

last amendment of this part in 1984 (49 FR 19478), and to clarify ambiguous provisions. This rule is a change in agency rules of procedure that does not substantially affect any rights or obligations of private parties. Therefore, it is appropriate for its adoption by the Postal Service to become effective immediately.

#### List of Subjects in 39 CFR Part 912

Administrative practice and procedure; Claims.

■ For the reasons set forth above, the Postal Service amends 39 CFR part 912 as follows:

#### PART 912—[AMENDED]

■ 1. The authority citation for part 912 continues to read as follows:

**Authority:** 28 U.S.C. 2671–2680; 28 CFR 14.1 through 14.11; 39 U.S.C. 409.

#### § 912.2 [Amended]

■ 2. In § 912.2(b), remove “or his designee” and add “or the General Counsel’s designee” in its place.

■ 3. Revise § 912.4 to read as follows:

#### § 912.4 Place of filing.

Claims should be filed with the Tort Claims Coordinator for the Postal Service District Office where the accident occurred, but may be filed at any office of the Postal Service, or sent directly to the Chief Counsel, National Tort Center, U.S. Postal Service, P.O. Box 66640, St. Louis, MO 63166–6640.

■ 4. Amend § 912.5 by revising the last sentence of paragraph (a), and paragraph (b) to read as follows:

#### § 912.5 Administrative claim; when presented.

(a) \* \* \* A standard Form 95 may be obtained from the local District Tort Claims Coordinator, the National Tort Center, or online at [usa.gov](http://usa.gov) (select Government forms).

(b) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to:

(1) The claimant’s exercise of the option to file a civil action pursuant to 28 U.S.C. 2675(a);

(2) The Postal Service’s issuance of a payment in the full amount of the claim; or

(3) The Postal Service’s issuance of a written denial of the claim in accordance with § 912.9.

#### § 912.9 [Amended]

■ 5. Amend § 912.9 as follows:

■ (a) Amend paragraph (b) by removing the phrase “Assistant General Counsel, Claims Division, U.S. Postal Service,

Washington, DC 20260” and adding “Chief Counsel, National Tort Center, U.S. Postal Service, P.O. Box 66640, St. Louis, MO 63166–6640” in its place.

■ (b) Amend paragraph (c) by removing the phrase “Assistant General Counsel, Claims Division, U.S. Postal Service, Washington, DC 20260–1111” and adding “Chief Counsel, National Tort Center, U.S. Postal Service, P.O. Box 66640, St. Louis, MO 63166–6640” in its place.

#### § 912.10 [Amended]

■ 6. In § 912.10, remove the phrase “or his designee” and add “or the General Counsel’s designee” in its place.

#### § 912.12 [Amended]

■ 7. In § 912.12, remove “\$2,500” and add “\$5,000” in its place.

**Neva R. Watson,**

*Attorney, Legislative.*

[FR Doc. 04–19195 Filed 8–26–04; 8:45 am]

**BILLING CODE 7710–12–P**

## DEPARTMENT OF THE INTERIOR

### 48 CFR Part 1437

**RIN 1084–AA00**

#### Woody Biomass Utilization

**AGENCY:** Assistant Secretary—Policy, Management and Budget, Interior.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Department of the Interior is including an option to allow service contractors to remove woody biomass generated as a result of land management service contracts wherever ecologically appropriate and in accordance with the law. A new provision added to the Department’s acquisition regulations specifies a contract clause to be used for this purpose. This rule does not make any other changes.

**DATES:** This rule is effective August 27, 2004. We must receive all comments on this rule by October 26, 2004.

**ADDRESSES:** You may submit comments, identified by the number 1084–AA00 by any of the following methods:

—Federal rulemaking portal: <http://www.regulations.gov> Follow the instruction for submitting comments

—E-mail: [John\\_Stewart@ios.doi.gov](mailto:John_Stewart@ios.doi.gov)

Include the number 1084–AA00 in the subject line of the message

—Fax: (202) 606–3150

—Mail: Office of Wildland Fire Coordination, Department of the Interior, MS–3060 1849 C Street NW., Washington, DC 20240

—Hand delivery: Office of Wildland Fire Coordination, MS–3060, Department of the Interior, 1849 C Street NW., Washington, DC 20240

#### FOR FURTHER INFORMATION CONTACT:

Wiley Horsley, Office of Acquisition and Property Management, Department of the Interior at (202) 208–3347, or e-mail at [Wiley\\_Horsley@ios.doi.gov](mailto:Wiley_Horsley@ios.doi.gov). Individuals who use telecommunications devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:** This action establishes consistent and efficient procedures to allow contractors the option to remove woody biomass by-products from Department of the Interior land management activities. This option, where ecologically appropriate, will provide economic and social benefits by creating jobs and conserving natural resources. Removal or use of woody biomass will reduce smoke and emissions from prescribed and natural fires; preserve landfill capacities; reduce the threat of catastrophic wildfires to communities and public/private utilities; improve watershed and wildlife habitat protection; and improve forest, woodland, and rangeland health. The Forest Service, U.S. Department of Agriculture, has in place provisions in timber sale, service and stewardship contracts that provide opportunities to utilize the type of materials included in this rule.

