

the Code of Federal Regulations as follows:

## PART 369—VOCATIONAL REHABILITATION SERVICE PROJECTS

■ 1. The authority citation for part 369 continues to read as follows:

**Authority:** 29 U.S.C. 7011(c), 732, 750, 777(a)(1), 777b, 777f and 795g, unless otherwise noted.

■ 2. Section 369.4(b) is amended by revising the definition of “Reservation” to read as follows:

### [Alternative A]

#### § 369.4 What definitions apply to these programs?

\* \* \* \* \*

##### (b) \* \* \*

*Reservation* means a Federal or State Indian reservation; public domain Indian allotment; former Indian reservation in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act; or a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

\* \* \* \* \*

### [Alternative B]

#### § 369.4 What definitions apply to this program?

\* \* \* \* \*

##### (b) \* \* \*

*Reservation* means only a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

\* \* \* \* \*

## PART 371—VOCATIONAL REHABILITATION SERVICES PROJECTS FOR AMERICAN INDIANS WITH DISABILITIES

■ 3. The authority citation for part 371 continues to read as follows:

**Authority:** 29 U.S.C. 709(c) and 741, unless otherwise noted.

■ 4. Section 371.4(b) is amended by revising the definition of “Reservation” to read as follows:

### [Alternative A]

#### § 371.4 What definitions apply to this program?

\* \* \* \* \*

##### (b) \* \* \*

*Reservation* means a Federal or State Indian reservation; public domain Indian allotment; former Indian reservation in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act; or a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

\* \* \* \* \*

### [Alternative B]

#### § 371.4 What definitions apply to this program?

\* \* \* \* \*

##### (b) \* \* \*

*Reservation* means only a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

\* \* \* \* \*

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BILLING CODE 4000-01-P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 252

RIN 0750-AI30

### Defense Federal Acquisition Regulation Supplement: Flowdown of Specialty Metals Restrictions (DFARS Case 2014-D011)

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the flowdown requirements for the DFARS clause entitled “Restriction on Acquisition of Certain Articles Containing Specialty Metals.”

**DATES:** *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on

or before August 22, 2014, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2014-D011, using any of the following methods:

○ *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering “DFARS Case 2014-D011” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2014-D011.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2014-D011” on your attached document.

○ *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2014-D011 in the subject line of the message.

○ *Fax:* 571-372-6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 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. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy G. Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6106.

### SUPPLEMENTARY INFORMATION:

#### I. Background

The clause at DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals, as prescribed at DFARS 225.7003-5(a)(2), implements 10 U.S.C. 2533b. This clause is used in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that exceed the simplified acquisition threshold and require the delivery of the following items, if such items contain specialty metals: Aircraft, missile or space systems, ships, tank or automotive systems, weapon systems, or ammunition, and components thereof. Except as provided in paragraph (c) of the clause, any specialty metals incorporated in items delivered under the contract shall be melted or produced

in the United States, its outlying areas, or a qualifying country.

DoD is proposing to revise paragraph (e) of this clause to clarify the requirement to flow this clause down to subcontracts.

## II. Discussion and Analysis

In order to prevent misinterpretation of the current flowdown requirement to insert the “substance of the clause” in subcontracts, the flowdown requirement has been rewritten to specify that the only modifications allowed when flowing down the clause are as follows:

- Exclude and reserve paragraph (d) of the clause.
- Modify paragraph (c)(6) of the clause only as necessary to facilitate management of the allowance for up to 2 percent otherwise noncompliant specialty metal content in the end product, while recognizing that the minimal content exception does not apply to specialty metals contained in high-performance magnets.
- Not further alter the clause, other than to identify the appropriate parties.

## III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## IV. 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 it is a clarification of an existing requirement. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The reason for issuance of this proposed rule is to clarify the flowdown requirements for DFARS clause 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals.

The objective of the rule is to more fully implement the requirements of 10 U.S.C. 2533b, which restricts the acquisition of specialty metals not melted in the United States, its outlying areas, or a qualifying country, in order to strengthen the United States industrial base.

