

EPA-APPROVED FLORIDA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 62–252 Gasoline Vapor Control</b>				
62–252.200	Definitions	9/4/2006	June 1, 2009.	[Insert citation of publication].
62–252.300	Gasoline Dispensing Facilities-Stage I Vapor Recovery.	9/4/2006	June 1, 2009.	[Insert citation of publication].
62–252.400	Gasoline Dispensing Facilities-Stage II Vapor Recovery.	9/4/2006	June 1, 2009.	[Insert citation of publication].
62–252.500	Gasoline Tanker Trucks	9/4/2006	June 1, 2009.	[Insert citation of publication].
*	*	*	*	*
<b>Chapter 62–296 Stationary Sources—Emission Standards</b>				
62–296.418	Bulk Gasoline Plants	9/4/2006	June 1, 2009.	[Insert citation of publication].
62–296.509	Bulk Gasoline Plants		June 1, 2009.	[Insert citation of publication]. Repealed.
*	*	*	*	*

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[FR Doc. E9–12575 Filed 5–29–09; 8:45 am]

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**GENERAL SERVICES ADMINISTRATION**

**48 CFR Parts 546 and 552**

[GSAR Amendment 2009–08; GSAR Case 2008–G514 (Change 36); Docket 2008–0007; Sequence 7]

RIN 3090–A169

**General Services Administration Acquisition Regulation; GSAR Case 2008–G514; Rewrite of Part 546, Quality Assurance**

**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 revising sections of GSAR Part 546 and 552 that provides requirements for quality assurance.

**DATES:** *Effective Date:* June 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Jeritta Parnell, Procurement Analyst, at (202)

501–4082. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4041, Washington, DC, 20405, (202) 501–4755. Please cite Amendment 2009–08, GSAR case 2008–G514 (Change 36).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The GSA is amending the General Services Administration Acquisition Regulation (GSAR) to revise GSAR Parts 546 and 552 as follows:

The GSAR section 546.302–70, Source Inspection by Quality Approved Manufacturer for fixed-price supply contracts, is revised to include applicability to certain programs, *i.e.*, stock, special order program, wildfire. The subsection is revised to include reference to FAR 52.246–2, Inspection of Supplies—Fixed Price.

The GSAR section 546.302–71, Source inspection, is retained with no revisions to the clause except for the replacement of Federal Supply Service (FSS) with Federal Acquisition Service (FAS).

The GSAR section 546.302–72, Destination inspection, is added to prescribe the clause at 552.246–78, Inspection at Destination.

The language in GSAR 546.312, Construction contracts, that prescribes the clause at 552.246–72, Final Inspection and Tests, is retained.

The language in GSAR 546.470–2, Certification Testing, is deleted.

The language in GSAR 546.708, Warranties of data, is revised to place emphasis on the role of the contracting officer.

The language in GSAR 546.710, Contract clause, is revised to add the clause at 552.246–77, Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature. This clause is used when the FAR clause at 52.246–17, Warranty of Supplies of a Noncomplex Nature, is included in solicitations and contracts. The prescriptive language in paragraphs (b), (c), and (d) is deleted. The clauses prescribed in paragraphs (b), (c), and (d) are being deleted.

The clause at GSAR 552.246–17, Warranty of Supplies of a Noncomplex Nature, is being deleted as it unnecessarily repeats, paraphrases, or otherwise restates material contained in the FAR. A new clause GSAR 552.246–77, Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature, is added to provide for GSA unique rights and remedies.

The clause at GSAR 552.246.70, Source Inspection by Quality Approved Manufacturer, is revised to edit and clarify existing clause language.

The clause at GSAR 552.246–71, Source Inspection by Government, is retained.

The clause at GSAR 552.246–72, Final Inspection and Tests, is being retained.

The clause at GSAR 552.246–73, Warranty—Multiple Award Schedule, is being relocated to GSAR Part 538.

The clause at GSAR 552.246–75, Guarantees, is being deleted. The FAR provides sufficient guidance.

The clause at GSAR 552.246–76, Warranty of Pesticides, is being deleted. This clause was determined to be unnecessary for inclusion in the GSAR.

The clause at GSAR 552.246–78, Inspection at Destination, is being added to provide for inspection by Government personnel at destination.

