

requirements with a site restriction 1.0 kilometers (0.6 miles) southwest to avoid a short-spacing to the licensed site of Station WFSP-FM, Channel 299A, Kingwood, West Virginia. The coordinates for Channel 299A at Glenville are 38-55-43 North Latitude and 80-50-47 West Longitude.

The Commission, at the request of Bernice P. Hedrick, allots Channel 292A at Pigeon Forge, Tennessee, as the community's first local aural transmission service. *See* 65 FR 67691, November 13, 2000. Channel 292A can be allotted at Pigeon Forge in compliance with the Commission's minimum distance separation requirements with a site restriction 7.5 kilometers (4.7 miles) southeast to avoid a short-spacing to the licensed site of Station WRIL-FM, Channel 292A, Pineville, Kentucky. The coordinates for Channel 292A at Pigeon Forge are 33-43-33 North Latitude and 83-31-18 West Longitude.

The Commission, at the request of H. David Hedrick, allots Channel 254A at Lincolnton, Georgia, as the community's first local aural transmission service. *See* 65 FR 67691, November 13, 2000. Channel 254A can be allotted at Lincolnton in compliance with the Commission's minimum distance separation requirements with a site restriction of 13 kilometers (8.1 miles) south to avoid a short-spacing to the licensed site of Station WSPA-FM, Channel 255C, Spartanburg, South Carolina. The coordinates for Channel 254A at Lincolnton are 33-40-37 North Latitude and 82-30-18 West Longitude.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Lake City, Channel 247A.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Lincolnton, Channel 254A.

4. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Marietta, Channel 250A.

5. Section 73.202(b), the Table of FM Allotments under South Dakota, is

amended by adding Burke, Channel 264A.

6. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by adding Pigeon Forge, Channel 292A.

7. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Glenville, Channel 299A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-4910 Filed 2-28-01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket Nos. 94-150, 92-51, and 87-154]

Attribution Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of February 13, 2001 (66 FR 9962), a document revising rules governing attribution of ownership interests. This document contains a correction to those rules.

DATES: Effective April 16, 2001.

FOR FURTHER INFORMATION CONTACT: Cyndi Thomas, 202-418-2120.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document amending parts 21, 73, and 76 in the **Federal Register** of February 13, 2001 (66 FR 9962). This document corrects the **Federal Register** as it appeared. In rule FR Doc. 01-3175 published on February 13, 2001 (66 FR 9962), the Commission is correcting § 73.3615 of the Commission's rules to reflect an amendment to § 73.3615(a)(3)(iv)(B), rather than § 73.3615(a)(3)(iii)(B). In rule FR Doc. 01-3175 published on February 13, 2001, make the following corrections:

§ 73.3615 [Corrected]

1. On page 9973, in the first column, in amendatory instruction 6, in the third line, "paragraph (a)(3)(iii)(B)" is corrected to read "paragraph (a)(3)(iv)(B)".

2. On page 9973, in the first column, in § 73.3615, correct paragraph designation "(iii)" to read "(iv)".

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-4795 Filed 2-28-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1516

[FRL-6932-7]

Acquisition Regulation: Type of Contracts

AGENCY: Environmental Protection Agency.

ACTION: Interim rule with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulation (EPAAR) to provide for the use, in certain circumstances and under certain conditions, of a letter contract known as a Notice to Proceed (NTP), to carry out emergency response actions as authorized under sections 104(a)(1) and (h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986; sections 311 (c)(2) and (e)(1)(B) of the Clean Water Act, as amended by the Oil Pollution Act of 1990; and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

DATES: This interim rule is effective on March 1, 2001. Interested parties should submit comments on this interim rule not later than April 30, 2001 to be considered in the formulation of the final rule.

