

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 239 and 252

Government procurement.

Jennifer Lee Hawes,
Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR part 239 and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 239 and 252 continues to read as follows:

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

PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

■ 2. Amend section 239.7411 by—

■ a. In paragraph (a) introductory text, removing the em dash and replacing it with a period;

■ b. In paragraphs (a)(1) and (2), removing the semicolons and adding periods in their places;

■ c. Removing paragraph (a)(3);

■ d. Redesignating paragraphs (a)(4) through (6) as paragraphs (a)(3) through (5), respectively; and

■ e. In redesignated paragraphs (a)(3) and (4), removing the semicolons and adding periods in their places.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Revise section 252.239–7004 to read as follows:

252.239–7004 Orders for Facilities and Services.

As prescribed in 239.7411(a), use the following clause:

Orders for Facilities and Services (Date)

(a) Definitions: As used in this clause—
Governmental regulatory body means the Federal Communications Commission, any statewide regulatory body, or any body with less than statewide jurisdiction when operating under the state authority. Regulatory bodies whose decisions are not subject to judicial appeal, and regulatory bodies that regulate a company owned by the same entity that creates the regulatory body are not governmental regulatory bodies.

(b) The Contractor shall acknowledge a communication service authorization or other type order for supplies and facilities by—

(1) Commencing performance after receipt of an order; or

(2) Written acceptance by a duly authorized representative.

(c) The Contractor shall furnish the services and facilities under this agreement/contract in accordance with all applicable tariffs, rates, charges, regulations, requirements, terms, and conditions of—

(1) Service and facilities furnished or offered by the Contractor to the general public or the Contractor's subscribers; or

(2) Service as lawfully established by a governmental regulatory body.

(d) The Government will not prepay for services.

(e) For nontariffed services, the Contractor shall charge the Government at the lowest rate and under the most favorable terms and conditions for similar service and facilities offered to any other customer.

(f) Recurring charges for services and facilities shall, in each case, start with the satisfactory beginning of service or provision of facilities or equipment and are payable monthly in arrears.

(g) Expediting charges are costs necessary to get services earlier than normal. Examples are overtime pay or special shipment. When authorized, expediting charges shall be the additional costs incurred by the Contractor and the subcontractor. The Government shall pay expediting charges only when—

(1) They are provided for in the tariff established by a governmental regulatory body; or

(2) They are authorized in a communication service authorization or other contractual document.

(h) When services normally provided are technically unacceptable and the development, fabrication, or manufacture of special equipment is required, the Government may—

(1) Provide the equipment; or

(2) Direct the Contractor to acquire the equipment or facilities. If the Contractor acquires the equipment or facilities, the acquisition shall be competitive, if practicable.

(i) If at any time the Government defers or changes its orders for any of the services but does not cancel or terminate them, the amount paid or payable to the Contractor for the services deferred or modified shall be equitably adjusted under applicable tariffs filed by the Contractor with the regulatory commission in effect at the time of deferral or change. If no tariffs are in effect, the Government and the Contractor shall equitably adjust the rates by mutual agreement. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

252.239–7005 [Removed and Reserved]

■ 4. Remove and reserve section 252.239–7005.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Chapter I

[Docket No. FWS–HQ–LE–2018–0078; FF09L00200–FX–LE1811090000]

Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act; Religious Use of Feathers

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Petition for rulemaking; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received a petition for rulemaking, which asks the Service to revise the existing rules pertaining to the religious use of federally protected bird feathers. The petition is being published pursuant to the terms of a settlement agreement entered into in 2016 by the United States with McAllen Grace Brethren Church and the Becket Fund for Religious Liberty. Any changes to existing rules will be subject to a public comment period, and tribal consultation consistent with Executive Order 13175 and the Department of the Interior Policy on Consultation with Indian Tribes. The Service seeks comments on the petition.

DATES: Comments must be submitted on or before July 1, 2019.

ADDRESSES: *Document availability:* The petition and other materials mentioned in this document are available on the internet at <http://www.regulations.gov> in Docket No. FWS–HQ–LE–2018–0078. To review these materials in person, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Comment submission: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS–HQ–LE–2018–0078.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–HQ–LE–2018–0078; Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041–3803.

See Public Comments below for additional information.

