

**PART 102-39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY**

■ 1. The authority citation for 41 CFR part 102-39 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 40 U.S.C. 503.

■ 2. Amend § 102-39.20 in the definition “Similar” by revising paragraph (4) and adding a note to read as follows:

**§ 102-39.20 What definitions apply to this part?**

\* \* \* \* \*

*Similar* \* \* \*

(4) Are designed or constructed for the same general purpose (includes any and all forms of property regardless of the FSC Group to which they are assigned).

Note 1 to the definition of “similar”: Only one of the criteria in this definition needs to be met for the property to be considered “similar” for an exchange/sale transaction.

\* \* \* \* \*

■ 3. Amend § 102-39.25 by revising the first sentence to read as follows:

**§ 102-39.25 Which exchange/sale provisions are subject to deviation?**

All of the provisions in this part are subject to deviation (upon presentation of adequate justification) except for those mandated by statute, as described in note 1 to § 102-39.60(a) and § 102-39.80. \* \* \*

■ 4. Revise § 102-39.40 to read as follows:

**§ 102-39.40 How does the exchange/sale authority differ from the disposal process for excess/surplus personal property?**

(a) The primary difference is that sales proceeds or exchange allowances may be used to acquire similar replacement personal property that is still needed under the exchange/sale authority as described in this part; whereas under the more frequently used excess/surplus disposal process, you would not be able to use sales proceeds or exchange allowances to acquire replacement personal property.

(b) Your use of the exchange/sale authority is optional and should be considered when needed replacement assets may be acquired under the provisions of this part. If exchange/sale is not practicable (for example, if conducting an exchange/sale transaction is not cost effective), you should dispose of the property through the excess/surplus disposal process by reporting the property as excess, as addressed in part 102-36 of this chapter.

(c) In the excess/surplus disposal process, any net proceeds from the sale of surplus property generally must be forwarded to the miscellaneous receipts account at the United States Treasury, and thus would not be available to you for use in acquiring similar replacement property or for any other purpose. You may use the exchange/sale authority in the acquisition of personal property even if the acquisition is under a services contract, as long as the property acquired under the services contract is similar to the property exchanged or sold (e.g., for a service life extension program (SLEP), exchange allowances or sales proceeds would be available for replacement of similar items, but not for services).

■ 5. Amend § 102-39.60 by revising paragraph (a) to read as follows:

**§ 102-39.60 What restrictions and prohibitions apply to the exchange/sale of personal property?**

\* \* \* \* \*

(a) The following FSC Groups of personal property:

- (1) 10 Weapons.
- (2) 11 Nuclear ordinance.
- (3) 44 Furnace, Steam Plant, and Drying Equipment; and Nuclear Reactors (FSC Class 4470, Nuclear Reactors only).

(4) 68 Chemical and chemical products.

(5) 84 Clothing, individual equipment, and insignia.

**Note 1 to paragraph (a):** Under no circumstances will deviations be granted for FSC Class 1005, Guns through 30mm. Deviations are not required for Department of Defense (DoD) property in FSC Groups 10 (for classes other than FSC Class 1005), or any other FSC Group, for which the applicable DoD demilitarization requirements, and any other applicable regulations and statutes are met.

\* \* \* \* \*

■ 6. Amend § 102-39.65 by:

- a. Removing “and” from the end of paragraph (d);
- b. Redesignating paragraph (e) as paragraph (f); and
- c. Adding new paragraph (e).

The addition reads as follows:

**§ 102-39.65 What conditions apply to the exchange/sale of personal property?**

\* \* \* \* \*

(e) Your agency documents at the time of exchange or sale (or at the time of acquiring the replacement property if acquisition precedes the exchange or sale) that the exchange allowance or sale proceeds will be applied to the

acquisition of replacement property; and

\* \* \* \* \*

■ 7. Amend § 102-39.80 by adding a sentence at the end to read as follows:

**§ 102-39.80 What are the accounting requirements for exchange allowances or proceeds of sale?**

\* \* \* \* \* Under no circumstances will deviations be granted for this section.

■ 8. Revise § 102-39.85 to read as follows:

**§ 102-39.85 What information am I required to report?**

You must submit, within 90 calendar days after the close of each fiscal year (FY), an exchange/sale report using the online Personal Property Reporting Tool template found at <https://www.property.reporting.gov>. This template provides the specific information needed for your agency’s report. You can contact the GSA Help Desk at [help.PPRT@gsa.gov](mailto:help.PPRT@gsa.gov) if you need assistance accessing the online reporting tool. All reports, including negative reports, must be submitted electronically through the Personal Property Reporting Tool. Transactions involving books and periodicals in your libraries need not be reported.

■ 9. Add § 102-39.90 to read as follows:

**§ 102-39.90 Where do I obtain additional information?**

Additional information is provided at the GSA websites [www.gsa.gov/bulletin](http://www.gsa.gov/bulletin) and [www.gsa.gov/exchangesale](http://www.gsa.gov/exchangesale).

[FR Doc. 2023-08549 Filed 4-26-23; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 212 and 228**

[Docket DARS-2023-0001]

**Defense Federal Acquisition Regulation Supplement; Technical Amendments**

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) in order to make needed editorial changes.

**DATES:** Effective April 27, 2023.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer D. Johnson, Defense

Acquisition Regulations System, telephone 703-717-8226.