ADDRESSES: Please submit written comments to Larry Wyborski at the following address: U.S. Environmental Protection Agency, Office of Acquisition Management, Mail Code 3802R, 1200 Pennsylvania Ave, N.W., Ariel Rios Building, Washington, D.C. 20460. Commenters may submit comments and data electronically by sending electronic mail (e-mail) to:

Wyborski.Larry@epamail.epa.gov. You must submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. You may also submit disks in Corel Word Perfect format or ASCII file format. Do not submit confidential business information through e-mail. You may also file electronic comments on line at Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Larry Wyborski, U.S. Environmental

Protection Agency, Office of Acquisition Management, Mail Code 3802R, 1200 Pennsylvania Avenue, N.W., Ariel Rios Building, Washington, D.C. 20460. Telephone: (202) 564-4369.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends EPAAR Subpart 1516.6 to provide for issuance, by an EPA Federal Classification Series (FCS) 1102 contracting officer or duly authorized EPA on-scene coordinator with a delegation of procurement authority, of a letter contract known as a Notice to Proceed to undertake certain emergency response actions as authorized under, and consistent with, CERCLA sections 104 (a)(1) and (h) (42 U.S.C. 9604(a)(1) and (h)), sections 311 (c)(2) and (e)(1)(B) of the Clean Water Act (33 U.S.C. 1321(c)(2) and (e)(1)(B)), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300)(1999). Under CERCLA section 104 (a)(1), the EPA (as delegated by the President under Executive Order 12580) is authorized to take certain response actions, consistent with the NCP, to protect the public health, welfare or the environment whenever any hazardous substance is released or there is a substantial threat of such a release into the environment, or there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. Similarly, pursuant to sections 311 (c)(2) and (e)(1)(B) of the Clean Water Act, the EPA (as delegated by the President under Executive Order 12777) is authorized to take certain actions if a discharge, or a substantial threat of a discharge (to or upon navigable waters, adjoining shorelines, the contiguous zone, or natural resources belonging to, appertaining to, or under the exclusive management of the United States) of oil or a hazardous substance from a vessel, offshore facility, or onshore facility is of such a nature as to be a substantial threat to the public health or welfare. In addition, CERCLA Section 104(h), 42 U.S.C. 9604(h), and Clean Water Act sections 311 (c)(2)(B) and (d), 33 U.S.C. 1321 (c)(2)(B) and (d), generally provide that procurement procedures may be developed to effectuate the purposes of these sections. Accordingly, this interim rule identifies the circumstances and conditions under which an EPA FCS 1102 contracting officer or a duly authorized EPA on-scene coordinator with a delegation of procurement authority may award an NTP to carry out the EPA's obligations under

CERCLA section 104(a)(1) and the Clean Water Act sections 311 (c)(2) and (e)(1)(B). In addition, the procedures provided for by this rule in EPAAR 1516.6 may also be used, as appropriate and authorized, for any actions that EPA may be directed to take by the Federal Emergency Management Agency under the authority of the Stafford Act, 42 U.S.C. 5121, *et seq.*

B. Executive Order 12866

This interim rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

D. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's rule on small entities, small entity is defined as: (1) a small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's interim rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of

the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Based on a review of EPA's historical experience, over the last three fiscal years EPA entered into only two letter contracts for the type of work contemplated by this interim rule, each of less than \$10,000.00. Consequently, because of the emergency nature of an NTP, and the strict conditions on its use, and based on its limited historical utilization, it is believed that the authority provided by this interim rule will be used on a very limited basis so that it will have little, if any, impact on small businesses. This interim rule, therefore, will have no adverse and no significant impact on small entities.

E. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and Tribal governments, and the private sector. This interim rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

G. Executive Order 13132

Executive Order 13132 entitled "Federalism" (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This interim rule does not have federalism implications. It will 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

H. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by Tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to

the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian Tribal government "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act of 1995

EPA will use voluntary consensus standards, as directed by section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), in its procurement activities. The NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This interim rulemaking does not involve technical standards. Therefore, EPA is not considering use of any voluntary consensus standards. EPA welcomes comments on this aspect of the interim rulemaking, and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Submission to Congress and the General Accounting Office

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 rules report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

K. Determination To Issue an Interim Rule

Under the Office of Federal Procurement Policy Act, 41 U.S.C. 418b, and Federal Acquisition Regulation (FAR) 1.501-3(b), a procurement regulation may take effect on a temporary basis prior to notice and comment when there are urgent and compelling circumstances that make compliance with prior notice and comment impracticable, the notice of the procurement regulation is published in the **Federal Register** and includes a statement that the procurement regulation is temporary pending completion of the public comment period, and provision is made for a public comment period of at least 30 days. For the reasons set forth below, a determination has been made by the authorized official that such conditions exist justifying the promulgation of this interim rule without prior opportunity for public comment. Pursuant to the Office of Federal Procurement Policy Act, 41 U.S.C. 418b(d), the EPA will consider public comments received in response to this interim rule in the formation of the final rule.