FOR FURTHER INFORMATION CONTACT: Edward Grace, Assistant Director, U.S. Fish and Wildlife Service, Office of Law Enforcement, edward_grace@fws.gov, (703) 358–1949.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 2018, the Service received a petition for rulemaking from Pastor Robert Soto, the lead plaintiff in *McAllen Grace Brethren Church v. Jewell*, No. 7:07-cv-060 (S.D. Tex. June 3, 2016) (hereinafter “*McAllen*”), and the Becket Fund for Religious Liberty, asking the Service to revise its existing rules pertaining to the religious use of federally protected bird feathers and parts for Native Americans. The petitioners submitted the petition pursuant to paragraph 7 of the June 10, 2016, settlement agreement between the *McAllen* Plaintiffs and the United States, which states:

[The Secretary of the United States Department of the Interior (“Secretary”)] agrees to consider a petition under 43 CFR 14.2 from Plaintiffs to modify existing regulations or issue new regulations concerning the possession of eagle feathers by persons who are not members of federally recognized tribes. In considering the Petition, [the Secretary] agrees to issue a notice in the **Federal Register** requesting public comment on the petition. [The Secretary] agrees to make a decision on the petition within two years from the date it is received.

Petitioned Actions

The petition provides proposed regulatory text, which more broadly asks the Service to do four things:

(1) “*Criminal possession ban*: Petitioners propose that the Department [of the Interior] promulgate the Morton Policy as a regulation, with one modification: that the policy apply to all sincere religious believers who use federally protected feathers in their religious exercise.” The “Morton Policy” is a Department of Justice enforcement policy that generally advises against prosecuting members of Federally Recognized Tribes who possess, travel with, or acquire or transfer without compensation eagle feathers. A Department of Justice memorandum concerning its application of the Morton Policy to Federally Recognized Tribes and a related 1975 press release by Secretary of the Interior Rogers C.B. Morton are

available as indicated above in **ADDRESSES**.

(2) “*Protect Sincere Religious Believers*: Members of a state or federally recognized Indian tribe, a Native American church, or other Native American religious organization should enjoy a presumption of sincerity; others should have the opportunity to demonstrate their sincerity in other ways.”

(3) “*National Eagle Repository*: The Department should reform the Repository by increasing its funding and staffing, working more closely with tribes and other stakeholders to improve efficiency, and adopting policies that will expand the overall supply of feathers. This will enable the Repository to better serve all sincere religious believers who use eagle feathers in their religious exercise.” Note that the draft regulatory language suggested by the petitioners specifically requests access to the Repository for all sincere religious believers. (See paragraph d. of the petitioned regulatory text, pp. 44–45 of the petition).

(4) “*Combat commercialization and increase enforcement*: Petitioners propose that the Department [of the Interior] engage in government-to-government consultations with federally recognized tribes on specific measures to help Native Americans detect and report suspected illegal commercial activities involving protected feathers.” (See pp. 3–4 of the petition).

Note that some of these requests are for administrative action and are not directly addressed in the regulatory language the petitioners propose. The petitioners’ proposed regulatory text can be found on pp. 44–45 of the petition, available at <http://www.regulations.gov> in Docket No. FWS-HQ-LE-2018-0078.

Public Comments

You may obtain the petition for rulemaking, and you must submit your comments and materials concerning this petition, by one of the methods described in **ADDRESSES**. The Service will not consider the petition’s merits until after the comment period ends on

the date set forth in **DATES**. If the Service decides that the petition has merit, we may begin a rulemaking proceeding. The Service will announce any action that we decide to take in the **Federal Register**.

We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information, such as your address, telephone number, or email address—will be posted on the website. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission. If you mail or hand-carry a hardcopy comment directly to us that includes personal information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that all comments that we receive are publicly available, we will post all hardcopy comments on <http://www.regulations.gov>.

Administrative Procedure Act

Under the Administrative Procedure Act, any person may petition for the issuance, amendment, or repeal of a rule (5 U.S.C. 553(e)). The petition will be given prompt consideration, and the petitioner will be notified promptly of action taken. A petition for rulemaking may be published in the **Federal Register** if the official responsible for acting on the petition determines that public comment may aid in consideration of the petition.

Dated: March 25, 2019.

Andrea Travnicek,

Principal Deputy Assistant Secretary, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

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