**SUPPLEMENTARY INFORMATION:** This final rule amends the DFARS to make needed editorial changes to 48 CFR part 212. Section 212.301(f)(vii) is amended to list the clauses in numerical order. Sections 212.503 and 212.504 are revised to list the statutory entries in numerical and alphabetical order, and add the descriptive term “(prohibits mandatory arbitration)” at the redesignated section 212.503 paragraph (vii) and section 212.504 paragraph (xiv). A typographical error is corrected at section 228.371.

### List of Subjects in 48 CFR Parts 212 and 228

Government procurement.

**Jennifer D. Johnson,**

*Editor/Publisher, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 212 and 228 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212 and 228 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

### PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

- 2. Amend section 212.301 by—
- a. Removing paragraph (f)(vii)(C);
  - b. Redesignating paragraphs (f)(vii)(A) and (B) as paragraphs (f)(vii)(B) and (C), respectively; and
  - c. Adding a new paragraph (f)(vii)(A). The addition reads as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.**

\* \* \* \* \*

(f) \* \* \*  
(vii) \* \* \*

(A) Use the provision at 252.219-7000, Advancing Small Business Growth, as prescribed in 219.309(1), to comply with 10 U.S.C. 4959.

\* \* \* \* \*

■ 3. Amend section 212.503 by revising paragraphs (a)(iii) through (viii) and (c)(i) and (ii) to read as follows:

**212.503 Applicability of certain laws to executive agency contracts for the acquisition of commercial products and commercial services.**

(a) \* \* \*

(iii) 10 U.S.C. 3845, Contractor Inventory Accounting System Standards (see 252.242-7004).

(iv) 10 U.S.C. 4651, note prec. (section 855, Pub. L. 117-81), Employment

Transparency Regarding Individuals Who Perform Work in the People’s Republic of China.

(v) 10 U.S.C. 4656(a), Prohibition on Persons Convicted of Defense Related Felonies.

(vi) 10 U.S.C. 4753(b), Requirement to Identify Suppliers.

(vii) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118) (prohibits mandatory arbitration) and similar sections in subsequent DoD appropriations acts.

(viii) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial products or commercial services. For the restriction that specifically applies to commercial ball or roller bearings as end items, see 225.7009-3 (section 8065 of Pub. L. 107-117).

(c) \* \* \*

(i) 10 U.S.C. 3703, Truthful Cost or Pricing Data (see FAR 15.403-1(b)(3)).

(ii) 10 U.S.C. 4655, Prohibition on Limiting Subcontractor Direct Sales to the United States (see FAR 3.503 and 52.203-6).

■ 4. Amend section 212.504 by revising paragraphs (a)(i) through (xv) to read as follows:

**212.504 Applicability of certain laws to subcontracts for the acquisition of commercial products and services.**

(a) \* \* \*

(i) 10 U.S.C. 2391 note, Notification of Substantial Impact on Employment.

(ii) 10 U.S.C. 2631, Transportation of Supplies by Sea (except as provided in the clause at 252.247-7023, Transportation of Supplies by Sea).

(iii) 10 U.S.C. 3321(b), Prohibition on Contingent Fees.

(iv) 10 U.S.C. 3741-3750, Allowable Costs Under Defense Contracts.

(v) 10 U.S.C. 3841(d), Examination of Records of a Contractor.

(vi) 10 U.S.C. 3845, Contractor Inventory Accounting System Standards.

(vii) 10 U.S.C. 4651, note prec. (section 855, Pub. L. 117-81), Employment Transparency Regarding Individuals Who Perform Work in the People’s Republic of China.

(viii) 10 U.S.C. 4654, Prohibition Against Doing Business with Certain Offerors or Contractors.

(ix) 10 U.S.C. 4656(a), Prohibition on Persons Convicted of Defense Related Felonies.

(x) 10 U.S.C. 4753(b), Requirement to Identify Suppliers.

(xi) 10 U.S.C. 4801 note prec., Notification of Proposed Program Termination.

(xii) 10 U.S.C. 4864, Miscellaneous Limitations on the Procurement of Goods Other Than United States Goods.

(xiii) 10 U.S.C. 4871, Reporting Requirement Regarding Dealings with Terrorist Countries.

(xiv) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118) (prohibits mandatory arbitration) and similar sections in subsequent DoD appropriations acts.

(xv) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial products and commercial services. For the restriction that specifically applies to commercial ball or roller bearings as end items, see 225.7009-3 (section 8065 of Pub. L. 107-117).

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### PART 228—BONDS AND INSURANCE

#### 228.371 [Amended]

■ 5. Amend section 228.371 in paragraph (b)(2) by removing “228.371-3” and adding “228.370-3” in its place.

[FR Doc. 2023-08647 Filed 4-26-23; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R3-ES-2019-0020; FF09E21000 FXES1111090FEDR 234]

RIN 1018-BD98

### Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for Big Creek Crayfish and St. Francis River Crayfish and Designation of Critical Habitat

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the Big Creek crayfish (*Faxonius peruncus*) and the St. Francis River crayfish (*Faxonius quadruncus*), two crayfish species from southern Missouri. We also finalize a rule under the authority of section 4(d) of the Act that provides regulatory measures that are necessary and advisable to provide for the conservation of these species. In addition, we designate critical habitat for the species; in total, approximately 1,069 river miles (1,720 river