

that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation as this action relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2-1, paragraph (32)(e) of the Instruction, an "Environmental Analysis Checklist" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33

CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.217 is amended by revising paragraph (a) to read as follows:

#### § 117.217 Norwalk River.

(a) The draw of the Washington Street S136 Bridge, mile 0.0, at Norwalk, shall operate as follows:

(1) The draw shall open on signal; except that, from 7 a.m. to 8:45 a.m., 11:45 a.m. to 1:15 p.m., and 4 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not be opened for the passage of vessels that draw less than 14 feet of water.

(2) The draw need not open for the passage of vessel traffic, from 10 a.m. to 12 p.m., on the first Saturday in December, to facilitate the running of the annual Norwalk River Fun Run. Should inclement weather force the postponement of the race the above bridge closure shall be implemented the next day, the first Sunday after the first Saturday in December, from 10 a.m. to 12 p.m.

(3) The bridge opening signal is three short blasts. Vessels drawing 14 feet of water or more shall add one prolonged blast after the three short blasts.

\* \* \* \* \*

Dated: March 15, 2007.

**Timothy S. Sullivan,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. E7-6144 Filed 4-2-07; 8:45 am]

BILLING CODE 4910-15-P

#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 102-38

[FMR Case 2007-102-2; Docket FMR-2007-0001, Sequence 1]

RIN 3090-AI33

#### Federal Management Regulation; FMR Case 2007-102-2, Sale of Personal Property—Federal Asset Sales (FAS) Sales Centers

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration is amending the Federal Management Regulation (FMR) by adding provisions for the sale of personal property through Federal Asset Sales (FAS) Sales Centers.

**DATES:** Interested parties should submit comments in writing on or before May

3, 2007 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FMR case 2007–102–2 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting “General Services Administration” as the agency of choice. At the “Keyword” prompt, type in the FMR case number (for example, FMR Case 2007–102–2) and click on the “Submit” button. You may also search for any document by clicking on the “Advanced search/document search” tab at the top of the screen, selecting from the agency field “General Services Administration,” and typing the FMR case number in the keyword field. Select the “Submit” button.

- Fax: 202–501–4067.

- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FMR case 2007–102–2 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Robert Holcombe, Office of Governmentwide Policy, Personal Property Management Policy, at (202) 501–3828, or e-mail at [robert.holcombe@gsa.gov](mailto:robert.holcombe@gsa.gov). Please cite FMR case 2007–102–2.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

This proposed amendment to part 102–38 of the Federal Management Regulation (41 CFR part 102–38) would provide new policy to implement the Federal Asset Sales (FAS) e-Government initiative. The goals of this initiative are to:

- Maximize the value that the Federal Government receives from selling its real and personal property assets by maximizing the visibility of the assets to prospective buyers. This regulation only addresses the sale of personal property.
- Effect transparency in the sales process so that agencies are aware of the costs and performance of their sales alternatives, prospective buyers are aware of the conditions of the items

offered for sale, and information on Federal sales activities and results are easily available to the public.

- Collect and report Governmentwide data on the volume, proceeds, cost, and other performance characteristics of Federal property sales.

This part discusses the requirement for agencies to sell their property through designated Sales Centers (SCs). The definitions of terms related to the FAS initiative are provided in this part, along with the policy related to how agencies must implement this initiative.

Changes are also being made to this part to strengthen the terms and conditions of sale to specifically include requirements to dispose of assets in accordance with Federal, State, and local laws and regulations (section 102–38.75).

##### **B. Executive Order 12866**

It has been determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866.

##### **C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the proposed changes to the FMR 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.*

##### **D. Small Business Regulatory Enforcement Fairness Act**

This proposed rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

##### **List of Subjects in 41 CFR Part 102–38**

Government property management, Surplus Government property.

Dated: January 25, 2007.

