

include in the designation the limited use of motor vehicles within a specified distance of certain designated routes, and if appropriate within specified time periods, solely for the purposes of dispersed camping or retrieval of a downed big game animal by an individual who has legally taken that animal (big game retrieval) (36 CFR 212.51(b)).

In many places in the NFS, visitors use motor vehicles for dispersed camping or big game retrieval within a limited distance of State or county roads or trails, which are not under the jurisdiction of the Forest Service and cannot be designated for motor vehicle use (36 CFR 212.1, 212.50(a), and 212.51(a)). The travel management rule currently allows for motor vehicle use for dispersed camping or big game retrieval only in conjunction with designated routes.

Consequently, the proposed directives implementing the travel management rule contained language at Forest Service Manual (FSM) 7710 that would allow the responsible official to include in a designation the limited use of motor vehicles within a specified distance of certain forest roads and forest trails, and if appropriate within specified time periods, solely for the purposes of dispersed camping or big game retrieval. Forest roads and trails include State and county roads and trails in the NFS, as well as NFS roads and NFS trails (36 CFR 212.1). The Forest Service published the proposed directives for implementing the travel management rule for public notice and comment in the **Federal Register** on March 9, 2007 (72 FR 10632). In the final directives at FSM 7715.74, the Forest Service has retained the provision in proposed FSM 7710 that would allow the responsible official to include in a designation the limited use of motor vehicles within a specified distance of certain forest roads and forest trails, and if appropriate within specified time periods, solely for the purposes of dispersed camping or big game retrieval. In addition, the agency has included the phrase, "where motor vehicle use is allowed" after "certain forest roads and forest trails," since not all forest roads and trails are open to motor vehicle use. The agency is revising the travel management rule at 36 CFR 212.51(b) to make it consistent with FSM 7715.74 in the final directives. Since the proposed language regarding dispersed camping and big game retrieval was subjected to full public notice and comment under the Administrative Procedure Act, further public notice and comment are unnecessary (5 U.S.C. 553(b)(B)).

In addition, the agency is removing paragraph (d) of 36 CFR 212.2, which governs the program of work for the forest transportation system, as it duplicates verbatim paragraph (c) of that section. Public notice and comment regarding this minor, purely nonsubstantive correction of a formatting error are unnecessary (5 U.S.C. 553(b)(B)).

#### List of Subjects in 36 CFR Part 212

Highways and roads, National forests, Public lands—rights-of-way, and Transportation.

■ For the reasons set forth in the preamble, part 212 of title 36 of the Code of Federal Regulations is amended to read as follows:

#### PART 212—TRAVEL MANAGEMENT

##### Subpart A—Administration of the Forest Transportation System

■ 1. The authority citation for part 212, subpart A, continues to read as follows:

**Authority:** 16 U.S.C. 551, 23 U.S.C. 205.

##### § 212.2 [Amended]

■ 2. In § 212.2, remove paragraph (d).

##### Subpart B—Designation of Roads, Trails, and Areas for Motor Vehicle Use

■ 3. The authority citation for part 212, subpart B, continues to read as follows:

**Authority:** 7 U.S.C. 1011(f), 16 U.S.C. 551, E.O. 11644, 11989 (42 FR 26959).

■ 4. Revise § 212.51 paragraph (b) to read as follows:

##### § 212.51 Designation of roads, trails, and areas.

\* \* \* \* \*

(b) *Motor vehicle use for dispersed camping or big game retrieval.* In designating routes, the responsible official may include in the designation the limited use of motor vehicles within a specified distance of certain forest roads or trails where motor vehicle use is allowed, and if appropriate within specified time periods, solely for the purposes of dispersed camping or retrieval of a downed big game animal by an individual who has legally taken that animal.

\* \* \* \* \*

Dated: November 10, 2008.

**Mark Rey,**

*Under Secretary, Natural Resources and Environment.*

[FR Doc. E8-29040 Filed 12-8-08; 8:45 am]

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#### GENERAL SERVICES ADMINISTRATION

#### 48 CFR Parts 533 and 552

[GSAR Amendment 2008-03; GSAR Case 2007-G501; Docket 2008-0007; Sequence 1 (Change 24)]

RIN 3090-A149

#### General Services Administration Acquisition Regulation; GSAR Case 2007-G501, Protests, Disputes, and Appeals

**AGENCIES:** General Services Administration (GSA), Office of the Chief Acquisition Officer.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) by updating language pertaining to protests, disputes, and appeals.

**DATES:** *Effective Date:* January 8, 2009.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Meredith Murphy at (202) 208-6925, or by e-mail at [meredith.murphy@gsa.gov](mailto:meredith.murphy@gsa.gov). For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite Amendment 2005-03, GSAR case 2007-G501 (Change 24).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to update the text addressing protests, disputes, and appeals. This rule is a result of the General Services Administration Acquisition Manual (GSAM) rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the FAR and implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy.

GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This rule covers the rewrite of GSAR Part 533, Protests, Disputes, and Appeals. A proposed rule was published in the **Federal Register** at 73 FR 32514 on June 9, 2008. No comments were received in response to the

proposed rule. Subsequent to the close of the comment period, the GSA Office of General Counsel proposed to reinstate some material from the clause at 552.233-70, Protests Filed Directly with the General Services Administration, as text coverage at a new subsection, 533.103-1. The language was added at the recommendation of the Office of General Counsel to clarify GSA's rules in the context of the FAR process. This is the only change in the final version of GSAR Part 533 from the proposed rule.

The revised GSAR no longer includes the two clauses and associated prescriptions for Part 533. The GSA-unique utilities disputes clause and prescription were deleted at the request of the Public Buildings Service (PBS). The GSA-unique clause, 552.233-70, Protests Filed Directly with the General Services Administration, and its prescription, were also deleted, because the clause merely repeated much of the associated FAR clause.

Editorial changes were made to GSAR section 533.211, Contracting officer's decision, so as not to repeat the information that must be included, as prescribed in FAR 33.211, to clarify the GSA-unique requirements, and to recognize that the GSBCA's duties are now vested in the Civilian Board of Contract Appeals (CSBA). Material from Subpart 533.70, Processing Contract Appeals, was determined to be implementing, not supplementing, the FAR, and it was moved into Subpart 533.2.

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

## B. Regulatory Flexibility Act

The General Services Administration does not expect this final rule 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.*, because this rule will only affect an offeror that is submitting a protest or has a dispute with GSA. Further, GSA is making only minor changes in the regulations and procedures for pursuing either action. For these reasons, it is expected that the number of entities impacted by this rule will be minimal. Therefore, a Regulatory Flexibility Analysis was not performed.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the

GSAR do not impose recordkeeping or information collection requirements that require approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

## List of Subjects in 48 CFR Parts 533 and 552

Government procurement.

Dated: October 30, 2008

### David A. Drabkin,

Senior Procurement Executive, Office of the Chief Acquisition Officer, General Services Administration.

■ Therefore, GSA amends 48 CFR parts 533 and 552 as set forth below:

## PART 533—PROTESTS, DISPUTES, AND APPEALS

■ 1. The authority citation for 48 CFR part 533 is revised to read as follows:

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

■ 2. Add section 533.103-1 to read as follows:

### 533.103-1 Filing a protest.

(a) Any protester filing an agency protest has the choice of requesting either that the contracting officer or the Agency Protest Official decide the protest. If the protest is silent on this matter, the contracting officer will decide the protest. If a party requests a review at a level above the contracting officer, the Agency Protest Official will decide the protest. The decision by the Agency Protest Official for GSA is an alternative to a decision by the contracting officer on a protest. The Agency Protest Official for GSA will not consider an appeal of the contracting officer's decision on an agency protest.

(b) If an agency protest is filed, the deciding official uses the procedures in FAR 33.103 and this section to resolve the protest. The deciding official will provide a fair and quick review of any protest filed with the agency.

(c) The filing timeframes in FAR 33.103(e) apply. An agency protest is filed when the complete protest is received at the location the solicitation designates for serving protests. GSA's hours of operation are 8 a.m. to 4:30 p.m. Protests delivered after 4:30 p.m. will be considered received and filed the following business day.

(d) The protest must meet all the following conditions:

(1) Include the information required by FAR 33.103(d)(2).

(2) Indicate that it is a protest to the agency.

(3) Be filed in writing with the contracting officer.

(4) State whether the protester chooses to have the contracting officer

or the Agency Protest Official decide the protest. If the protest does not include the protester's choice, then the contracting officer will decide the protest (see paragraph (a) of this subsection).

(e) The following procedures apply to information submitted in support of or in response to an agency protest:

(1) GSA procedures do not provide for any discovery.

(2) The deciding official has discretion to request additional information from either the agency or the protester, orally or in writing, as may be necessary to render a timely decision on the protest. However, protests are normally decided on the basis of information initially provided by the protester and the agency.

(3) To the extent permitted by law and regulations, the parties may exchange relevant information.

(4) The agency must make a written response to the protest within ten days unless another date is set by the deciding official.

(5) The agency must also provide the protester with a copy of the response on the same day it files the protest response with the deciding official. If the agency believes it needs to redact or withhold any information in the response from the protester, it should identify and provide the information to the deciding official for *in camera* review.

(f) A protester may represent itself or be represented by legal counsel. GSA will not reimburse the protester for any legal fees related to the agency protest.

(g) GSA may dismiss or stay proceedings on an agency protest if a protest on the same or similar basis is filed with a protest forum outside of GSA.

### 533.103-72 [Removed]

■ 3. Remove section 533.103-72.

### 533.209 [Added]

■ 4. Add section 533.209 to read as follows:

### 533.209 Suspected fraudulent claims.

In GSA, the agency official responsible for investigating fraud is the Office of Inspector General.

■ 5. Revise section 533.211 to read as follows:

### 533.211 Contracting officer's decision.

The contracting officer's written decision must include the paragraph at FAR 33.211(a)(4)(v). The contracting officer shall state in the decision that a contractor's notice of appeal to the Civilian Board of Contract Appeals (CBCA) should include a copy of the contracting officer's decision.