This rule applies to DoD contractors and subcontractors that are providing aircraft, missile or space systems, ships, tank or automotive items, weapon systems, ammunition, or components thereof that contain specialty metals.

Based on FY 2013 data in the Federal Procurement Data System (FPDS), DoD awarded 1,566 contracts that exceeded the simplified acquisition threshold for aircraft, missile or space systems, ships, tank or automotive items, weapon systems, ammunition, or components thereof. Of those awards, 642 were to 533 unique small business entities. FPDS does not contain data on subcontracts. If we estimate an average of 20 subcontracts per contract for items containing specialty metals, and that 35 percent of those subcontracts are awarded to small businesses, 2 subcontracts per small entity, then this rule may apply to approximately 6,123 small business entities subject to DFARS 52.225–7009.

$$(1,566 \times 20 = 31,320 \times .35 = 10,962 \times .5 = 5,481 \text{ small business subcontractors} + 642 \text{ small business prime contractors} = 6,123)$$

There are no reporting or recordkeeping requirements associated with this rule. With some exceptions, the rule requires contractors to provide certain end products containing specialty metals melted or produced in the United States, its outlying areas, or a qualifying country. However, end items may contain a minimal amount of otherwise noncompliant specialty metals, if the total weight of such noncompliant metals does not exceed 2 percent of the total of all specialty metals in the end item. Therefore, the contractor has some discretion in flowing down the requirement to subcontractors to the extent necessary to ensure compliance of the end products the contractor will deliver to the Government.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD did not identify any alternatives to this rule that would reduce burdens on small entities and meet the objective of the rule. This rule does not impose any significant new burdens on small entities, because it only clarifies what was intended by the conventional statement to insert “the substance of the

clause” in subcontracts for items containing specialty metals.

DoD invites comments from small business concerns and other interested parties on the expected 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 2014–D011), in correspondence.

## V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

## List of Subjects in 48 CFR Part 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is proposed to be 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. 1303 and 48 CFR chapter 1.

- 2. Amend section 252.225–7009 by—
- a. Removing the clause date “(JUN 2013)” and adding “(DATE)” in its place; and
- b. Revising paragraph (e) to read as follows:

### 252.225–7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals

\* \* \* \* \*

(e) *Subcontracts.*

(1) The Contractor shall exclude and reserve paragraph (d) and this paragraph (e)(1) when flowing down this clause to subcontracts.

(2) The Contractor shall insert paragraphs (a) through (c) and this paragraph (e)(2) of this clause in subcontracts, including subcontracts for commercial items, that are for items containing specialty metals to ensure compliance of the end products that the Contractor will deliver to the Government. When inserting this clause in subcontracts, the Contractor shall—

(i) Modify paragraph (c)(6) of this clause only as necessary to facilitate management of the minimal content

exception at the prime contract level. The minimal content exception does not apply to specialty metals contained in high-performance magnets; and

(ii) Not further alter the clause other than to identify the appropriate parties.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R8-ES-2014-0023; 4500030113]

#### Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Humboldt Marten as Endangered or Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of initiation of scoping and request for information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are gathering information to prepare a 12-month finding under the Endangered Species Act of 1973, as amended (Act), on a petition to list the current classification of Humboldt marten (*Martes caurina humboldtensis*) as an endangered or threatened species. We provide this notice to summarize the uncertainty regarding the subspecies taxonomic classification (based on current genetics information) and, therefore, our intent to conduct an evaluation of a potential distinct population segment (DPS) of martens in coastal northern California and coastal Oregon relative to the full species classification level. We will submit a 12-month finding on the petition to the **Federal Register** by April 1, 2015.

**DATES:** We request that we receive information on or before August 7, 2014. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2014-0023. You may submit information by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: FWS-R8-ES-2014-

0023; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We request that you send information only by the methods described above. We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Information Requested** section below for more information).

