancock Seamounts are a relatively small and isolated fishing area, and the costs of starting up fishing operations to enter this fishery would be prohibitive relative to the potential fishing yield during the very short time that the area would be open. Additionally, existing domestic North Pacific trawl vessels would not be allowed to fish at Hancock Seamounts because trawls are prohibited fishing gear in the U.S. Pacific Islands.

From July 2009 to August 2010, the Council developed Amendment 2 to the Hawaii FEP to rebuild the armorhead stock pursuant to the Magnuson-Stevens Act; the amendment is currently undergoing Secretarial review (75 FR 51237, August 19, 2010). The Council recommended in Amendment 2 that NMFS establish a minimum rebuilding time of 35 years for the U.S. portion of the armorhead stock. The Council also recommended that NMFS classify the portion of the EEZ surrounding the Hancock Seamounts as an ecosystem management area, and extend the moratorium at Hancock Seamounts until the stock is rebuilt. In response to these recommendations, NMFS developed this proposed rule to implement the latter two recommendations.

The Council and NMFS recognize that, because less than five percent of the armorhead habitat lies within U.S. jurisdiction, rebuilding of the stock must be accomplished through coordinated international management. Nonetheless, a prohibition on all armorhead catches in U.S. waters would provide the maximum protection available for armorhead stocks in U.S. waters.

The current moratorium applies to all bottomfish and seamount groundfish, and the proposed moratorium would continue to do so. While only armorhead are overfished, other bottomfish and seamount groundfish are caught with the same gear type as armorhead. Opening the Hancock Seamount fishery to non-armorhead fish would increase the likelihood of incidental catches of armorhead, resulting in possible delays to rebuilding the stock. In addition, the fishing gear (anchors, weighted lines, and hooks) used to target non-armorhead fish, or lost on fishing