

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action does not alter the relationship or the distribution of power and responsibilities established in the CAA.

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. As discussed above, a voluntary reclassification under section 181(b)(3) of the CAA is based solely on the request of a State and EPA is required to grant such a request. In this context, it would thus be inconsistent with applicable law for EPA, when it grants a State's request for a voluntary reclassification to, use voluntary consensus standards. Thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) also do not apply. In addition, this proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Lastly, executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. As stated earlier in this Notice EPA intends to take a final action granting the State's request for a voluntary reclassification. The plain language of section 181(b)(3) of CAA mandates that we "shall" approve such a request if it is made in accordance with the requirements of the Act, and, as such, does not provide the Agency with the discretionary authority to address concerns raised outside the Act, including those contained in Executive Order 12898.

#### List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping

requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: December 18, 2007.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

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**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 4, 8, 13, 17, 32, and 52

[FAR Case 2006-026; Docket 2007-0001; Sequence 13]

RIN 9000-AK87

#### Federal Acquisition Regulation; FAR Case 2006-026, Governmentwide Commercial Purchase Card Restrictions for Treasury Offset Program Debts

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to restrict the use of the Governmentwide commercial purchase card as a method of payment for contractors with debts subject to the Treasury Offset Program.

**DATES:** Interested parties should submit written comments to the FAR Secretariat on or before February 29, 2008 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAR case 2006-026 by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>.

• To search for any document, first select under "Step 1," "Documents with an Open Comment Period" and select under "Optional Step 2," "Federal Acquisition Regulation" as the agency of choice. Under "Optional Step 3," select "Proposed Rules". Under "Optional Step 4," from the drop down list, select "Document Title" and type the FAR case number "2006-026". Click the "Submit" button. Please include your name and company name (if any) inside the document. You may also

search for any document by clicking on the "Search for Documents" tab at the top of the screen. Select from the agency field "Federal Acquisition Regulation", and type "2006-026" in the "Document Title" field. Select the "Submit" button.

• Fax: 202-501-4067.

• Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4035, ATTN: Diedra Wingate, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAR case 2006-026 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Jackson, Procurement Analyst, at (202) 208-4949 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2006-026.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The Debt Collection Improvement Act of 1996 and other statutes provide the tools for administering a centralized program for the collection of delinquent, non-tax and tax debts. The Financial Management Service (FMS), a bureau of the Department of the Treasury, is charged with implementing the Government's delinquent debt collection program. Since 1996, FMS has collected more than \$24.4 billion in delinquent debt. In fiscal year 2006, collections of delinquent debt remained at a constant \$3.1 billion.

To collect delinquent debts owed to Federal agencies and states, FMS uses the Treasury Offset Program (TOP). Information on TOP is available at <http://fms.treas.gov/debt/index.html>. TOP uses both "offsets" and "continuous levies" to collect delinquent debts.

Offset is a process whereby Federal payments are reduced or "offset" to satisfy a person's overdue Federal debt, child support obligation, or state tax debt. A payee's name and taxpayer identification number are matched against a Treasury/FMS database of delinquent debtors for automatic offset of funds. Offset funds are then used to satisfy payment of the delinquent debt to the extent allowed by law.

Under the continuous levy program, delinquent Federal tax debts are collected by levying non-tax payments until the debt is satisfied, as authorized by the 1997 Taxpayer Relief Act. The

continuous levy program includes levy of some vendor payments (Treasury disbursed and non-Treasury disbursed payments), Federal employee salary payments, the Office of Personnel Management retirement payments, and social security benefit payments. Continuous levy is accomplished through a process almost identical to that of offset. FMS matches delinquent debtor data with payment record data for automated collection of the debt at the time of payment, after the delinquent taxpayer has been afforded due process.

FMS is currently unable to offset or apply a continuous levy to payments made to contractors with delinquent debts when the Governmentwide commercial purchase card is used as the method of payment. When the Governmentwide commercial purchase card is used as the method of payment, the Government does not make a direct payment to the contractor. Instead, the processing bank for the Governmentwide commercial purchase card pays the contractor.

To assess the significance of the problem, FMS and VISA, one of the processing banks, matched VISA payments for Governmentwide purchase card transactions for one year. As a result of the match, FMS determined that approximately \$73.5 million dollars of delinquent debts subject to collection under TOP were not collected because the debtors were paid using the Governmentwide commercial purchase card. The individual payments that would otherwise have been collected were all in excess of the micropurchase threshold.

