

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 24

#### 48 CFR Parts 409, 432, and 433

### Federal Crop Insurance Corporation

#### 7 CFR Part 400

### Forest Service

#### 36 CFR Part 223

#### RIN 0510-AA02

### Termination of Agriculture Board of Contract Appeals

**AGENCIES:** Office of the Secretary; Federal Crop Insurance Corporation; Forest Service; Office of Procurement and Property Management.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is publishing amendments to the Code of Federal Regulations (CFR) as a final rule. USDA amends its regulations to reflect the legal termination of the Agriculture Board of Contract Appeals (AGBCA) and the creation of a new consolidated Civilian Board of Contract Appeals (CBCA). Additionally, with respect to appeals heard by the AGBCA other than Contract Disputes Act appeals, the AGBCA transfers or eliminates certain appeal procedures as a result of the termination of the AGBCA. USDA eliminates the appeals of procurement suspension and debarment, as well as the appeals of export violation debarment determinations under the Forest Resources Conservation and Shortage Relief Act (16 U.S.C. 620 *et seq.*), and transfers jurisdiction to hear Federal Crop Insurance Corporation (FCIC) and Contract Work Hours and

Safety Standards appeals to the new consolidated CBCA.

**DATES:** This final rule is effective as of June 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Azine Farzami, Esq., Department of Agriculture, Office of the General Counsel, General Law Division, Room 3311-S, 1400 Independence Avenue, SW., Washington, DC 20250, telephone 202-690-1978.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 847 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163, 119 Stat. 3136, added a new section 42 to the Office of Federal Procurement Policy Act (the Act), 41 U.S.C. 401 *et seq.*, which provided for the consolidation of the eight civilian Boards of Contract Appeals into a single entity, the Civilian Board of Contract Appeals (CBCA), to be established at the General Services Administration (GSA). Accordingly, all contract appeals under the Contract Disputes Act (CDA) of 1978, 41 U.S.C. 601 *et seq.*, currently heard by the eight civilian boards, including contract appeals to the AGBCA, will be transferred by operation of law to the consolidated board no later than January 8, 2007.

In addition, under subsection 42(c)(2)(A) of the Act, agencies may request the CBCA to take jurisdiction over non-CDA appeals. Under 7 CFR 24.4(b) and 400.169(d), the AGBCA hears appeals from final administrative determinations issued by the Risk Management Agency (RMA) on behalf of the FCIC arising under Standard Reinsurance Agreements (SRAs) issued pursuant to the Federal Crop Insurance Act, 7 U.S.C. 1501 *et seq.* The AGBCA also has jurisdiction to hear appeals of administrative determinations of liquidated damages under the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3703. Since the AGBCA is being terminated by law, USDA has requested the new CBCA to take over the FCIC and Contract Work Hours appeals.

Finally, under 7 CFR 24.4(c), the AGBCA has jurisdiction over contractor suspensions and debarments, including the debarment of persons who violate the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620 *et seq.*) (Export Act) under 36 CFR

223.130, *et seq.* Consistent with its proposal to eliminate nonprocurement suspension and debarment appeals (68 FR 66533 (Nov. 26, 2003)), USDA also eliminates procurement suspension and debarment appeals, as well as appeals from debarment determinations under the Export Act.

##### B. Executive Order 12866

This final rule has been determined to be not significant and does not require review by the Office of Management and Budget under Executive Order 12866.

##### C. Regulatory Flexibility Act

USDA 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 does not impose any additional costs on either small or large businesses.

##### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

##### List of Subjects

###### 7 CFR Part 24

Administrative practice and procedure, Agriculture, Government procurement.

###### 7 CFR Part 400

Administrative practice and procedure, Agriculture, Crop insurance.

###### 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

###### 48 CFR Chapter 400

Administrative practice and procedure, Agriculture, Government procurement.

■ For the reasons stated in the preamble, under the authority of USDA at 5 U.S.C. 30157 CFR parts 24 and 400; 36 CFR part 223; and 48 CFR parts 409, 432, and 433 are amended as follows:

**Title—7 Agriculture****PART 24—[Removed and reserved]**

- 1. Remove and reserve part 24, consisting of §§ 24.1 through 24.21.

**PART 400—GENERAL ADMINISTRATIVE REGULATIONS**

- 2. Revise the authority citation for part 400 to read as follows:

**Authority:** 40 U.S.C. 121, 41 U.S.C. 421.

- 3. Amend § 400.169 by revising the last sentence of paragraph (c) and paragraph (d) to read as follows:

**§ 400.169 Disputes.**

\* \* \* \* \*

(c) \* \* \* Such determinations will not be appealable to the Civilian Board of Contract Appeals.

