

termination or partial termination of this contract or upon completion of deliveries or performance under the contract except property that is authorized for use on a follow-on or other Government contract. Such property does not have to be inventoried if the Contractor has notified the property administrator that record balances have been transferred to the receiving contract.

(3) *Restriction.* The Contractor personnel who perform physical inventories shall not be the same individuals who maintain the property records required by this contract or have custody of the property unless authorized to do so by the property administrator.

(i) *Markings.* Promptly following receipt of Government furnished property, the Contractor shall determine whether the property bears a Government ownership marking, legibly and conspicuously mark unmarked property with the phrase "U.S. Government Property" (or a similar phrase that conveys Government ownership), and replace any control numbers affixed by others with the Contractor's control number.

(j) *Overseas contracts.* In a contract performed outside the United States, its territories, or possessions, the words "Government" and "Government furnished," as used in this clause, mean "United States Government" and "United States Government furnished," respectively.
(End of clause)

ALTERNATE I (XXX 19XX) As prescribed in 245.102(c)(ii), substitute the following paragraphs (f) and (g) for paragraphs (f) and (g) of the basic clause:

(f) *Property records.* The Contractor shall establish a separate property record for each Government property item returned for correction under a warranty and maintain the records on a contract-by-contract basis. The records shall identify the item's name, description, property classification, and national stock number (if the item has a national stock number), the date received, the contract number under which the item was returned, the corrective action performed, and the date the item is returned to the Government. Once a property record has been established, identical items received for corrective action shall be added to the established record and the information required by this paragraph maintained for each item.

(g) *Reports.*—(1) *Misdirected Government property.* The Contractor shall submit a written report to the Government's property administrator immediately following receipt of Government property intended for another person or Government property not required for performance of a Government contract and request disposition instructions. To the extent practical, the report shall identify the shipment's content, the intended recipient, the carrier that made delivery, the Government activity from which the shipment originated, and the shipment's current location.

(2) *Late Government furnished property.* The Contractor shall report to the Contracting Officer, with a concurrent copy to the Government's property administrator, a failure to receive Government furnished

property at the time stated in the contract or, when a time is not stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates. Each report shall forward the Contractor's estimate of the extent to which such failure has affected or might affect contract performance.

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DEPARTMENT OF DEFENSE

48 CFR Part 252

[DFARS Case 97-D029]

Defense Federal Acquisition Regulation Supplement; Reporting of Contract Performance Outside the United States

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to raise the threshold for reporting contract performance outside the United States from \$25,000 to the simplified acquisition threshold, under contracts exceeding \$500,000.

DATES: Comment date: Comments on the proposed rule should be submitted in writing to the address shown below on or before December 16, 1997, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 97-D029 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97-D029 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

The clause at DFARS 252.225-7026, Reporting of Contract Performance Outside the United States, presently requires a contractor to submit a report to the Deputy Director of Defense Procurement (Foreign Contracting) under a contract exceeding \$500,000, when any part that exceeds \$25,000 will be performed outside the United States,

unless a foreign place of performance is the principal place of performance and was indicated as such in the offer for the contract. This rule proposes to increase the \$25,000 threshold to the simplified acquisition threshold (\$100,000). In addition, the rule proposes to increase the threshold for incorporation of the clause in first-tier subcontracts from \$100,000 to \$500,000. These amendments are expected to reduce information collection requirements by approximately 40 percent.

B. Regulatory Flexibility Act

The proposed rule is not expected 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.* Annually, approximately 55 contractors submit a total of approximately 1400 reports of contract performance outside the United States. Reporting varies from 1 to 50 reports per contractor. Most of the contractors that submit the reports are not small businesses, and the report is not excessively time-consuming. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97-D029 in correspondence.

C. Paperwork Reduction Act

The rule will result in a reduction of paperwork burden on contractors. The clause at DFARS 252.225-7026 presently has an approved annual information collection requirement of 900 hours under Office of Management and Budget Clearance Number 0704-0229. Based on a review of 1995 and 1996 data, it is estimated that the amendments in this rule will reduce annual information collection requirements by approximately 360 hours.

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 252 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 252 continues to read as follows:

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

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 252.225–7026 is amended by revising the clause date and the introductory text of paragraph (a)(3); by redesignating paragraphs (d)(i), (d)(ii), and (d)(iii) as paragraphs (d)(1), (d)(2), and (d)(3), respectively; and by revising paragraph (c)(1). The revised text reads as follows:

252.225–7026 Reporting of Contract Performance Outside the United States.

* * * * * REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (XXX 19XX)

(a) * * *

(3) Contracts exceeding \$500,000, when any part that exceeds the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation will be performed outside the United States, unless a foreign place of performance is—

* * * * *

(c) * * *

(1) The Contractor shall include a clause substantially the same as this one in all first-tier subcontracts exceeding \$500,000, except subcontracts for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Atlantic Sturgeon (*Acipenser oxyrinchus oxyrinchus*) in the United States as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of 90-day petition finding and request for information.

SUMMARY: The U.S. Fish and Wildlife Service and the National Marine Fisheries Service (collectively the “Services”) announce a 90-day finding for a petition to add the Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), where it continues to exist in the United States, to the List of Threatened and Endangered Wildlife and to designate critical habitat. The Services find that the petition presents substantial information indicating that the petitioned action to list Atlantic sturgeon may be warranted. The Services are now initiating a status review to determine whether listing of the Atlantic sturgeon in its North American range, including Atlantic Canada, is warranted, and to prepare a 12-month finding. To assure that the review is comprehensive, the Services are soliciting information and data on this species.

DATES: The finding announced in this document was made on October 2, 1997. Comments and materials related to this petition finding must be submitted to National Marine Fisheries Service, Northeast Region, Habitat and Protected Resources Division, at the ADDRESS below, by December 16, 1997, to be considered in the 12-month finding.

ADDRESSES: Information, comments or questions concerning the Atlantic sturgeon petition should be submitted to Christopher Mantzaris, Chief, Habitat and Protected Resources Division, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930. The petition, finding, supporting data, and comments are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mary Colligan (508–281–9116) or Ray Santos (508–281–9103) at the above address, or Anne Hecht of the U.S. Fish and Wildlife Service (508–443–4325).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531–1544) requires that the Services make a finding on whether a petition to list, delist or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Services are required to commence a status review of Atlantic sturgeon and to disclose their findings

within 12 months of receipt of the petition (12-month finding).

On June 2, 1997, a petition dated May 29, 1997, was received by the Services from the Biodiversity Legal Foundation. The petitioner requested the Services to list Atlantic sturgeon, in the United States where it continues to exist, as threatened or endangered and to designate critical habitat within a reasonable period of time following the listing. The petitioner submitted biological, distributional, and historical information on Atlantic sturgeon populations and identified potential threats including commercial fishing (directed and incidental), river damming, habitat loss, and water quality. Also, the petitioner cited scientific references in support of the petition.

There are two subspecies of Atlantic sturgeon. The first subspecies, *Acipenser oxyrinchus desotoi*, known as Gulf sturgeon, occurs from the Mississippi River to Tampa Bay, Florida. This subspecies was listed in 1991 as threatened under the ESA. The petition and this finding address the second subspecies, *Acipenser oxyrinchus oxyrinchus*, known as the Atlantic sturgeon, which is distributed in the western North Atlantic from Hamilton Inlet, Labrador, south to the St. Lucie River, Florida.

Atlantic sturgeon are anadromous fish that may live up to 60 years, reach lengths of up to 4 meters (m) (14 feet (ft)), and weigh over 363 kilograms (kg) (800 pounds (lb)). They are distinguished by armor-like plates and a long protruding snout. Ventrally located on the snout is a protruding mouth with four barbels crossing in front. Sturgeon are omnivorous benthic feeders eating opportunistically and filtering quantities of mud along with their food. Adult sturgeon diets include mollusks, gastropods, amphipods, isopods, and fish. Juvenile sturgeon feed on aquatic insects and other invertebrates.

Depending on geographic location and sex, sturgeon reach sexual maturity at different ages. Males tend to reach maturity faster than females and the average age of maturity for both males and females increases with increasing latitude along the Atlantic coast. Age at sexual maturity for males ranges from 5 to 24 years, and for females, from 7 to 30 years (ASMFC 1990). Sexually mature sturgeon begin their spawning run as early as March (in the southern Atlantic coast) and as late as July (in the higher latitudes). Spawning occurs in flowing fresh or estuarine waters with a hard bottom, where the extremely adhesive eggs stick together in clusters. After hatching, juveniles may remain in