The GSA published a proposed rule with request for comments in the **Federal Register** at 73 FR 45379 on August 5, 2008. There was one public comment from one respondent. The respondent recommended retaining the clause at GSAR 552.246–72, Final Inspection and Tests. The GSA agrees and the clause is retained.

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 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 is not considered substantive. It clarifies existing language, deletes obsolete coverage, and edits existing language.

## 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, 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. Chapter 35, *et seq.*

## List of Subjects in 48 CFR Parts 546 and 552

Government procurement.

Dated: May 14, 2009.

**David A. Drabkin,**

*Acting Chief Acquisition Officer, Office of the Chief Acquisition Officer, General Services Administration.*

■ Therefore, GSA amends 48 CFR parts 546 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 546 and 552 continues to read as follows:

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

## PART 546—QUALITY ASSURANCE

■ 2. Revise section 546.302–70 to read as follows:

### 546.302–70 Source inspection by Quality Approved Manufacturer for fixed-price supply contracts.

(a) For solicitations issued and contracts awarded by FAS that will exceed the simplified acquisition threshold and include the clause at 52.246–2, Inspection of Supplies—Fixed-Price:

(1) The contracting officer shall insert the clause at 552.246–70, Source Inspection by Quality Approved Manufacturer, in solicitations and contracts that provide for source inspection for the Stock and Special Order Programs.

(2) The contracting officer may authorize inspection and testing at manufacturing plants or other facilities located outside the United States, Puerto Rico, or the U.S. Virgin Islands, under paragraph (a)(1) of the clause at 552.246–70 under any of the circumstances listed below after coordinating the authorization with QVOC and documenting the authorization in the file.

(i) Inspection services are available from another Federal agency with primary inspection responsibility in the geographic area.

(ii) An inspection interchange agreement exists with another agency for inspection at a contractor's plant.

(iii) Other considerations will ensure more economical and effective inspection consistent with the Government's interest.

(b) When the estimated value of the acquisition is below the simplified acquisition threshold and will include the clause at 52.246–2, Inspection of Supplies—Fixed-Price, insert the clause at 552.246–70, Source Inspection by Quality Approved Manufacturer only:

(1) In solicitations and contracts that support the Wildfire program.

(2) In contracts when a pattern of acquisitions demonstrates an ongoing relationship with the contractor.

### 546.302–71 [Amended]

■ 3. Amend section 546.302–71 by removing “FSS” and adding “FAS” in its place.

■ 4. Add section 546.302–72 to read as follows:

### 546.302–72 Destination Inspection.

The contracting officer shall include the clause at 552.246–78, Inspection at Destination (JUL 09) in supply contracts that require inspection at destination.

### Subpart 546.4 [Removed]

■ 5. Remove Subpart 546.4 consisting of section 546.470–2.

■ 6. Revise section 546.708 to read as follows:

### 546.708 Warranties of data.

(a) The contracting officer shall use warranties of data only when both of the following conditions are applicable:

(1) Use of a warranty is in the Government's interest and is documented; and

(2) The contracting director concurs with the decision.

(b) The contracting officer shall consult with the technical or specification manager responsible for developing any warranties of data.

■ 7. Revise section 546.710 to read as follows:

### 546.710 Contract clause.

The Contracting officer shall insert the clause at 552.246–77, Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature, when using the clause at 52.246–17 in solicitations and contracts.

## PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 552.246–17 [Removed]

■ 8. Remove section 552.246–17.

■ 9. Revise section 552.246–70 to read as follows:

### 552.246–70 Source Inspection by Quality Approved Manufacturer.

As prescribed in 546.302–70, insert the following clause:

**SOURCE INSPECTION BY QUALITY APPROVED MANUFACTURER (JUL 09)**

(a) *Inspection system and inspection of facilities.* (1) The inspection system maintained by the Contractor under the Inspection of Supplies—Fixed Price clause (FAR 52.246–2) of this contract shall be maintained throughout the contract period. Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall comply with all requirements of editions in effect on the date of the solicitation of either Federal Standard 368 or the International Organization for Standardization (ISO) Standard 9001:2000 (Quality Management Systems—Requirements). A documented description of the

inspection system shall be made available to the Government before contract award. At the sole discretion of the Contracting Officer, he/she may authorize in writing exceptions to the quality assurance standards identified above. The Contractor shall immediately notify the Administrative Contracting Officer (ACO) of any changes made in the inspection system during the contract period. As used herein, the term "inspection system" means the Contractor's own facility or any other facility acceptable to the Government that will be used to perform inspections or tests of materials and components before incorporation into end articles and for inspection of such end articles before shipment. When the manufacturing plant is located outside of the United States, the Contractor shall arrange delivery of the items from a plant or warehouse located in the United States (including Puerto Rico and the U.S. Virgin Islands) equipped to perform all inspections and tests required by the contract or specifications to evidence conformance therewith, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to

perform the required inspections and tests.

