

B. What Is the Regulatory History of the Nevada SIP?

The State of Nevada first submitted an applicable SIP in January 1972, portions of which EPA approved pursuant to CAA § 110(c) on May 31, 1972 at 37 FR 10842. The SIP included various sections of the NAC and the Nevada Revised Statutes. Nevada subsequently adopted and submitted many revisions to these requirements, some of which EPA approved on January 9, 1978 at 43 FR 1342, July 10, 1980 at 45 FR 46284, August 27, 1981 at 46 FR 43142, and June 18, 1982 at 47 FR 26387. Since 1982, EPA has approved very few revisions to Nevada's applicable SIP despite numerous changes that have been adopted locally.

C. What Is the Purpose of This Proposed Rule?

The purpose of this proposal is to bring the applicable SIP up to date. The regulations we are proposing to approve today address a few of the provisions contained in the February 2005 submittal concerning definitions, sulfur emission controls, and various burning regulations.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Regulations?

Generally, SIP regulations in attainment areas must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). Guidance and policy documents that we used to help evaluate enforceability include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Do the Regulations Meet the Evaluation Criteria?

We believe these regulations are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action.

Because EPA believes the submitted regulations fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information

during the comment period, we intend to publish a final approval action that will incorporate these regulations into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

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. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxide.

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

Dated: August 31, 2005.

Laura Yoshii,

Acting Regional Administrator, Region IX.

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OFFICE OF MANAGEMENT AND BUDGET

48 CFR Part 9904

Office of Federal Procurement Policy; Cost Accounting Standards Board; CAS Exemption for Contracts Executed and Performed Entirely Outside the United States, Its Territories, and Possessions

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Staff Discussion Paper (SDP); request for comments.

SUMMARY: The Cost Accounting Standards (CAS) Board, Office of Federal Procurement Policy, invites public comments on the staff discussion paper regarding a provision that provides an exemption from CAS for contracts that are executed and performed entirely outside the United States, its territories, and possessions.

DATES: Comments must be in writing and must be received by November 14, 2005.

ADDRESSES: Due to delays in OMB's receipt and processing of mail,

respondents are strongly encouraged to submit comments electronically to ensure timely receipt. Electronic comments may be submitted to *casb2@omb.eop.gov*. Please put the full body of your comments in the text of the electronic message and also as an attachment readable in either MS Word or Corel WordPerfect. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 395-5105.

FOR FURTHER INFORMATION CONTACT: David Capitano, Cost Accounting Standards Board (telephone: 703-847-7486).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The Board's rules, regulations and Standards are codified at 48 CFR Chapter 99. The Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires the Board, prior to the establishment of any new or revised Cost Accounting Standard (CAS), to complete a prescribed rulemaking process. The process generally consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of the adoption of a proposed Standard (*e.g.*, promulgation of a Staff Discussion Paper.)

2. Promulgate an Advance Notice of Proposed Rulemaking (ANPRM).

3. Promulgate a Notice of Proposed Rulemaking (NPRM).

4. Promulgate a Final Rule.

This Staff Discussion Paper (SDP) is issued by the Board as step one of the four-step process. The Board notes that the exemption at 48 CFR 9903.201-1(b)(14) is not subject to the four-step process required by 41 U.S.C. 422(g)(1) because it is not a standard. Thus, there is no requirement for the Board to follow the four-step process for this promulgation. Nevertheless, the Board believes following the four-step process is beneficial for this issue. However, the issuance of this SDP is not intended to establish any precedence for use of the four-step process in promulgating CAS rules and regulations other than standards.

B. Background and Summary

The Office of Federal Procurement Policy, Cost Accounting Standards Board, is releasing a SDP regarding the exemption at 48 CFR 9903.201-1(b)(14). The purpose of the SDP is to solicit

public views with respect to the Board's consideration of whether the exemption at 48 CFR 9903.201-1(b)(14) should be revised or eliminated. Respondents are encouraged to identify and comment on any issues not addressed in this SDP that they believe are important to the subject. This SDP reflects research accomplished to date by the staff of the Cost Accounting Standards Board in the respective subject area.