Immediate effectiveness of this interim rule is essential to ensure that the EPA, if necessary, will be able to obtain the services required to respond to certain environmental emergency situations as authorized by and consistent with CERCLA sections 104(a)(1) and (h) (42 U.S.C. 9604(a)(1) and (h)), the Clean Water Act sections 311(c)(2) and (e)(1)(B) (33 U.S.C. 1321(c)(2) and (e)(1)(B)), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300). Under these statutes and regulations, the EPA is authorized to take certain actions to protect the public health, welfare or the environment.

Although EPA has contracted on a competitive basis with a number of firms to provide emergency response cleanup services, certain types of emergencies may be so acute, and the threat to human health or the environment so severe, that cleanup actions must be commenced prior to the required response times of these contracts. Some examples of these types

of emergencies include: a train derailment in a remote area with leakage of highly toxic chemicals into the ground or nearby water source; an oil or hazardous chemical spill into a river, lake, or stream that may affect wildlife or the public health or welfare; and a fire or explosion at a petrochemical facility or a chemical distributors warehouse that may release toxic chemicals into the air, water, or land endangering the public and the environment. Furthermore, emerging threats that the EPA may be tasked to address include releases caused by terrorists/weapons of mass destruction, which are events which could threaten first responders, the public and the environment.

In such emergencies, the standard contract response time may be too long to wait to begin cleanup services or for some reason the contracted cleanup contractor may not be able to respond in time and no other alternate existing contractor is available. Consequently, the urgent and compelling circumstances attendant to this interim rule stem from the concern that unforeseen and unpredictable situations could materialize where existing contractual vehicles in place to deal with an emergency environmental problem are not capable, for any reason, to timely respond to the situation thereby exposing the public and the environment to the risk of harm or injury. Although the EPA does not anticipate many situations where the existing contractual coverage will be insufficient to timely and adequately respond to an environmental emergency demanding immediate attention, in order to fulfill its responsibilities to protect the public health, welfare and the environment, the Agency needs a contractual mechanism to obtain immediate services to respond to environmental releases, discharges or threats that cannot be adequately and timely addressed by existing contractual coverage.

The Agency therefore intends to use a letter contract called an NTP in those limited situations where the existing contractual coverage is not available in a timely manner to respond to certain environmental discharges, releases or threats as described in CERCLA section 104(a)(1) (42 U.S.C. 9604(a)(1)), Clean Water Act sections 311(c)(2) and (e)(1)(B) (33 U.S.C. 1321(c)(2) and (e)(1)(B)), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300). The use of the NTP letter contract will be governed by the applicable procedures mandated by the FAR and

the additional requirements set forth in this rule.

Accordingly, because of the urgent and compelling nature of this action, and the potential danger and damage that could materialize if there were no adequate contractual coverage available to timely respond to an environmental emergency, pursuant to 41 U.S.C. 418b(d) and FAR 1.501-3(b), EPA is promulgating this interim rule on a temporary basis and providing for a public comment period of 60 days from the date of publication of this interim rule. After considering the comments received, EPA may issue a final rule. In accordance with 41 U.S.C. 418b(d), this interim rule will be in effect on a temporary basis during the public comment period and while EPA considers any comments received.

Further, consistent with the urgent and compelling nature of this action, the Agency will execute a class Justification For Other Than Full And Open Competition as required by FAR 6.302-2 and 6.303-1(c) to allow for the award, under the conditions consistent with this rule, of an NTP letter contract on a non-competitive basis, and the EPA will also prepare and execute any additional determinations and/or deviations necessary to effectuate the purposes of this rule.

List of Subjects in 48 CFR Part 1516

Government procurement.

Therefore, 48 CFR chapter 15 is amended as set forth below:

1. The authority citation for part 1516 is to read as follows:

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

PART 1516—[AMENDED]

2. Sections 1516.603-1 and 1516.603-2 are added to read as follows:

1516.603-1: What is a Notice to Proceed?