533.215 [Removed]

- 6. Remove section 533.215.

#### **PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

- 7. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

552.233–70 and 552.233–71 [Removed]

- 8. Remove sections 552.233–70 and 552.233–71.

[FR Doc. E8–29061 Filed 12–8–08; 8:45 am]

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### **DEPARTMENT OF THE INTERIOR**

#### **Fish and Wildlife Service**

##### **50 CFR Part 14**

[FWS–R9–LE–2008–0024; 99011–1224–0000–9B]

RIN 1018–AV31

#### **Importation, Exportation, and Transportation of Wildlife; Inspection Fees, Import/Export Licenses, and Import/Export License Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), publish this final rule to revise subpart I—Import/Export Licenses, of title 50 of the Code of Federal Regulations, part 14 (50 CFR 14), to clarify the import/export license and fee requirements, adjust the inspection fee schedule, and update license and inspection fee exemptions. We are clarifying when an import/export license is required by persons who engage in the business of importing and exporting wildlife as well as changing the license requirement exemptions. Revised regulations will help those importing and exporting wildlife better understand when an import/export license is required and will allow us to consistently apply these requirements. We are gradually increasing inspection fees, and now publishing the changes for 2008 through 2012. We determined that these inspection fees must be adjusted every year to cover the increased cost of providing inspection services. Because we are publishing these inspection fee changes now, importers and exporters can accurately predict the costs of importing and exporting wildlife several years in advance.

**DATES:** This final rule is effective January 8, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

Kevin Garlick, Special Agent in Charge, Branch of Investigations, Office of Law Enforcement, U.S. Fish and Wildlife Service, telephone (703) 358–1949, fax (703) 358–1947.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Assistance for Import/Export Questions**

We highly recommend that you contact our wildlife inspectors about importing and exporting procedures and requirements before you import or export your wildlife. We have wildlife inspectors stationed at numerous ports throughout the country. You can find contact information for our wildlife inspectors on our Web site at: <http://www.fws.gov/le/ImpExp/inspectors.htm>. In addition, the Service has a telephone hotline that is staffed Monday through Friday, 8 a.m. through 8 p.m. Eastern time, to provide assistance for any questions you may have regarding importing and exporting wildlife, at 1–800–344–WILD.

##### **Background**

We have oversight responsibilities under statutory and regulatory authority to regulate the importation, exportation and transportation of wildlife. Consistent with this authority, we have established an inspection program to oversee the importation, exportation, and transportation of wildlife and wildlife products. In support of our program activities, we promulgated regulations contained in 50 CFR 14 to provide individuals and businesses with guidelines and procedures to follow when importing or exporting wildlife, including parts and products. These regulations explain the requirements for individuals or businesses importing or exporting wildlife for commercial purposes, or for people moving their household goods, personal items, or pets, as well as the exemptions provided for specific activities or types of wildlife. The regulations at 50 CFR 14 provide individuals and businesses with the specific ports and locations where these activities may be conducted and any fees that may be charged as a result of these activities.

##### **Final Rule**

The following parts of this preamble explain the final rule and present discussion of the substantive issues of each section that we are changing in subpart I of part 14, along with our responses to comments we received on the proposed rule. The final rule largely implements the changes we described in the proposed rule but makes some adjustments based upon public

comments. We are changing the requirements for an import/export license, how to apply for an import/export license, what inspection fees apply to importers and exporters, and what exemptions we apply to licenses and fees.

On February 25, 2008, we published a proposed rule in the **Federal Register** (73 FR 9972) revising 50 CFR 14, Subpart I. The public comment period remained open until April 25, 2008. In addition, we sent letters to organizations and associations that represent businesses that could be affected by the rulemaking. We wanted to ensure that these entities had an opportunity to review and comment on our proposed rule.

In response to this proposed rule, we received 72 comments from the public. These included comments from industry representatives importing or exporting fur, aquacultured white sturgeon, elk, deer, mother-of-pearl shell, tropical fish, corals, insects, seafood products, and other wildlife commodities, as well as comments from one foreign embassy and several trade councils, associations, and non-governmental organizations. Four of the comments were unrelated to the proposed rule and are not discussed below. We also held a public meeting on April 3, 2008, that was attended by 14 persons. Two commenters provided oral comments at the meeting. The majority of comments we received were in writing and pertained to changes in the inspection fee structure. Many comments were form letters that were identical or nearly identical in content. Many comments provided variations on the same substantive issues and ranged from strongly supportive to strongly critical.

##### **Our Changes to Import/Export License Requirements (§ 14.91—When do I need an import/export license?)**

We are removing the definition of “engage in business as an importer or exporter of wildlife,” because the elements of the definition are already expressed in the current definition of “commercial,” and the broader definition of commercial more accurately reflects what we consider as “engaging in business.”

We are removing the existing section on certain persons required to be licensed, § 14.91(c), and replacing it with a table that provides examples of when we consider persons to be engaging in business as an importer or exporter of wildlife. We are limiting who should be licensed to those persons directly involved with importing and exporting wildlife. Therefore, we are