Because this revision to existing regulations is necessary to enable immediate use of forest product biomass for beneficial purposes, we are publishing this revision as an interim final rule. In accordance with the “good cause” exemption found at the 5 U.S.C. 553(b)(B), we have determined that publishing a proposed rule would be impracticable because the extra time necessary to publish a proposed rule would delay the many benefits accruing from biomass utilization. Moreover, this rule provides a benefit rather than imposing a burden or penalty of any kind upon applicable persons. Immediate implementation of this rule is necessary to treat hazardous fuels and forest health by-products in a timely and cost-efficient manner and thereby reduce the threat of catastrophic wildfire and forest health threats, such as, insects, disease, and invasive plant and animal species. For the same reasons, pursuant to 5 U.S.C. 553(d), it is determined that there is good cause for this interim final rule to become effective immediately upon publication.

All comments received on or before the comment closing date will be considered before taking final action on this rulemaking. The provisions of this interim rule may be changed in light of comments received.

### **1. Regulatory Planning and Review (E.O. 12866)**

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The contractors and the general public are not required to perform services or process materials; woody products will be removed and compensated, if appropriate, at fair market value as agreed upon.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This policy only applies to Department of the Interior Bureaus; other agencies and governments could positively benefit from the development of small-wood markets and any tax or economic rewards.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The contractor will be provided a new option, if executed, which is exclusive of other rights and benefits.

(4) This rule does not raise novel legal or policy issues. This policy uses existing authorities within existing policies.

### **2. Regulatory Flexibility Act**

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The scope of the action is minor (less than \$100 million in economic impact); the benefits of the rule are to the contractor and may be exercised at their discretion.

### **3. Small Business Regulatory Enforcement Fairness Act (SBREFA)**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million or more. The woody by-products have limited economic value (small diameter, low

value trees and woody material), are unused or underutilized in current market conditions, and/or are by nature, incidental by-products.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The quantities are small in size and amount, are widely scattered across the nation, and are low-value products.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The policy would increase U.S.-based economic opportunities, employment, innovation, and conservation of energy and resources.

### **4. Unfunded Mandates Reform Act**

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

### **5. Takings (E.O. 12630)**

In accordance with Executive Order 12630, the rule does not have significant takings implications. No rights, property or compensation has been, or will be taken. A takings implication assessment is not required.

### **6. Federalism (E.O. 13132)**

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The rule grants optional rights and increased economic opportunities to individuals, States, local governments, and Tribes, in furtherance of Section 2(h) of E.O. 13132. A Federalism Assessment is not required.

### **7. Civil Justice Reform (E.O. 12988)**

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

### **8. Consultation With Indian tribes (E.O. 13175)**

In accordance with Executive Order 13175, we have evaluated this rule and determined that it has no potential negative effects on federally recognized

Indian tribes. We will fully consider tribal views in the final rule. We have consulted with the appropriate bureaus and offices of the Department about the potential effects of this rule on Indian tribes, including the Bureau of Indian Affairs.

### **9. Paperwork Reduction Act**

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

### **10. National Environmental Policy Act**

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. Federal agencies should consider the environmental effects of woody biomass utilization in each project where woody biomass utilization is appropriate and make a determination of significance for that project.

### **11. Public Comment Solicitation**

If you wish to comment on this interim rule, you may submit your comments by any one of several methods.

(1) You may mail comments to Office of Wildland Fire Coordination, Department of the Interior, MS-3060 1849 C Street NW., Washington, DC 20240.

(2) You may submit comments electronically by visiting the [regulations.gov](http://regulations.gov) web site and submitting comments under the entry for this regulation.

(3) You may comment via the Internet to [John\\_Stewart@ios.doi.gov](mailto:John_Stewart@ios.doi.gov). Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: 1084-AA00" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at John Stewart, Office of Wildland Fire Coordination, Department of the Interior at (202) 606-0504, or Robert Heaton, Bureau of Land Management at (503) 808-6216.

(4) You may hand-deliver comments to Office of Wildland Fire Coordination, MS-3060, Department of the Interior, 1849 C Street NW., Washington, DC 20240.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from

the rulemaking record. We will honor the request to the extent allowable by law.