(a) A Notice to Proceed (NTP) is a type of letter contract issued pursuant to FAR 16.603 under which an EPA Federal Classification Series 1102 (FCS) contracting officer or a duly authorized EPA on-scene coordinator with delegated procurement authority may initiate, in certain defined situations and subject to certain limitations and conditions, contracting actions to respond to certain situations as described in CERCLA section 104(a)(1) (42 U.S.C. 9604(a)(1)) and the Clean Water Act sections 311(c)(2) and (e)(1)(B) (33 U.S.C. 1321(c)(2) and (e)(1)(B)). An NTP may be utilized as a contractual instrument for certain—

(1) Actions that EPA is authorized to undertake under CERCLA section 104(a)(1), 42 U.S.C. 9604(a)(1), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), to respond to situations where any hazardous substance has been released or there is a substantial threat of such a release into the environment, or there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, and

(2) Actions that EPA is authorized to undertake under sections 311(c)(2) and (e)(1)(B) of the Clean Water Act, 33 U.S.C. 1321(c)(2) and (e)(1)(B), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), to respond when there is a discharge, or a substantial threat of a discharge (to or upon navigable waters, adjoining shorelines, the contiguous zone, or natural resources belonging to, appertaining to, or under the exclusive management of the United States), of oil or a hazardous substance from a vessel, onshore facility, or offshore facility that is a substantial threat to the public health or welfare. Pursuant to a class Justification For Other Than Full and Open Competition executed under the authority of FAR 6.302-2 and 6.303-1(c), an NTP may be issued on a non-competitive basis.

(b) What do subsections 1516.603-1 and 1516.603-2 cover? EPAAR 1516.603-1 and 1516.603-2 contain information and procedures relating to issuance and definitization of an NTP. An NTP is subject to, and must comply with, the applicable requirements for letter contracts in FAR 16.603 and the requirements in this section, and be definitized by an EPA FCS 1102 contracting officer.

1516.603-2 What are the requirements for use of an NTP?

(a) An EPA FCS 1102 contracting officer or a duly authorized EPA on-scene coordinator with a delegation of procurement authority may issue an NTP so long as it does not exceed the limits of his or her procurement authority and only when all of the following conditions have been met:

(1) A written determination has been made by the Federal on-scene coordinator that—

(i) As authorized by and consistent with CERCLA section 104(a)(1), 42 U.S.C. 9604(a)(1), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), the EPA must take action to respond to a hazardous substance release or

substantial threat of such a release into the environment, or a release or substantial threat of a release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, or

(ii) As authorized by and consistent with the Clean Water Act sections 311(c)(2) and (e)(1)(B), 33 U.S.C. 1321(c)(2) and (e)(1)(B), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), the EPA must take action to respond to a discharge, or a substantial threat of a discharge (to or upon navigable waters, adjoining shorelines, the contiguous zone, or natural resources belonging to, appertaining to, or under the exclusive management of the United States), of oil or a hazardous substance from a vessel, offshore facility, or onshore facility that is of such a size and character as to pose a substantial threat to the public health or welfare of the United States; and

(2) Before a duly authorized EPA on-scene coordinator with a delegation of procurement authority may issue an NTP, he or she must confirm that an EPA FCS 1102 contracting officer is not available to provide the required contracting support by the time the Federal on-scene coordinator requires the response action to be undertaken; and

(3) A written determination is made by an EPA FCS 1102 contracting officer or a duly authorized EPA on-scene coordinator with a delegation of procurement authority that there is no other existing contracting mechanism available to provide the required contracting support by the time required, including the inability of an existing emergency response contractor or other existing contract vehicle to respond in the required time frame. These conditions, as well as any other requirements applicable to NTPs or letter contracts contained in the FAR or EPAAR, must be met before an NTP can be issued by an EPA FCS 1102 contracting officer or a duly authorized EPA on-scene coordinator with a delegation of procurement authority.

(b) What should be included in an NTP? (1) Since an NTP is a type of letter contract, it is subject to the requirements of FAR 16.603. All of the relevant requirements of FAR 16.603 apply to NTP's including FAR 16.603-2, 16.603-3, and 16.603-4, and an NTP will include all appropriate FAR and EPAAR contract clauses. An NTP should also include an overall price ceiling and be as complete and definite as possible under the circumstances. To the extent NTPs require modification of

any FAR or EPAAR prescribed procedures or clauses, an appropriate FAR or EPAAR deviation will be prepared.