(2) In addition to the requirements in Federal Standard 368, ISO 9001:2000 or as otherwise approved by the Government, records shall include the date inspection and testing were performed. These records shall be available for (i) 3 years after final payment; or (ii) 4 years from the end of the Contractor's fiscal year in which the record was created, whichever period expires first.

(3) Offerors are required to specify, in the space provided elsewhere in this solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(4) The Contractor shall provide the Administrative Contracting Officer ACO with the name(s) of the individual and an alternate responsible for the inspection system. In the event that the designated individual(s) becomes unavailable to oversee the inspection system, the Contractor, within 10 calendar days of such event, shall provide the ACO with the names of the replacement individual(s).

(b) *Inspection by the Contractor.* The Contractor is required to demonstrate

that the supplies in the shipment have been subject to and have passed all inspections and tests required by the contract and meet the requirements of the contract.

(c) *Inspection by Government personnel.* (1) Although the Government will normally rely upon the Contractor's representation as to the quality of supplies shipped, it reserves the right under the Inspection of Supplies—Fixed Price clause to inspect and test all supplies called for by this contract, before acceptance, at all times and places, including the point of manufacture. When the Government notifies the Contractor of its intent to inspect supplies before shipment, the Contractor shall notify or arrange for subcontractors to notify the designated GSA quality assurance office 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until inspection by the Government is completed and shipment is authorized by the Government.

(2) The offeror shall indicate, in the spaces provided below, the location(s) at which the supplies will be inspected or made available for inspection.

INSPECTION POINT

ITEM NO(S).	NAME OF MANUFACTURER	NAME, ADDRESS (Including County), and	TELEPHONE NUMBER
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*NOTE: If additional space is needed, the offeror may furnish the requested information by an attachment to the offer.*

(3) During the contract period, a Government representative may periodically select samples of supplies produced under this contract for Government verification, inspection, and testing. Samples selected for testing will be disposed of as follows: Samples from an accepted lot, not damaged in the testing process, will be returned promptly to the Contractor after completion of tests. Samples damaged in the testing process will be disposed of as requested by the Contractor. Samples from a rejected lot will be returned to the Contractor or disposed of in a time and manner agreeable to both the Contractor and the Government.

(d) *Quality deficiencies.* (1) Notwithstanding any other clause of this contract concerning the conclusiveness of acceptance by the Government, any supplies or production lots shipped

under this contract found to be defective in material or workmanship, or otherwise not in conformity with the requirements of this contract within a period of \_\_\_\_\_\* months after acceptance shall, at the Government's option, be replaced, repaired, or otherwise corrected by the Contractor at no cost to the Government within 30 calendar days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice to replace or correct. The Contractor shall remove, at its own expense, supplies rejected or required to be replaced, repaired, or corrected. When the nature of the defect affects an entire batch or lot of supplies, and the Contracting Officer determines that correction can best be accomplished by retaining the nonconforming supplies, and reducing the contract price by an equitable amount under the circumstances, then the equitable price adjustment shall apply to the entire

batch or lot of supplies from which the nonconforming item was taken.

(2) The Contractor may be issued a Quality Deficiency Notice (QDN) if:

(i) Supplies in process, shipped, or awaiting shipment to fill Government orders are found not to comply with contract requirements, or (ii) deficiencies in either plant quality or process controls are found. Upon receipt of a QDN, the Contractor shall take immediate corrective action and shall suspend shipment of the supplies covered by the QDN until such time as corrective action has been completed. The Contractor shall notify the Government representative, within 5 workdays, of the action plan or the corrective action taken. The Government may elect to verify the corrective action at the Contractor location(s). Shipments of nonconforming supplies will be returned at the Contractor's expense and may constitute cause for termination of the contract. Delays due to the

insurance of a QDN do not constitute excusable delay under the default clause of this contract. Failure to complete corrective action in a timely manner may result in termination of the contract.