There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

#### List of Subjects in 48 CFR Part 1437

Forests and forest products,  
Government procurement.

Dated: August 17, 2004.

**P. Lynn Scarlett,**

*Assistant Secretary—Policy, Management and Budget.*

■ For the reasons set forth in the preamble, the Department of the Interior adds a new part 1437 to 48 CFR chapter 14, subchapter F, reading as follows:

#### PART 1437—UTILIZATION OF WOODY BIOMASS

Sec.

1437.100 General.

1437.101 When can woody biomass be removed?

1437.102 When is the biomass clause required?

1437.103 Format of woody biomass utilization clause.

1437.104 Definitions.

**Authority:** 30 U.S.C. 601–604, 611, as amended; 16 U.S.C. 668dd; 16 U.S.C. 1; 25 U.S.C. 3101 *et seq.*; 43 U.S.C. 1701 *et seq.*

##### 1437.100 General.

This part establishes consistent and efficient procedures to allow contractors the option to remove woody biomass by-products from Department of the Interior land management activities where ecologically appropriate. If the woody biomass has fair market value and payment is required, or as required by regulation, Bureau policy or the Mineral Materials Disposal Act of 1947 (30 U.S.C. 601 *et seq.*), a separate timber/vegetative sales contract must be executed.

##### 1437.101 When can woody biomass be removed?

(a) The Department of the Interior allows and encourages contractors to remove and use woody biomass from project areas when:

(1) The biomass is generated during land management service contract activity; and

(2) Removal is ecologically appropriate.

(b) A contractor removing biomass under this part shall:

(1) Do so only within legal limits applicable to the contractor, including National Environmental Policy Act (NEPA) compliance; and

(2) If required, comply with the terms, conditions and special provisions of the applicable timber/vegetative sales notice.

##### 1437.102 When is the biomass utilization clause required?

This section applies to any solicitation or contract that is expected to generate woody biomass that meets the requirements of § 1437.101 unless biomass removal is already required in the service contract. The agency contracting officer will:

(a) Insert in the solicitation or contract the clause in § 1437.103;

(b) Specify any limitations on types of woody biomass that may not be removed; and

(c) Specify any areas from which woody biomass must not be removed.

##### 1437.103 Format of woody biomass utilization clause.

The contracting officer must insert a clause reading substantially as follows in each solicitation and contract that meets the criteria in § 1437.101(a):

##### Utilization of Woody Biomass

1. The contractor may remove and utilize woody biomass, if:

(a) Project work is progressing as scheduled; and

(b) Removal is completed before contract expiration.

2. To execute this option, the contractor must submit a written request to the Government.

3. Following receipt of the written request, and if appropriate, the Government and the contractor will negotiate and execute a separate timber/vegetative sales contract. Payment under this sales contract must be at a price equal to or greater than the appraised value before the removal of any woody biomass. The contractor must make any appropriate payment specified in this timber/vegetative sales contract.

4. If required by law, regulation or Bureau policy, the Government will prepare a timber/vegetative sales notice and/or prospectus, including volume estimates, appraised value and any appropriate special provisions.

5. The contractor must treat any woody biomass not removed in accordance with the specifications in the service contract.

6. The sales contract and service contract are severable; default or termination under either contract does not remove the

contractor from payment or performance obligations under the other contract.

##### 1437.104 Definitions.

*Ecologically appropriate* means those situations where the Deciding Officer and/or Contracting Officer determine it is not necessary to retain specific woody material and/or reserve specific areas from woody biomass removal to meet ecological objectives. For example, it may be necessary to retain snags or small woody debris to meet wildlife habitat objectives, or to create specific prescribed burning conditions to stimulate native plant development; therefore it would not be appropriate to allow removal of the specified woody biomass.

*Timber/vegetative sales contract and/or notice* means the agency-specific authorized contract instrument for the sale, barter, exchange, billing or other compensation for the payment, removal, and/or transportation of woody biomass material.

*Woody biomass* means the trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland environment, that are the by-products of management, restoration and/or hazardous fuel reduction treatment.

*Woody biomass utilization or use* means the harvest, sale, offer, trade, and/or utilization of woody biomass to produce the full range of wood products, including timber, engineered lumber, paper and pulp, furniture and value-added commodities, and bio-energy and/or bio-based products such as plastics, ethanol and diesel.

[FR Doc. 04–19592 Filed 8–26–04; 8:45 am]

BILLING CODE 4310–RF–P

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

##### 50 CFR Part 679

[Docket No. 040427134–4230–02; I.D. 042004D]

RIN 0648–AR64

#### Fisheries of the Exclusive Economic Zone Off Alaska; Fish Meal

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to allow processors to use the offal from