(d) Appealable final administrative determinations of the Corporation under paragraph (a) or (b) of this section may be appealed to the Civilian Board of Contract Appeals in accordance with 48 CFR part 6102.

**Title 36—Parks, Forests, and Public Property****PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER**

- 4. The authority citation for part 223 continues to read as follows:

**Authority:** 90 Stat. 2958, 16 U.S.C. 472a; 89 Stat. 2213, 16 U.S.C. 618, 104 Stat. 714–726, 16 U.S.C. 620–620j; unless otherwise noted.

- 5. Amend § 223.138 by removing paragraph (b)(8) and revising paragraphs (b)(7)(i)(C) and (D) and by removing paragraph (b)(7)(i)(E) to read as follows:

**§ 223.138 Procedures for Debarment.**

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \*

(i) \* \* \*

(C) State the period of debarment, including effective dates (see § 223.139); and

(D) Specify any limitations on the terms of the debarment.

\* \* \* \* \*

**Title 48—Federal Acquisition Regulations System, chapter 4, Department of Agriculture.****PART 409—CONTRACTOR QUALIFICATIONS**

- 6. Revise the authority citation for part 409 to read as follows:

**Authority:** 40 U.S.C. 121, 41 U.S.C. 421.

- 7. Remove § 409.470.

**PART 432—CONTRACT FINANCING**

- 8. Revise the authority citation for part 432 to read as follows:

**Authority:** 40 U.S.C. 121, 41 U.S.C. 421.

- 9. Revise § 432.616 to read as follows:

**§ 432.616 Compromise Actions.**

Compromise of a debt within the proceedings under appeal to the Civilian Board of Contract Appeals is the responsibility of the contracting officer.

**PART 433—PROTESTS, DISPUTES AND APPEALS**

- 10. Revise the authority citation for part 433 to read as follows:

**Authority:** 40 U.S.C. 121, 41 U.S.C. 421.

- 11. Revise § 433.203–70 to read as follows:

**§ 433.203–70 Civilian Board of Contract Appeals.**

The organization, jurisdiction, and functions of the Civilian Board of Contract Appeals, together with its Rules of Procedure, are set out in 48 CFR part 6101.

Done in Washington, DC, this 25th day of May 2007.

**Mike Johanns,**

*Secretary of Agriculture.*

[FR Doc. 07–2702 Filed 6–6–07; 8:45 am]

**BILLING CODE 3410–01–M**

**FEDERAL ELECTION COMMISSION****11 CFR Part 104**

[Notice 2007–13]

**Statement of Policy Regarding Treasurers' Best Efforts To Obtain, Maintain, and Submit Information as Required by the Federal Election Campaign Act**

**AGENCY:** Federal Election Commission.

**ACTION:** Statement of Policy.

**SUMMARY:** The Federal Election Commission (the “Commission”) is issuing a Policy Statement to clarify its enforcement policy with respect to the circumstances under which it intends to consider a political committee and its treasurer to be in compliance with the recordkeeping and reporting requirements of the Federal Election Campaign Act, as amended (“FECA”). Section 432(i) of FECA provides that when the treasurer of a political committee demonstrates that best efforts were used to obtain, maintain, and submit the information required by

FECA, any report or records of such committee shall be considered in compliance with FECA or the statutes governing the public financing of Presidential candidates. In the past, the Commission has interpreted this section to apply only to a treasurer’s efforts to obtain required information from contributors to a political committee, and not to maintaining information or to submitting reports. However, the district court in *Lovely v. FEC*, 307 F. Supp. 2d 294 (D. Mass. 2004), held that the Commission should consider whether a treasurer used best efforts under FECA with regard to efforts made to submit a report in a timely manner. This Policy Statement makes clear that the Commission intends to apply FECA’s best efforts provision to treasurers’ and committees’ efforts to obtain, maintain, and submit information and records to the Commission consistent with the holding of the Federal court in *Lovely*. Further information is provided in the supplementary information that follows.

**DATES:** *Effective Date:* June 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron B. Katwan, Assistant General Counsel, or Ms. Margaret G. Perl, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:****I. Background****A. Statutory and Regulatory Provisions**

FECA states the “best efforts defense” in 2 U.S.C. 432(i) as follows:

When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of title 26.

The Commission implemented this provision in 11 CFR 104.7(a) with regulatory language virtually identical to the statutory provision:

When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act.

Paragraph (b) of 11 CFR 104.7 specifies the actions that treasurers of a political committee must take to demonstrate that they have exercised best efforts to obtain and report the “identification” of each person whose contribution(s) to the political committee and its affiliated political committees aggregate in excess of \$200 in a calendar year (or in an election