

In addition, if the DoD agency has determined that measurably substantial benefits are expected to be derived as a result of bundling, the notification must include a brief description of those benefits. The objective of the rule is to enable small businesses to compete for more work of which the firms might otherwise have been unaware. The notification requirement will provide a much broader segment of the small-business community awareness of upcoming business opportunities and then allow the small business to either submit a proposal or interact with the requiring agency to request unbundling before the solicitation is finalized. No comments were received from small entities on this rule.

#### IV. Paperwork Reduction Act

The rule does not impose 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 Parts 205 and 210

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

#### Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 205 and 210 published at 75 FR 40714 on July 13, 2010, is adopted as final without change.

[FR Doc. 2011-3756 Filed 2-18-11; 8:45 am]

BILLING CODE 5001-08-P

### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Part 217

RIN 0750-AG67

#### Defense Federal Acquisition Regulation Supplement; Limitations on Procurements With Non-Defense Agencies (DFARS Case 2009-D027)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is adopting without change an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 806 of the National Defense

Authorization Act for Fiscal Year 2010. Section 806 authorizes an agency that is an element of the intelligence community to award a contract for supplies or services in excess of the simplified acquisition threshold for the performance of a joint program conducted to meet the needs of DoD and the non-DoD agency.

**DATES:** *Effective Date:* February 22, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith Murphy, 703-602-1302.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD published an interim rule at 75 FR 32639 on June 8, 2010, to implement section 806 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84), providing limitations on procurements with non-Defense agencies. The public comment period closed August 9, 2010. No comments were received in response to the interim rule.

##### II. Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### III. Regulatory Flexibility Act

DoD certifies that this final rule will not 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 the rule addresses internal DoD procedural matters only. Specifically, this implementation of section 806 of the National Defense Authorization Act for Fiscal Year 2010, Treatment of Non-Defense Agency Procurements Under Joint Programs with Intelligence Community, amends the limitations placed on procurements by non-DoD agencies by exempting such procurements that are: (a) Entered into by a non-DoD agency that is an element of the intelligence community and (b) when the procurement is for the performance of a joint program conducted to meet the needs of DoD and the non-DoD agency. The statute resulted in changes to internal operating procedures with no impact on contractors or offerors.

##### IV. Paperwork Reduction Act

The changes to the DFARS do not impose 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 217

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

#### Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR part 217 published at 75 FR 32639 on June 8, 2010, is adopted as final without change.

[FR Doc. 2011-3754 Filed 2-18-11; 8:45 am]

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### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Part 219

RIN 0750-AH06

#### Defense Federal Acquisition Regulation Supplement; Repeal of the Small Business Competitiveness Demonstration Program (DFARS Case 2011-D001)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Acquisition Regulation Supplement (DFARS) to implement section 1335 of the Small Business Jobs Act of 2010. Section 1335 repealed the Small Business Competitiveness Demonstration Program.

**DATES:** *Effective Date:* February 22, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Manual Quinones, 703-602-8383.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

This final rule amends the Defense Federal Acquisition Regulation Supplement by deleting subpart DFARS 219.10 to meet the requirements of section 1335 of the Small Business Jobs Act of 2010, (Pub. L. 111-240). Section 1335 amended the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) by striking title VII (15 U.S.C. 644 note). The repeal of the Small Business Competitiveness Demonstration Program became effective immediately upon the enactment. It will apply to the first full fiscal year after the September 27, 2010, date of enactment (Fiscal Year 2011). Therefore, the text at DFARS subpart 219.10 is obsolete.

## II. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of the Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because an initial regulatory flexibility analysis is only required for proposed or interim rules that require publication for public comment (5 U.S.C. 603) and a final regulatory flexibility analysis is only required for final rules that were previously published for public comment, and for which an initial regulatory flexibility analysis was prepared (5 U.S.C. 604).

This final rule does not constitute a significant DFARS revision as defined at FAR 1.501-1 because this rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Government. Therefore, publication for public comment under 41 U.S.C. 418b is not required.

## IV. Paperwork Reduction Act

The final 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 219

Government procurement.

#### Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 219 is amended as follows:

### PART 219—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 219 continues to read as follows:

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

#### Subpart 219.10—[Removed]

■ 2. Remove subpart 219.10.

[FR Doc. 2011-3762 Filed 2-18-11; 8:45 am]

BILLING CODE 5001-08-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R9-IA-2008-0069; 92210-0-0010 B6]

RIN 1018-AV73

#### Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the New Zealand-Australia Distinct Population Segment of the Southern Rockhopper Penguin

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine threatened status for the New Zealand/Australia distinct population segment of the southern rockhopper penguin (*Eudyptes chrysocome*) under the Endangered Species Act of 1973, as amended. This final rule implements the Federal protections provided by the Act for this species.

**DATES:** This rule becomes effective March 24, 2011.

**ADDRESSES:** This final rule is available on the Internet at <http://www.regulations.gov> and comments and materials received, as well as supporting documentation used in the preparation of this rule, will be available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 400, Arlington, VA 22203.

**FOR FURTHER INFORMATION CONTACT:** Janine Van Norman, Branch Chief, Foreign Species Branch, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703-358-2171; facsimile 703-358-1735. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), is a law that was passed to prevent extinction of species by providing measures to help alleviate the loss of species and their habitats. Before a plant or animal species can receive the protection provided by the Act, it must first be added to the Federal Lists of Endangered and Threatened Wildlife and Plants; section 4 of the Act and its implementing regulations at 50 CFR 424

set forth the procedures for adding species to these lists.

#### Previous Federal Actions

On November 29, 2006, the U.S. Fish and Wildlife Service (Service) received a petition from the Center for Biological Diversity (CBD) to list 12 penguin species under the Act: emperor penguin (*Aptenodytes forsteri*), southern rockhopper penguin (*Eudyptes chrysocome*), northern rockhopper penguin (*Eudyptes moseleyi*), Fiordland crested penguin (*Eudyptes pachyrhynchus*), snares crested penguin (*Eudyptes robustus*), erect-crested penguin (*Eudyptes sclateri*), macaroni penguin (*Eudyptes chrysolophus*), royal penguin (*Eudyptes schlegeli*), white-flipped penguin (*Eudyptula minor albosignata*), yellow-eyed penguin (*Megadyptes antipodes*), African penguin (*Spheniscus demersus*), and Humboldt penguin (*Spheniscus humboldti*).

On July 11, 2007, we published in the **Federal Register** a 90-day finding (72 FR 37695) in which we determined that the petition presented substantial scientific or commercial information indicating that listing 10 of the penguin species as endangered or threatened may be warranted, but determined that the petition did not provide substantial scientific or commercial information indicating that listing the snares crested penguin and the royal penguin as endangered or threatened may be warranted.

Following the publication of our 90-day finding on this petition, we initiated a status review to determine if listing each of the 10 species was warranted, and sought information from the public and interested parties on the status of the 10 species of penguins. In addition, we attended the International Penguin Conference in Hobart, Tasmania, Australia, a quadrennial meeting of penguin scientists from September 3-7, 2007, to gather information and to ensure that experts were aware of the status review. We also consulted with other agencies and range countries in an effort to gather the best available scientific and commercial information on these species.

On December 3, 2007, we received a 60-day Notice of Intent to Sue from the CBD. On February 27, 2008, CBD filed a complaint against the Department of the Interior for failure to make a 12-month finding (status determination) on the petition. On September 8, 2008, we entered into a settlement agreement with the CBD, in which we agreed to submit to the **Federal Register** 12-month findings for the 10 species of penguins, including the southern rockhopper