(2) The EPA FCS 1102 contracting officer or duly authorized EPA on-scene coordinator with a delegation of procurement authority shall include in each NTP the clauses required by the FAR or EPAAR for the type of definitive contract contemplated and any additional clauses known to be appropriate for it. In addition, the following clauses must be inserted in the solicitation (if one is issued) and the NTP when an NTP is used:

(i) The clause at FAR 52.216-23, Execution and Commencement of Work, except that the term on-scene coordinator may be used in place of the term contracting officer;

(ii) The clause at FAR 52.216-24, Limitation of Government Liability, with dollar amounts completed in a manner consistent with FAR 16.603-2(d); and

(iii) The clause at FAR 52.216-25, Contract Definitization, with its paragraph (b) completed in a manner consistent with FAR 16.603-2(c) or any applicable FAR deviation. The clause at FAR 52.216-26, Payment of Allowable Costs Before Definitization, shall also be included in a solicitation (if one is issued) and NTPs if a cost-reimbursement definitive contract is contemplated.

(3) Each NTP shall, as required by the clause at FAR 52.216-25, Contract Definitization, contain a negotiated definitization schedule that includes:

(i) Dates for submission of the contractor's price proposal, required cost and pricing data, and if required, make-or-buy and subcontracting plans;

(ii) The date for the start of negotiations; and

(iii) A target date for definitization which shall be the earliest practicable date for definitization (an NTP must be definitized by an EPA FCS 1102 contracting officer). The schedule will provide for definitization of the NTP within 90 calendar days after the date of the NTP award. However, the EPA FCS 1102 contracting officer may, in extreme cases and according to agency procedures, authorize an additional period. If, after exhausting all reasonable efforts, the EPA FCS 1102 contracting officer and the contractor cannot negotiate a definitive contract because of failure to reach agreement as to price or fee, the clause at 52.216-25 requires the contractor to proceed with the work and provides that the contracting officer may, with the approval of the head of the contracting activity, determine a reasonable price or

fee in accordance with subpart 15.4 and part 31 of the FAR, subject to appeal as provided in the Disputes clause.

(4) The maximum liability of the Government inserted in the clause at 52.216-24, Limitation of Government Liability, shall, as approved by the official who authorized the NTP, be the estimated amount necessary to cover the contractor's requirements for funds to complete the work to be performed under the NTP. However, it shall not exceed the estimated cost of the definitive contract.

(c) Are there any financial or monetary limitations on the use of an NTP? In addition to the requirements for issuance of an NTP set forth elsewhere in this subpart—

(1) The total definitized dollar value of an individual NTP shall not exceed \$200,000.00, and

(2) The applicable Program Office must commit and make available appropriate funding for the emergency response action taken under the NTP prior to NTP issuance.

(d) Are there any other procedural requirements for issuance of an NTP? An NTP must be issued in writing by the EPA FCS 1102 contracting officer or the duly authorized EPA on-scene coordinator with a delegation of procurement authority using a Standard Form 33. In addition, the EPA FCS 1102 contracting officer or the EPA on-scene coordinator awarding the NTP must ensure that the NTP complies with all applicable requirements for letter contracts set forth in the FAR and the requirements of this section, includes all relevant provisions and clauses, and that all actual or potential conflict of interest or other contracting issues are identified and resolved prior to NTP issuance. To assist the EPA on-scene coordinator and EPA FCS 1102 contracting officer in their responsibilities regarding NTP award, an NTP checklist will be completed by the EPA FCS 1102 contracting officer or EPA on-scene coordinator prior to issuance of the NTP.

(e) What happens after an NTP is awarded to a contractor? (1) If an NTP is issued by a duly authorized EPA on-scene coordinator with a delegation of procurement authority, he or she must notify the cognizant EPA FCS 1102 contracting officer of the NTP award, and provide the NTP checklist to the contracting officer, as soon as possible but in no event later than the next working day after NTP issuance.

(2) Within 5 working days of the EPA on-scene coordinator's award of an NTP, the on-scene coordinator shall provide to the cognizant EPA FCS 1102 contracting officer all NTP documents,

materials, and information necessary for the contracting officer to definitize the contract, and should retain a copy for his/her records. An EPA FCS 1102 contracting officer will be responsible for definitization of the NTP consistent with the definitization procedures set forth in this subpart. During the process of definitizing the NTP, the EPA FCS 1102 contracting officer will send the contractor the "Representations, Certifications, and Other Statements of Offerors" for completion. The contractor will complete this information, and any other required information, and submit it to the EPA FCS 1102 contracting officer prior to definitization of the NTP.

