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(Catalog of Federal Domestic Assistance Number does not apply)

List of Subjects in 34 CFR Part 36

Claims, Fraud, Penalties.
Dated: December 28, 2004.

Eugene W. Hickok,
Deputy Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends part 36 in title 34 of the Code of Federal Regulations as follows:

PART 36—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 28 U.S.C. 2461 note and 31 U.S.C. 3701 note, unless otherwise noted.

■ 2. Section 36.2 is amended by revising Table I to read as follows:

§ 36.2 Penalty adjustment.
* * * * *

TABLE I, SECTION 36.2.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

Statute	Description	New maximum (and minimum, if applicable) penalty amount
20 U.S.C. 1015(c)(5)	Provides for a fine of up to \$25,000 for failure by an institution of higher education (IHE) to provide information on the cost of higher education to the Commissioner of Education Statistics.	\$27,500.
20 U.S.C. 1027(f)(3)	Provides for a fine of up to \$25,000 for failure by an IHE to provide information to the State and the public regarding its teacher-preparation programs.	\$27,500.
20 U.S.C. 1082(g)	Provides for a civil penalty of up to \$25,000 for violations by lenders and guaranty agencies of Title IV-B of the Higher Education Act of 1965, as amended (HEA), which authorizes the Federal Family Education Loan Program.	\$27,500.
20 U.S.C. 1094(c)(3)(B)	Provides for a civil penalty of up to \$25,000. for an institution of higher education's violation of Title IV of the Higher Education Act of 1965, as amended, which authorizes various programs of student financial assistance.	\$27,500.
31 U.S.C. 1352(c)(1) and (c)(2)(A).	Provides for a civil penalty of \$10,000 to \$100,000 for recipients of Government grants, contracts, etc. that lobby Congress or the Executive Branch with respect to the award of Government grants and contracts.	\$11,000 to \$110,000.
31 U.S.C. 3802(a)(1) and (a)(2)	Provides for a civil penalty of up to \$5,000. for false claims and statements made to the Government.	\$5,500.

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 533 and 552

GSAR Amendment 2004-05; GSAR Case 2004-G501 (Change 13)

RIN 3090-AH98

General Services Administration Acquisition Regulation; 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) to add a clause that supplements the Disputes clause in the Federal Acquisition Regulation (see 48 CFR Chapter 1).

DATES: Effective Date: January 4, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Laurieann Duarte, Regulatory Secretariat

(VIR), Room 4035, GS Building, Washington, DC, 20405, (202) 501-4225, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775. Please cite Amendment 2004-05, GSAR case 2004-G501 (Change 13).

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Regulation (FAR) Subpart 33.2 (48 CFR subpart 33.2) implements the requirements of the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613) (the Act), which establishes procedures and requirements for asserting and resolving claims subject to the Act. It is the Government's policy to resolve all contractual issues in controversy by mutual agreement at the contracting officer level. The Act provides for Agencies Boards of Contract Appeals (Boards) and the United States Court of Federal Claims (Court) to resolve appeals of a contracting officer's decision. However, the Boards and Court do not have authority to interpret tariffs or tariff-related matters established through public hearings in each jurisdiction for regulated utilities.

The authority pertaining to these matters lie with state public utility commissions.

A proposed rule was published in the **Federal Register** at 69 FR 40730, July 6, 2004. No comments were received from the public.

FAR section 33.215 requires that the clause 52.233-1, Disputes, be inserted in all solicitations and contracts, except those with a foreign government or agency of that government, or an international organization or subsidiary body of that organization, if the agency head determines that the application of the Act to the contract would not be in the public interest. GSA's Public Buildings Service awards contracts for public utility services. From time-to-time, disputes may arise from those contracts that involve tariffs and tariff-related matters. This rule provides for a supplement to FAR 52.233-1, Disputes, allowing for such disputes to be subject to the jurisdiction and regulation of the utility rate commission having jurisdiction. This rule also provides GSA contracting officers and contractors, acting under a utility service contract, with specific guidance regarding the resolution of disputes

involving tariffs and tariff-related matters.

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 majority of small entities that are in the industry were established as a result of deregulation and are not subject to the utility rate commissions. Also, this is intended to be a clarification of existing law, not a substantive change. A Final Regulatory Flexibility Act Analysis was, therefore, 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, 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 in 48 CFR Parts 533 and 552

Government procurement.