(3) This contract may be terminated for default if subsequent Government inspection discloses that plant quality or process controls are not being maintained, supplies that do not meet the requirements of the contract are being shipped, or if the contractor fails to comply with any other requirement of this clause.

(e) *Additional cost for inspection and testing.* The Contractor shall be charged for any additional cost of inspection/testing or reinspecting/retesting supplies for the reasons stated in paragraph (e) of FAR 52.246-2, Inspection of Supplies—Fixed Price.

When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of \$ \_\_\_\_\_\*\* per man-hour or fraction thereof if the inspection is at a GSA distribution center;

\$ \_\_\_\_\_\*\* per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and \$ \_\_\_\_\_\*\* per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(f) *Responsibility for rejected supplies.* When the Contractor fails to remove or provide instructions for the removal of rejected supplies under paragraph (d) of this clause, pursuant to the Contracting Officer's instructions, the Contractor shall be liable for all costs incurred by the Government in taking such measures as are expedient to avoid unnecessary loss to the Contractor. In addition to the remedies provided in FAR 52.246-2, supplies may be—

(1) Stored and charged against the Contractor's account;

(2) Reshipped to the Contractor at its expense (any additional expense incurred by the Government or the freight carrier caused by the refusal of the Contractor to accept their return shall also be charged against the Contractor's account);

(3) Sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and

other costs, including the cost of the sale; or

(4) Otherwise disposed of by the Government.

(g) *Subcontracting requirements.* The Contractor shall insert in any subcontracts the inspection or testing provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause of this contract. The Contractor shall be responsible for compliance by any subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause.

(End of clause)

\*Normally insert 12 months as the period during which defective or otherwise nonconforming supplies must be replaced. However, when the supplies being bought have a shelf life of less than 1 year, you should use the shelf-life period, or in the instance where you reasonably expect a longer period to be available, you should use the longer period.

\*\*The rates to be inserted are established by the Commissioner of the Federal Acquisition Service or a designee.

#### 552.246-71 [Amended]

■ 10. Amend section 552.246-71 by—

■ a. Revising the date of the clause (June 1, 2009);

■ b. Removing from paragraph (c)(3) the words “the Virgin Islands” and adding the words “the U.S. Virgin Islands” in its place; and

■ c. Removing from the undesignated paragraph after “(End of clause)” the words “Federal Supply Service” and adding the words “Federal Acquisition Service” in its place.

#### 552.246-73 [Removed]

■ 11. Remove section 552.246-73.

#### 552.246-74 [Removed]

■ 12. Remove section 552.246-74.

#### 552.246-75 [Removed]

■ 13. Remove section 552.246-75.

#### 552.246-76 [Removed]

■ 14. Remove section 552.246-76.

■ 15. Add section 552.246-77 to read as follows:

#### 552.246-77 Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature.

As prescribed in 546.710(a), insert the following clause in solicitations and contracts that include FAR 52.246-17, Warranty of Supplies of a Noncomplex Nature.

ADDITIONAL CONTRACT WARRANTY PROVISIONS FOR SUPPLIES OF A NONCOMPLEX NATURE (JUL 09)

(a) *Definitions. Correction*, as used in this clause, means the elimination of a defect.

(b) *Contractor's obligations.* When return, correction, or replacement is required, the Contractor shall be responsible for all costs attendant to the return, correction, or replacement of the nonconforming supplies. Any removal in connection with the above shall be done by the Contractor at its expense.

(c) *Remedies available to the Government.* When the nature of the defect in the nonconforming item is such that the defect affects an entire batch or lot of material, then the equitable price adjustment shall apply to the entire batch or lot of material from which the nonconforming item was taken.

(End of clause)

■ 16. Add section 552.246-78 to read as follows:

#### 552.246-78 Inspection at Destination.

As prescribed in 546.302-72 insert the following clause:

INSPECTION AT DESTINATION (JUL 09)

Inspection of all purchases under this contract will be made at destination by an authorized Government representative.

(End of clause)

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 080728943-9716-02]

RIN 0648-AX12

#### Atlantic Highly Migratory Species; 2009 Atlantic Bluefin Tuna Quota Specifications and Effort Controls

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

**ACTION:** Final rule.

**SUMMARY:** NMFS announces the final rule to establish 2009 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery, including quotas for each of the established domestic fishing categories and effort controls for the General category and Angling category. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by