C. Public Comments

Interested persons are invited to participate by submitting data, views or arguments with respect to this SDP, including but not limited to the questions listed in the SDP. All comments must be in writing or by E-mail, and submitted to the mailing or E-mail addresses indicated in the ADDRESSES section.

David H. Safavian,

Chair, Cost Accounting Standards Board.

Cost Accounting Standards Board Staff Discussion Paper (SDP)

48 CFR 9903.201-1(b)(14)

Exemption for Contracts Entirely Executed and Performed Outside the United States

Background

Purpose

48 CFR 9903.201-1(b) provides a list of categories of contracts and subcontracts that are exempt from all CAS requirements (CAS exemptions). Paragraph (14) of this provision provides an exemption for "Contracts and subcontracts to be executed and performed entirely outside the United States, its territories, and possessions." The purpose of this SDP is to explore whether this exemption should be revised or eliminated.

History of Exemption

The original CAS Board (the Board) was established by Section 2168 of the Defense Production Act of 1950 (DPA). Section 2163 of the DPA, entitled "Territorial Application of Act," provided that Sections 2061 through 2170 of the act "shall be applicable to the United States, its territories and possessions, and the District of Columbia" (United States). Since the provisions of the DPA were applicable only within the United States, the CAS Board's rules, regulations and standards were also applicable only within the United States.

On May 29, 1973, Mr. Van Cleve, General Counsel to the CAS Board, wrote to Mr. Jack Kendig, DCAA, reiterating the Board's lack of authority

over contracts executed and performed entirely outside the United States. These comments were made during the CAS Board's early deliberations of what contracts were, or were not, under its purview:

"As you are aware, the CASB has previously recognized that its authorizing legislation is a part of Defense Production Act and that pertinent provisions of that Act apply to the activities of the Board. We consider that the above provision [Section 713 of the Act] does exclude from the Board's jurisdiction any contracts which are executed and performed in their entirety outside of the United States, its territories and possessions.

To the extent the Board has dealt with foreign contracts, it has been assumed that either the document was executed in the United States or that some part of performance occurred within the United States which would, of course, bring the contract within the scope of the Board's authority." [Reference added for clarification]

On June 29, 1973, the Deputy Assistant Secretary of Defense for Procurement advised the CAS Board that based on Mr. Van Cleve's May 29, 1973 opinion, DOD was revising ASPR 3-1204 (Contract Clauses) to add contracts and subcontracts executed and performed entirely outside the United States to the list of exclusions from CAS. On September 24, 1973, Defense Procurement Circular No. 115 amended ASPR 3-1204 to provide for this CAS exclusion. As amended, ASPR 3-1204 read as follows:

3-1204 Contract Clause. The Cost Accounting Standards clause set forth in 7-104.83 shall be inserted in all negotiated contracts exceeding \$100,000, except when the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public or is set by law or regulation. In addition to the foregoing exceptions, the clause shall not be included in the following contracts:

* * * * *

(vi) contracts which are executed and performed in their entirety outside the United States, its territories and possessions.

In 1980, the CAS Board ceased to exist under the DPA. CAS administration was undertaken by the Department of Defense until the CAS Board was re-established in 1988 under the Office of Federal Procurement Policy (OFPP) Act.

In 1991, the new CAS Board decided to review the exemption from CAS for contracts and subcontracts executed and performed entirely outside the United States, its territories and possessions at FAR 30.201-1(14). The exemption was retained and incorporated in the current CAS Board's recodified rules and regulations at 48 CFR 9903.201-1(b)(14) on April 17, 1992 (57 FR 14148).