**Kevin Messner,**

*Acting Associate Administrator.*

For the reasons set forth in the preamble, GSA amends 41 CFR part 102–38 as set forth below:

#### **PART 102–38—SALE OF PERSONAL PROPERTY**

1. The authority citation for part 102–38 continues to read as follows:

**Authority:** 40 U.S.C 545 and 40 U.S.C. 121(c).

##### **§ 102–38.25 [Amended]**

2. Amend § 102–38.25 by removing “holding” and adding “Sales Center” in its place.
3. Amend § 102–38.30 by revising the heading to read as follows:

##### **§ 102–38.30 How does an executive agency request a deviation from the provisions of this part?**

\* \* \* \* \*

4. Amend § 102–38.35 by adding the definitions “Federal Asset Sales (FAS)”, “Holding Agency”, “Migration Plan”, and “Sales Center (SC)” to read as follows:

##### **§ 102–38.35 What definitions apply to this part?**

\* \* \* \* \*

*Federal Asset Sales (FAS)* refers to the e-Government initiative to improve the way the Federal Government manages and sells its real and personal property assets. Under this initiative, only an agency designated as a Sales Center (SC) may sell Federal property. The FAS program is governed by the FAS Executive Steering Committee (ESC), with GSA as the managing partner agency.

*Holding Agency* refers to the agency in possession of personal property eligible for sale under this Part.

\* \* \* \* \*

*Migration Plan* refers to the document a holding agency prepares to summarize its choice of SC and its plan for migrating agency sales to the SC(s). The format for this document is determined by the FAS ESC.

\* \* \* \* \*

*Sales Center (SC)* means an agency that has been designated as an official sales agent for Federal property. The criteria for becoming an SC, the selection process, and the ongoing SC requirements for posting property for sale to the FAS portal and reporting sales activity and performance data are established by the FAS Program Management Office at GSA. SCs are expected to provide exemplary asset management solutions in one or more of the following areas: on-line sales; off-line sales; and sales-related value added services. SCs will enter into agreements with holding agencies to sell property belonging to these agencies.

\* \* \* \* \*

5. Revise § 102–38.40 to read as follows:

##### **§ 102–38.40 Who may sell personal property?**

An executive agency may sell personal property (including on behalf of another agency when so requested) only if it is a designated Sales Center (SC). An SC may engage contractor support to sell personal property. Only a duly authorized agency official may execute the sale award documents and bind the United States.

6. Amend § 102–38.50 by revising the heading and introductory paragraph to read as follows:

**§ 102–38.50 What must we do when an executive agency suspects violations of 40 U.S.C. 559, fraud, bribery, or criminal collusion in connection with the disposal of personal property?**

If an executive agency suspects violations of 40 U.S.C. 559, fraud, bribery, or criminal collusion in connection with the disposal of personal property, the agency must—

\* \* \* \* \*

7. Revise § 102–38.60 to read as follows:

**§ 102–38.60 Who is responsible for the costs of care and handling of the personal property before it is sold?**

The holding agency is responsible for the care and handling costs of the personal property until it is removed by the buyer, the buyer's designee, or an SC. The holding agency may request the SC to perform care and handling services in accordance with their agreement. When specified in the terms and conditions of sale, the SC may charge costs for storage when the buyer is delinquent in removing the property. The amount so charged may only be retained by the agency performing the care and handling in accordance with § 102–38.295.

**§ 102–38.65 [Amended]**

8. Amend § 102–38.65 in the heading, by removing “we are” and adding “we or the holding agency is” in its place; and in the second sentence by adding “or the holding agency” after “you”.

**§ 102–38.70 [Amended]**

9. Amend § 102–38.70 in the heading, by removing “we” and adding “the holding agency” in its place; and in paragraph (a), by removing “you” and adding “the holding agency” in its place.

10. Amend § 102–38.75 by revising the introductory text to paragraph (a), and paragraph (a)(12) to read as follows:

**§ 102–38.75 How may we sell personal property?**

(a) You will sell personal property upon such terms and conditions as the head of your agency or designee deems proper to promote the fairness, openness, and timeliness necessary for the sale to be conducted in a manner most advantageous to the Government. When you are selling property on behalf of another agency, you must consult with the holding agency to determine any special or unique sales terms and conditions. You must also document the required terms and conditions of each

sale, including, but not limited to, the following terms and conditions, as applicable:

\* \* \* \* \*

(12) Requirements to comply with applicable laws and regulations. Part 101–42 of this subchapter contains useful guidance addressing many of these requirements. You should also contact your agency's Office of General Counsel or Environmental Office to identify applicable Federal, State, or local environmental laws and regulations.

