

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This 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.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 13, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: March 1, 2005.

Norman Niedergang,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(169) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(169) On December 22, 2004, Indiana submitted a request to revise the volatile organic compound requirements for Transwheel Corporation of Huntington County, Indiana. EPA is approving the oil cover as an equivalent control device under 326 Indiana Administrative Code 8-3-5 (a)(5)(C).

(i) Incorporation by reference.

(A) Commissioner's Order #2004-04 as issued by the Indiana Department of Environmental Management on December 22, 2004.

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DEPARTMENT OF DEFENSE

48 CFR Part 237

[DFARS Case 2003-D103]

Defense Federal Acquisition Regulation Supplement; Personal Services Contracts

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Sections 721 and 841 of the National Defense Authorization Act for Fiscal Year 2004. Section 721 provides permanent authority for DoD to enter into personal services contracts for health care at locations outside of DoD medical

treatment facilities. Section 841 adds authority for DoD to enter into contracts for personal services that are to be performed outside the United States or that directly support the mission of a DoD intelligence or counter-intelligence organization or the special operations command.

DATES: *Effective Date:* April 12, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2003-D103.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 69 FR 55991 on September 17, 2004, to implement Sections 721 and 841 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Section 721 amended 10 U.S.C. 1091(a)(2) to provide permanent authority for DoD to enter into personal services contracts for health care at locations outside of DoD medical treatment facilities. Section 841 amended 10 U.S.C. 129b to add authority for DoD to enter into contracts for personal services that support DoD activities and programs outside the United States or that support the mission of a DoD intelligence or counter-intelligence organization or the special operations command.

DoD received no comments on the interim rule. Therefore, DoD has adopted the interim rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD 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 application of the rule is limited to personal services contracts for (1) health care at locations outside of DoD medical treatment facilities, or (2) urgent or unique services that are to be performed outside the United States, or that are in direct support of intelligence missions, when it would not be practical for DoD to obtain these services by other means.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not

contain any 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 Part 237

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR Part 237, which was published at 69 FR 55991 on September 17, 2004, is adopted as a final rule without change.

[FR Doc. 05-7089 Filed 4-11-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 300

[Docket No. 040920271-5083-02, I.D. 102004A]

RIN 0648-AS05

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Tuna Purse Seine Vessels in the Eastern Tropical Pacific Ocean (ETP)

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement resolutions adopted by the Inter-American Tropical Tuna Commission (IATTC) and by the Parties to the Agreement on the International Dolphin Conservation Program (IDCP). The final rule prohibits activities that undermine the effective implementation and enforcement of the Marine Mammal Protection Act (MMPA), Dolphin Protection Consumer Information Act (DPCIA), and International Dolphin Conservation Program Act (IDCPA).

DATES: Effective May 12, 2005.

ADDRESSES: Written comments on the collection-of-information requirements should be sent to Jeremy Rusin, NMFS, Southwest Region, Protected Resources Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Comments may also be sent via facsimile (fax) to (562) 980-4027 or via E-mail. The mailbox address for providing E-mail comments is

0648_AS05@noaa.gov. Include in the subject line of the E-mail the following document identifier: RIN 0648-AS05. The Environmental Assessment (EA) prepared for this rule is available on the Internet at the following address: <http://swr.nmfs.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT:

Jeremy Rusin, NMFS, Southwest Region, Protected Resources Division, (562) 980-4020.

SUPPLEMENTARY INFORMATION:

Background

The United States is a member of the IATTC, which was established in 1949 under the Convention for the Establishment of an Inter-American Tropical Tuna Commission (Convention). The IATTC provides an international forum to ensure the effective international conservation and management of highly migratory species of fish in the Convention Area. The Convention Area is defined to include waters of the ETP bounded by the coast of the Americas, the 40° N. and 40° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the fisheries and the status of tuna stocks to determine appropriate harvest limits or other measures to prevent overexploitation of the stocks and promote viable fisheries. More recently, the IATTC has moved into other fishery management issues, such as managing the cumulative capacity of vessels fishing in the Convention Area, addressing bycatch of non-target and protected species, and imposing time-area closures to conserve tuna stocks.

In support of fleet capacity control, the United States agreed to an IATTC resolution that limited total ETP purse seine fleet capacity. Currently, the United States is committed to limiting the active aggregate capacity of its domestic tuna purse seine fleet in the ETP to 8,969 metric tons (mt) carrying capacity. The U.S. limit was originally based on the cumulative capacity of U.S. vessels actively fishing in the ETP in the years leading up to 1999. In addition, U.S. purse seine vessels based in the western Pacific Ocean (WPO) were allowed to make 32 trips into the ETP without counting against the 8,969 mt limit. Recent resolutions adopted by the IATTC member nations have addressed limits on fleet capacity. The United States and other IATTC member nations and Parties to the Agreement on the IDCP (Agreement) are responsible for domestic implementation of resolutions adopted each year. Under the U.S. Tuna Conventions Act (16

U.S.C. 951 *et seq.*), the Secretary of Commerce is authorized to promulgate regulations implementing the recommendations of the IATTC. This final rule implements the recent capacity resolutions adopted by the IATTC member nations.

The IDCPA was signed into law August 15, 1997, and became effective March 3, 1999. The IDCPA amends the MMPA, DPCIA (16 U.S.C. 1385), and Tuna Conventions Act. The IDCPA, together with previous declarations, became the blueprint for the Agreement on the IDCP. In May 1998, eight nations, including the United States, signed a binding, international agreement to implement the IDCP. The Agreement became effective on February 15, 1999, after four nations (United States, Panama, Ecuador, and Mexico) deposited their instruments of ratification, acceptance, or adherence with the depository for the Agreement. The IDCPA (16 U.S.C. 1413) mandates the Secretary of Commerce to issue and revise regulations, as appropriate, to implement the IDCP.

On October 29, 2004, NMFS published a proposed rule in the **Federal Register** (69 FR 63122), which would have: (1) established a register of U.S. vessels with a history of fishing in the ETP prior to June 28, 2002 (Vessel Register), and authorized only those vessels to purse seine for tuna in the ETP; (2) limited the aggregate active capacity of U.S. purse seine vessels in the ETP to 8,969 mt per year; (3) revised the requirements for maintaining and submitting tuna tracking and verification records; (4) ensured owners of U.S. vessels on the Vessel Register pay annual assessments; (5) prohibited commerce in tuna or tuna products bearing a label or mark referring to dolphins, porpoises, or marine mammals if the label or mark does not comply with the labeling and marking requirements of 16 U.S.C. 1385(d); and (6) prohibited interference with enforcement and inspection activities, submission of false information, and other activities that would undermine the effectiveness of the MMPA, IDCPA, and DPCIA.

This final rule is largely unchanged from the proposed rule. In this final rule, NMFS responds to public and government comments, and makes technical modifications.

Responses to Comments

NMFS solicited comments on the proposed rule. NMFS received seven comments letters during the 30-day comment period from U.S. Customs and Border Protection and the general public. Key issues and concerns are