(f) The CCO, who is authorized by EPAAR 1516.603-3 to make the determination to use a letter contract, shall make a class determination and findings authorizing EPA FCS 1102 contracting officers and duly authorized EPA on-scene coordinators with delegations of procurement authority to award NTPs pursuant to the conditions set forth in this subpart.

Dated: December 27, 2000.

Judy S. Davis,

Acting Director, Office of Acquisition Management.

[FR Doc. 01-4978 Filed 2-28-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328-1041-02; I.D. 111500C]

RIN 0648-AN71

Fisheries of the Northeastern United States; Scup and Black Sea Bass Fisheries; 2001 Specifications; Commercial Quota Harvested for Winter I Scup Period; Commercial Quota Harvested for Black Sea Bass Quarter I Period

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

ACTION: Final rule, final 2001 specifications, and commercial quota adjustment; notification of commercial quota harvest for Winter I scup period; notification of commercial quota harvest for Quarter I black sea bass period.

SUMMARY: NMFS issues final specifications for the 2001 scup and black sea bass fisheries and makes preliminary adjustments to the 2001

commercial quotas for these fisheries. The annual specifications for the scup fishery modify the Gear Restricted Areas (GRAs) that were established in the Mid-Atlantic Bight to reduce scup bycatch in small-mesh fisheries. The trip limit provisions in the scup and black sea bass fisheries are modified to be possession limits, and these limits are further specified to be the maximum amount allowed to be landed within a 24-hour period (calendar day). NMFS also announces that the scup commercial quota available in the Winter I period and the black sea bass commercial quota available in the Quarter 1 period to the coastal states from Maine through North Carolina has been harvested. Federally permitted commercial vessels may not land scup in these states for the remainder of the 2001 Winter I quota period (through April 30, 2001). Federally permitted commercial vessels may not land black sea bass in these states for the remainder of the 2001 Quarter I quota period (through March 31, 2001). Regulations governing the scup and black sea bass fisheries require publication of this notification to advise the coastal states from Maine through North Carolina that these quotas have been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing scup in these states, and for landing black sea bass in these states north of 35°15.3' N. lat. The intent of this action is to comply with implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of these fisheries. The specifications for the 2001 summer flounder fishery will be published in the **Federal Register** at a later date.

DATES: 1. The 2001 final specifications for scup and black sea bass are effective March 1, 2001, through December 31, 2001.

2. Sections 648.14(a)(84), 648.123(a)(1) and 648.123(a)(5) are effective March 1, 2001.

3. The prohibition on landings of scup in the coastal states from Maine through North Carolina by Federal permit holders is effective 0001 hours, March 1, 2001, through 2400 hours, April 30, 2001.

4. The prohibition on landings of black sea bass in the coastal states from Maine through North Carolina north of 35°15.3' N. lat. by Federal permit holders is effective 0001 hours, March 7,

2001, through 2400 hours, March 31, 2001.

5. Sections 648.14(a)(92), 648.14(a)(122), 648.14(u)(9), 648.120(b)(2), 648.122(a) through (c), 648.140(b)(2), the removal and reservation of 648.122(d), and the removal of 648.14(a)(123) are effective April 2, 2001.

ADDRESSES: Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

Copies of supporting documents used by the Scup and Black Sea Bass Monitoring Committees, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office at the same address. The EA/RIR/FRFA contains an analysis of the final scup and black sea bass measures and includes a draft analysis of summer flounder measures. The EA/RIR/FRFA is also accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nr.htm>.

FOR FURTHER INFORMATION CONTACT:

Richard A. Pearson, Fishery Policy Analyst, (978)281-9279, fax (978)281-9135, e-mail rick.a.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FMP was developed jointly by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3' N. lat. (the latitude of Cape Hatteras Light, NC) northward to the U.S./Canadian border. Implementing regulations for these fisheries are found at 50 CFR part 648, subparts A, H (scup), and I (black sea bass).

Pursuant to §§ 648.120 (scup) and 648.140 (black sea bass), the Administrator, Northeast Region, NMFS, (Regional Administrator) implements measures for the fishing year to assure that the target fishing mortality rate (F) or exploitation rate for each fishery, as specified in the FMP, is not exceeded. The target F or exploitation rate and management measures (e.g., mesh requirements, minimum fish sizes, seasons, and area