#### FOR FURTHER INFORMATION CONTACT:

Bruce Bingham, Field Supervisor, U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521; telephone 707-822-7201; or facsimile 707-822-8411. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

In a petition dated September 28, 2010 (Center for Biological Diversity (CBD) and Environmental Protection Information Center (EPIC) 2010), the petitioners requested that we consider for listing the (then-classified) subspecies Humboldt marten (*Martes americana humboldtensis*), or the (now-recognized) subspecies Humboldt marten (*M. caurina humboldtensis*), or the Humboldt marten Distinct Population Segment (DPS) of the Pacific marten (*M. caurina*). The petitioners further stipulated that, based on recent genetic analyses indicating that populations of marten from coastal Oregon are more closely related to *M. a. humboldtensis* than to *M. a. caurina* in the Cascades of Oregon (citing Dawson 2008, Slauson *et al.* 2009), the range of the subspecies or DPS of the Humboldt marten should be expanded to include coastal Oregon populations. On January 12, 2012, we published a substantial 90-day finding on the petition to list the Humboldt marten as an endangered or threatened species under the Act (77 FR 1900). For purposes of the 90-day finding, the common name Humboldt marten referred to the then-classified American marten (*M. americana*) populations in coastal northern California and coastal Oregon.

The American marten (*Martes americana*) was originally described as a single species by Turton (1806; entire), based on specimens from eastern North America. In 1890, Merriam (1890; entire) considered a new species, *M. caurina*, as those martens found west of the Rocky Mountains. In 1926, the Humboldt [Pine] marten (*M. c. humboldtensis*) was described as a

subspecies of *M. caurina* (Grinnel and Dixon 1926, entire); historically, this subspecies was distributed throughout the coastal, fog-influenced coniferous forests of northern California from northwestern Sonoma County north to the Oregon border (Grinnel and Dixon 1926, entire). In 1953, Wright (1953; entire) described one species, the American marten (*M. americana*), which included as subspecies both the Humboldt [Pine] marten subspecies (*M. a. humboldtensis*), and the former western marten species (*M. caurina*), classified as *M. a. caurina*.

As noted above, at the time of our 90-day finding (77 FR 1900; January 12, 2012), the Humboldt marten was classified as *Martes americana humboldtensis*. Subsequently, Dawson and Cook (2012, entire) split the American marten, recognizing the Pacific marten (*M. caurina*) for all martens occurring west of the Rocky Mountain crest, based on genetic and morphological differences. While this split changed the species-level name of all martens occurring west of the Rocky Mountain crest from *M. americana* to *M. caurina*, subspecies epithets were not changed. Therefore, the current classification of the Humboldt marten in coastal northern California is *M. c. humboldtensis*, and the marten populations occurring in adjacent coastal Oregon are *M. c. caurina*. In addition, as currently recognized, populations of martens in the Oregon Cascades northward through the State of Washington and into British Columbia, Canada, are also *M. c. caurina*.

Ongoing genetic research indicates uncertainty in the Pacific marten subspecies delineations in California and Oregon. Specifically, the best available data indicate that the *Martes caurina humboldtensis* population in coastal northern California (Humboldt, Siskiyou, and Del Norte Counties) and the two *M. c. caurina* populations in coastal Oregon (Curry, Coos, coastal portion of Douglas, coastal portion of Lane, Lincoln, and Tillamook Counties) may be a single evolutionary unit (clade) (Slauson *et al.* 2009, p. 1,340; Schwartz *et al.*, in prep) (available for review at <http://www.regulations.gov>, Docket No. FWS-R8-ES-2014-0023). Although questions regarding the taxonomy of marten subspecies in northern California and Oregon are not new (i.e., both the petition we received (CBD and EPIC 2010) and our 90-day finding (January 12, 2012; 77 FR 1900) identified ongoing genetic research and taxonomic uncertainty), the best available information indicates that the original designation of two separate marten subspecies occurring in coastal