To help increase the collection of delinquent debts owed to the Government, the rule proposes to amend the FAR to require contracting officers to determine whether the Central Contractor Registration (CCR) indicates that the contractor has delinquent debt that is subject to collection under the TOP. If a debt indicator is found, the Governmentwide commercial purchase card is not authorized as a method of payment. The contracting officer is required to check for the flag at the time of contract award, order placement, and again before exercising any options. The rule also proposes to amend the applicable Governmentwide commercial purchase card payment clause at 52.232-36 to advise contractors that the Governmentwide commercial purchase card is not authorized as a method of payment if a debt indicator is included in the CCR for the contractor. The clause is written to allow contracting officers to unilaterally exercise options without

having to bilaterally negotiate revisions to the original contract terms and conditions if the debt indicator is subsequently found during the execution of an option. This rule would not apply to individual travel charge cards or centrally billed accounts for travel/transportation services.

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 Councils do not expect this proposed 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 the rule only impacts the method by which a contractor can be paid when the contractor has a delinquent debt. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 4, 8, 13, 17, 32, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2006-026), in correspondence.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Parts 4, 8, 13, 17, 32, and 52

Government procurement.

Dated: December 20, 2007.

#### Al Matera,

*Director, Office of Acquisition Policy.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 4, 8, 13, 17, 32, and 52 as set forth below:

1. The authority citation for 48 CFR parts 4, 8, 13, 17, 32, and 52 continues to read as follows: Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

#### PART 4—ADMINISTRATIVE MATTERS

2. Amend section 4.1103 by revising paragraph (a)(3) to read as follows:

##### 4.1103 Procedures.

(a) \* \* \*

(3) Need not verify registration before placing an order or call if the contract or agreement includes the clause at 52.204-7, or 52.212-4(t), or a similar agency clause, except when payment by the Governmentwide commercial purchase card is contemplated (see 32.1108(b)(2)).

\* \* \* \* \*

#### PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

3. Revise section 8.405-7 to read as follows:

##### 8.405-7 Payment.

Agencies may make payments for oral or written orders by any authorized means, including the Governmentwide commercial purchase card (but see 32.1108(b)(2)).

#### PART 13—SIMPLIFIED ACQUISITION PROCEDURES

4. Amend section 13.003 by revising paragraph (e) to read as follows:

##### 13.003 Policy.

\* \* \* \* \*

(e) Agencies shall use the Governmentwide commercial purchase card and electronic purchasing techniques to the maximum extent practicable in conducting simplified acquisitions (but see 32.1108(b)(2)).

\* \* \* \* \*

5. Amend section 13.301 by revising the first sentence of paragraph (a) and paragraph (c)(3) to read as follows:

##### 13.301 Governmentwide commercial purchase card.

(a) Except as provided in 32.1108(b)(2), the Governmentwide commercial purchase card is authorized for use in making and/or paying for purchases of supplies, services, or construction. \* \* \*

\* \* \* \* \*

(c) \* \* \*

(3) Make payments, when the contractor agrees to accept payment by the card (but see 32.1108(b)(2)).

#### PART 17—SPECIAL CONTRACTING METHODS

6. Amend section 17.207 by revising paragraph (f) to read as follows:

##### 17.207 Exercise of options.

\* \* \* \* \*

(f) Before exercising an option—  
(1) The contracting officer shall make a written determination for the contract file that exercise is in accordance with the terms of the option, the requirements of this section, and Part 6. To satisfy requirements of Part 6

regarding full and open competition, the option must have been evaluated as part of the initial competition and be exercisable at an amount specified in or reasonably determinable from the terms of the basic contract, *e.g.*—

(i) A specific dollar amount;

(ii) An amount to be determined by applying provisions (or a formula) provided in the basic contract, but not including renegotiation of the price for work in a fixed-price type contract;

(iii) In the case of a cost-type contract, if—

(A) The option contains a fixed or maximum fee; or

(B) The fixed or maximum fee amount is determinable by applying a formula contained in the basic contract (but see 16.102(c));

(iv) A specific price that is subject to an economic price adjustment provision; or

(v) A specific price that is subject to change as the result of changes to prevailing labor rates provided by the Secretary of Labor.

(2) See 32.1108(b)(2) for restrictions on the use of the Governmentwide commercial purchase card as a method of payment when the Central Contractor Registration (CCR) shows a delinquent debt flag.