Key Questions for Consideration

The CAS Board is soliciting comments on this issue from interested parties. In particular, the Board is interested in comments related to the following issues:

1. Any statute that would require the CAS Board to retain this exemption. If any such statute exists, provide the specific statute and language that contain this requirement.
2. How this exemption does or does not promote the CAS Board's primary objective of achieving "(1) an increased degree of uniformity in cost accounting practices among Government contractors in like circumstances, and (2) consistency in cost accounting practices in like circumstances by individual government contractor over periods of time."
3. The significance of the location of contract execution to CAS applicability.
4. The significance of the location of contract performance to CAS applicability.
5. The advantages and disadvantages of exempting contracts and subcontracts from CAS that are executed and performed entirely outside the U.S.
6. Contracting situations in which the exemption has historically been utilized.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 622

[Docket No. 050729208-5208-01; I.D. 060805B]

RIN 0648-AP51

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Amendment to the Fishery Management Plans of the U.S. Caribbean

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement a comprehensive amendment prepared by the Caribbean Fishery Management Council (Council) to amend its Reef Fish, Spiny Lobster, Queen Conch, and Coral Fishery Management Plans (FMPs). The

comprehensive amendment is designed to ensure the FMPs are fully compliant with the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This proposed rule would redefine the fishery management units for the FMPs; establish seasonal closures; impose gear restrictions and requirements; revise requirements for marking pots and traps; and prohibit the filleting of fish at sea. In addition, the comprehensive amendment would establish biological reference points and stock status criteria; establish rebuilding schedules and strategies to end overfishing and rebuild overfished stocks; provide for standardized collection of bycatch data; minimize bycatch and bycatch mortality to the extent practicable; designate essential fish habitat (EFH) and EFH habitat areas of particular concern (HAPCs); and minimize adverse impacts on such habitat to the extent practicable. The intended effect of this proposed rule is to achieve optimum yield in the fisheries and provide social and economic benefits associated with maintaining healthy stocks.

DATES: Comments must be received no later than 5 p.m., eastern time, on September 28, 2005.

ADDRESSES: You may submit comments on the proposed rule by any of the following methods:

- E-mail: 0648-AP51.Proposed@noaa.gov. Include in the subject line of the e-mail comment the following document identifier 0648-AP51.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Steve Branstetter, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727-824-5308, Attention: Steve Branstetter.

Copies of documents supporting this action may be obtained by contacting the NMFS Southeast Regional Office at the above address.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727-824-5305; fax 727-824-5308; e-mail Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The fisheries for spiny lobster, queen conch, reef fish, and corals and reef-associated invertebrates in the exclusive economic zone (EEZ) off Puerto Rico and of the U.S. Virgin Islands are managed under the respective fishery management plans prepared by the Council. These fishery management plans are implemented under the authority of the Magnuson-Stevens Act by regulations at

50 CFR part 622. This proposed rule would implement Amendment 2 to the FMP for the Spiny Lobster Fishery, Amendment 1 to the FMP for Queen Conch Resources, Amendment 3 to the FMP for the Reef Fish Fishery, and Amendment 2 to the FMP for the Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands, known collectively as the Comprehensive Amendment to the FMPs of the Caribbean.

Background

A notice of availability for the comprehensive amendment was published in the **Federal Register** on June 16, 2005 (70 FR 35053). This proposed rule and the comprehensive amendment are intended to address various requirements set forth in the Magnuson-Stevens Act: (1) Assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, fisheries; (2) specify objective and measurable criteria for identifying when a fishery is overfished; (3) end overfishing and rebuild overfished stocks, and prevent overfishing in fisheries that are identified as approaching an overfished condition; (4) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery and implement conservation and management measures that minimize bycatch and bycatch mortality to the extent practicable; and (5) identify, describe, and designate EFH and EFH-HAPCs for managed stocks, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat.

Provisions of This Proposed Rule

Revision of Fishery Management Units (FMUs)

This proposed rule would redefine the FMUs in all the Council FMPs. FMUs define the specific species that are to be the target of conservation and management.

The proposed rule would remove from the respective FMUs, species found predominantly in the waters of Puerto Rico or the U.S. Virgin Islands (rather than in Federal waters). In addition, those species for which data are inadequate to establish a need for conservation and management, biological reference points, or stock status determination criteria would remain in the FMUs for data collection purposes but would not be subject to Federal regulation at this time. When