\* \* \* \* \*

11. Revise § 102–38.120 to read as follows:

**§ 102–38.120 When may we conduct negotiated sales of personal property at fixed prices (fixed price sale)?**

You may conduct negotiated sales of personal property at fixed prices (fixed price sale) under this section when:

(a) The items are authorized to be sold at fixed price by the GSA Office of Travel, Transportation, and Asset Management (MT) in GSA Bulletin FMR B–10 (located at [www.gsa.gov/fmrbulletin](http://www.gsa.gov/fmrbulletin)). You may also contact MT at the address listed in § 102–38.115 to determine which items are on this list of authorized items;

(b) The head of your agency, or designee, determines in writing that such sales serve the best interest of the Government. When you are selling property on behalf of a holding agency, you must consult with the holding agency in determining whether a fixed price sale meets this criterion; and

(c) You must publicize such sales to the extent consistent with the value and nature of the property involved, and the prices established must reflect the estimated fair market value of the property. Property is sold on a first-come, first-served basis. You or the holding agency may also establish additional terms and conditions that must be met by the successful purchaser in accordance with § 102–38.75.

12. Revise § 102–38.295 to read as follows:

**§ 102–38.295 May we retain sales proceeds?**

(a) You may retain that portion of the sales proceeds, in accordance with your agreement with the holding agency, equal to your direct costs and reasonably related indirect costs (including your share of the Governmentwide costs to support the FAS Internet portal and Governmentwide reporting requirements) incurred in selling personal property.

(b) A holding agency may retain that portion of the sales proceeds equal to its costs of care and handling directly related to the sale of personal property by the SC (e.g., shipment to the SC, storage pending sale, and inspection by prospective buyers).

(c) After accounting for amounts retained under paragraphs (a) and (b), a holding agency may retain the balance of proceeds from the sale of its agency's personal property when—

(1) It has the statutory authority to retain all proceeds from sales of personal property;

(2) The property sold was acquired with non-appropriated funds as defined in § 102–36.40 of this subchapter B;

(3) The property sold was surplus Government property that was in the custody of a contractor or subcontractor, and the contract or subcontract provisions authorize the proceeds of sale to be credited to the price or cost of the contract or subcontract;

(4) The property was sold to obtain replacement property under the exchange/sale authority pursuant to part 102–39 of this subchapter B; or

(5) The property sold was related to waste prevention and recycling programs, under the authority of Section 607 of Public Law 107–67 (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 107–67, 115 Stat. 514). Consult your General Counsel or Chief Financial Officer for guidance on use of this authority.

13. Revise the section heading to § 102–38.300 to read as follows:

**§ 102–38.300 What happens to sales proceeds that neither we nor the holding agency are authorized to retain, or that are unused?**

\* \* \* \* \*

14. Add Subpart H, consisting of § 102–38.360 to read as follows:

**Subpart H—Implementation of the Federal Asset Sales Program**

**§ 102–38.360 What must an executive agency do to implement the Federal Asset Sales (FAS) program?**

An executive agency must:

(a) Complete a migration plan which outlines the agency's action and timetable to begin using or become a SC. The migration plan must include the deadline to have all agency personal property sales conducted by an SC no later than [date six months after publication of the final rule in the **Federal Register**].

(b) Migrate all agency sales processes to your selected SC(s) no later than [date six months after publication of the final rule in the **Federal Register**]. Content

and format of item data reported to the SC for sale must be in conformance with standards developed by the FAS ESC.

(c) Provide all post-sale data and metrics to the FAS Planning Office in care of GSA MT using format and process developed by the FAS ESC no later than [date six months after publication of the final rule in the **Federal Register**].