Dated: December 27, 2004.

David A. Drabkin,

Senior Procurement Executive, Office of the Chief Acquisition Officer.

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

■ 1. The authority citation for 48 CFR parts 533 and 552 continues to read as follows:

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

PART 533—PROTESTS, DISPUTES, AND APPEALS

■ 2. Add section 533.215 to read as follows:

533.215 Contract clause.

Insert the clause at 552.233–71, Disputes (Utility Contracts), in solicitations and contracts for utility services subject to the jurisdiction and regulation of a utility rate commission.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Add section 552.233–71 to read as follows:

552.233–71 Disputes (Utility Contracts).

As prescribed in 533.215, insert the following clause:

DISPUTES (UTILITY CONTRACTS) (JAN 2005)

The requirements of the Disputes clause at FAR 52.233–1 are supplemented to provide that matters involving the interpretation of tariffed retail rates, tariff rate schedules, and tariffed terms provided under this contract are subject to the jurisdiction and regulation of the utility rate commission having jurisdiction.

(End of clause)

[FR Doc. 05–82 Filed 1–3–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2004–19939]

RIN 2127–AI54

Tire Safety Information; Technical Amendment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; technical amendment.

SUMMARY: This document contains a technical amendment to the Federal motor vehicle safety standard (FMVSS) No. 119, *New pneumatic tires for vehicles other than passenger cars*. Specifically, the amendment changes the metric value of tire speed restriction threshold from 88 km/h (55 mph) to 90 km/h (55 mph). The amendment will make FMVSS No. 119 more consistent with established tire industry protocol and labeling technology, without making any substantive changes to the standard.

DATES: This rule is effective February 3, 2005.

FOR FURTHER INFORMATION CONTACT: For legal issues: Mr. George Feygin, Office of Chief Counsel (telephone: (202) 366–2992) (Fax: (202) 366–3820); NHTSA, 400 7th Street, SW., Washington, DC 20590. For technical issues: Mr. Joseph Scott, Office of Crash Avoidance Standards, (telephone: (202) 366–2720) (Fax: (202) 366–7002); NHTSA, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: FMVSS No. 119 specifies performance requirements for tires used on motor vehicles other than passenger cars, and requires certain markings on tires to facilitate proper selection and use. S6.5(e) requires that a tire be marked with a speed restriction information if the maximum speed is below 88 km/h (55 mph). Further, Table III contains a reference to speed-restricted tires with the maximum speed of 88 km/h (55 mph).

Within the tire industry, the metric value of the tire speed restriction threshold is 90 km/h instead of 88 km/h. Also, the English value of the tire speed restriction threshold is sometimes listed at 56 mph, instead of 55 mph. The industry uses speed rating symbols to differentiate among the tires with various maximum speed capabilities. The speed symbol of “G” is associated with tires with a maximum speed of 90 km/h. The discrepancy between 88 km/h and 90 km/h, as well as 55 mph and 56 mph is the result of using different methods of converting the English speed measurements to the metric system and vice versa.

The Tire and Rim Association Inc., has petitioned NHTSA to change the speed restriction threshold from 88 km/h to 90 km/h and from 55 mph to 56 mph. They argued that this change would make FMVSS No. 119 more consistent with established tire industry protocol and labeling technology, and would facilitate international harmonization.

The agency decided to amend only the metric value of tire speed restriction threshold from 88 km/h to 90 km/h. The English value will remain at 55 mph because we found that majority of tire industry literature lists the speed restriction threshold at 55 mph (90 km/h) instead of 56 mph (90 km/h).¹ Thus, 55 mph appears to be generally accepted within the industry.

We believe that the discrepancy between the metric values of the speed restriction threshold currently used by the agency and the one used by the majority of industry publications result from different methods of converting 55 mph to km/h. We note that the change from 88 km/h to 90 km/h will have no substantive practical effect on FMVSS No. 119 because the difference between the two values is so insignificant.

¹ See 2004 Year Book: The Tire and Rim Association, Inc., at page 3–06. The Japan Automobile Tyre Manufacturers Association, Inc. (JATMA), the European Tyre and Rim Technical Organization (ETRTO), and the Scandinavian Tire & Rim Organization (STRO) also rely on 90 km/h as the speed restriction threshold.