\* \* \* \* \*

### PART 32—CONTRACT FINANCING

7. Amend section 32.1108 by revising paragraph (b) to read as follows:

#### 32.1108 Payment by Governmentwide commercial purchase card.

\* \* \* \* \*

(b)(1) Written contracts to be paid by purchase card should include the clause at 52.232–36, Payment by Third Party, as prescribed by 32.1110(d). However, payment by a purchase card also may be made under a contract that does not contain the clause to the extent the contractor agrees to accept that method of payment.

(2)(i) Contracting officers are required to verify (by looking in CCR) whether the contractor has any delinquent debt subject to collection under the Treasury Offset Program (TOP) program at contract award, order placement, and prior to any option exercise. Information on TOP is available at <http://fms.treas.gov/debt/index.html>.

(ii) The contracting officer shall not authorize the Governmentwide commercial purchase card as a method of payment when the Central Contractor Registration (CCR) indicates that the contractor has delinquent debt subject to collection under the TOP. In such cases, the contracting officer shall

provide alternative payment instructions to the contractor. Contracting officers shall not use the presence of the delinquent debt indicator to exclude a contractor from receipt of the contract, order, or exercised option.

(iii) If a contractor alerts the contracting officer that the CCR debt flag indicator has been changed to no longer show a delinquent debt, the contracting officer may take steps to authorize payment by Governmentwide commercial purchase card.

\* \* \* \* \*

### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Amend section 52.232–36 by revising the date of the clause and paragraphs (a) and (b) to read as follows:

#### 52.232–36 Payment by Third Party.

\* \* \* \* \*

##### PAYMENT BY THIRD PARTY (DATE)

(a) *General.* (1) Except as provided in paragraph (a)(2) of this clause, the Contractor agrees to accept payments due under this contract, through payment by a third party in lieu of payment directly from the Government, in accordance with the terms of this clause. The third party and, if applicable, the particular Governmentwide commercial purchase card to be used are identified elsewhere in this contract.

(2) The Governmentwide commercial purchase card is not authorized as a method of payment when the Central Contractor Registration (CCR) indicates that the Contractor has delinquent debt that is subject to collection under the Treasury Offset Program (TOP). Information on TOP is available at <http://fms.treas.gov/debt/index.html>. If the CCR subsequently indicates that the Contractor no longer has delinquent debt, the Contractor may request the Contracting Officer to authorize payment by Governmentwide commercial purchase card.

(b) *Contractor payment request.* (1) Except as provided in paragraph (b)(2) of this clause, the Contractor shall make such payment requests through a charge to the Government account with the third party, at the time and for the amount due in accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor.

(2) When the Contracting Officer has notified the Contractor that the Governmentwide commercial purchase card is no longer an authorized method of payment, the Contractor shall make such payment requests in accordance with instructions provided by the Contracting Officer during the period when the purchase card is not authorized.

\* \* \* \* \*

[FR Doc. E7–25424 Filed 12–28–07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 071031633–7834–01]

RIN 0648–AW23

#### Pacific Halibut Fisheries; Guided Sport Charter Vessel Fishery for Halibut

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations that would limit the harvest of Pacific halibut by guided sport charter vessel anglers in International Pacific Halibut Commission (IPHC) Area 2C of Southeast Alaska to the guideline harvest level (GHL) for that area under two different scenarios. First, if the GHL remains unchanged in 2008, a suite of three management measures are proposed to be added to an existing two-halibut daily catch and size limit. These management measures include a prohibition on the harvest of halibut by charter vessel guides, operators, and crew; a limit on the number of fishing lines that may be used on a charter vessel of six or the number of charter vessel anglers onboard, whichever is less; and an annual catch limit of four halibut per charter vessel angler. Second, if the GHL decreases in 2008, then a one-halibut daily catch limit is proposed to be substituted for the existing two-halibut daily catch limit. The prohibition of halibut harvest by charter vessel guides, operators, and crew, and the 6-line limit also are proposed under the second scenario. This proposed regulatory change is necessary to reduce the halibut harvest in the charter vessel sector to the GHL for Area 2C. The intended effect of this action is a reduction in the poundage of halibut harvested by the guided sport charter vessel sector in Area 2C to the GHL while minimizing adverse impacts on the charter fishery, its sport fishing clients, the coastal communities that serve as home ports for this fishery, and on fisheries for other species.

**DATES:** Comments must be received no later than January 30, 2008.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by “RIN 0648–