[FR Doc. E7-6068 Filed 4-2-07; 8:45 am]

BILLING CODE 6820-14-S

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AI71 and RIN 1018-AI72

#### Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Periods for the Proposed Designations of Critical Habitat for the Coastal California Gnatcatcher and the San Diego Fairy Shrimp

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

**ACTION:** Proposed rules; reopening of public comment periods.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) announce the reopening of the public comment period on our April 24, 2003, proposed rule (68 FR 20228) to designate critical habitat for the coastal California gnatcatcher (*Poliophtila californica californica*) and our April 22, 2003, proposed rule (68 FR 19888) to designate critical habitat for the San Diego fairy shrimp (*Branchinecta sandiegonensis*). The comment period will provide the public and Federal, State, and local agencies and Tribes with an opportunity to submit in writing updated comments and information on these species and associated habitat, the proposed critical habitat designations, and respective draft economic analyses. Comments relevant to issues identified for consideration in the April 22 and April 24, 2003, proposed critical habitat rules and the April 8, 2004, notice of availability of the draft economic analyses for these species that were previously submitted during one of the prior public comment periods need not be resubmitted as they have already been incorporated into the public record and will be fully considered in any final decision. Comments relevant to issues identified in the April 8, 2004, **Federal Register** notice (69 FR 18515) reopening the comment period on the proposed determination of a Distinct Vertebrate Population Segment for the California

gnatcatcher also need not be resubmitted as that determination will be made separately from the critical habitat designations for the coastal California gnatcatcher and San Diego fairy shrimp.

**DATES:** We will accept comments and information until May 3, 2007. Any comments received after the closing date may not be considered in the final decisions on these proposals.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials on these proposals to us by any one of the following methods:

1. You may submit written comments and information to Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011.

2. You may hand-deliver written comments and information to the Carlsbad Fish and Wildlife Office at the above address.

3. You may send comments by facsimile to 760-431-5901.

4. You may send comments by electronic mail (e-mail) to [FW8cfwocomments@fws.gov](mailto:FW8cfwocomments@fws.gov). Please include "Attn: RIN 1018-AI71 and RIN 1018-AI72" in the subject line of your e-mail and your name and address in the body of your message. If you do not receive a confirmation from the system that we have received your message, contact us directly by telephone at 760-431-9440.

5. You may go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of these proposed rules, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office at the above address (telephone 760-431-9440).

Copies of the proposed rule and draft economic analysis for the coastal California gnatcatcher and San Diego fairy shrimp are available on the Internet at <http://www.fws.gov/Carlsbad>. You may also request copies of these documents by contacting the Carlsbad Fish and Wildlife Office at the above address.

#### FOR FURTHER INFORMATION CONTACT:

Tannika Engelhard, Branch Chief, Listing, Carlsbad Fish and Wildlife Office (telephone 760-431-9440). Persons who use a telecommunications device for the hearing impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

#### Public Comments Solicited

We are soliciting comments from the public, governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning events that have occurred since the April 2003 publications of the proposed designations of critical habitat for the coastal California gnatcatcher and San Diego fairy shrimp and the April 2004 publications of the draft economic analyses of the proposed designations for both species and any new information relevant to the status of the species and their essential habitats.

With regard to the proposed rule and draft economic analysis for the coastal California gnatcatcher, we particularly seek comments concerning:

(1) Land use designations and current or planned activities in the subject areas and their possible impacts on areas proposed as critical habitat for the coastal California gnatcatcher, including new information regarding areas proposed as critical habitat that may have lost coastal sage scrub as a result of development or other land use;

(2) Approval and issuance of an incidental take permit under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), for the Orange County Southern Subregion Habitat Conservation Plan (HCP);

(3) Progress in the development and/or implementation of other regional HCPs, including the Natural Community Conservation Plan/HCP for the City of Rancho Palos Verdes in Los Angeles County, CA, and the Western Riverside County Multiple Species HCP;

(4) Effects of the large wildfires that occurred in October 2003 and more recently on the coastal sage scrub habitat in Ventura, Los Angeles, Riverside, San Bernardino, and San Diego counties; and

(5) Publication of new biological information regarding the effects of wildfires from 2003 to the present or other relevant biological publications addressing the status and recovery of sage scrub habitat and conservation of the coastal California gnatcatcher.

With regard to the proposed designation of critical habitat for the San Diego fairy shrimp, we particularly seek comments concerning:

(1) Land use designations and current or planned activities in the subject areas and their possible impacts on areas proposed as critical habitat for the San Diego fairy shrimp, including new information regarding areas proposed as critical habitat that may have lost vernal pool habitat as a result of development;

(2) Information regarding newly identified vernal pools that were not