

subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a

substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

IX. 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 rule 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 this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 24, 1999.

James Jones,
Director, Registration Division, Office of
Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.425, by alphabetically adding to the table in paragraph (b), the following commodities to read as follows:

§ 180.425 Clomazone; tolerances for residues.

*	*	*	*
*			
(b)	*	*	*

Commodity	Parts per million	Expiration/revocation date
Rice, grain	0.05	12/31/01
Rice, straw	0.05	12/31/01
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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1815

Requiring Information Other Than Cost or Pricing Data; Correction of Inconsistency

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule amends the NASA FAR Supplement (NFS) to identify a FAR exception to NASA's

prohibition against requesting information other than cost or pricing data in a solicitation when a firm-fixed-price competition is involved.

EFFECTIVE DATE: December 13, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, NASA Headquarters, Code HK, Washington, DC 20546; Telephone: (202) 358-0444; email: joseph.lecren@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The NFS coverage at 1815.403-3(b) prohibits requesting information other

than cost or pricing data in the solicitation where a competitive firm-fixed-price acquisition is involved. However, FAR 22.1103 requires the provision at 52.222-46, Evaluation of Compensation for Professional Employees, be inserted in solicitations for negotiated service contracts when the contract amount is expected to exceed \$500,000 and the service to be provided will require meaningful numbers of professional employees. This provision requires offerors to provide certain information that is considered to be information other than cost or pricing data, and it applies to competitive firm-fixed-price acquisitions. The result is an inconsistency between the FAR and the NFS coverage.

The final rule eliminates this inconsistency by recognizing the FAR 22.1103 requirement as an exception.

B. Regulatory Flexibility Act

NASA 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 this does not impose any new requirements beyond those already required by the FAR.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public 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 1815

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1815 is amended as follows:

1. The authority citation for 48 CFR part 1815 continues to read as follows:

Authority: 42 U.S.C. 2743(c)(1).

PART 1815—CONTRACTING BY NEGOTIATION

2. Section 1815.403-3 is revised to read as follows:

1815.403-3 Requiring information other than cost or pricing data.

* * * * *

(b) As indicated in 1815.403-1(b)(1), the adequate price competition exception applies to all competitive acquisitions. For other than firm-fixed price competitions, only the minimum

information other than cost or pricing data necessary to ensure price reasonableness and assess cost realism should be requested. For firm-fixed price competitions, the contracting officer shall not request any cost information, except as required by FAR 22.1103, unless proposed prices appear unreasonable or unrealistically low given the offeror's proposed approach and there are concerns that the contractor may default.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No.99120 7322-9322-01; I.D.120399A]

RIN 0648-AN30

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is imposing, for a 30-day period, an additional restriction on shrimp trawlers required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, operating in Atlantic offshore waters out to 10 nautical miles (nm)(18.3 km) from the coast of Florida between 28° N. latitude and the Georgia-Florida border. Shrimp vessels operating in this area must use a TED with an escape opening large enough to exclude leatherback turtles, as specified in the regulations. This action is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from December 8, 1999 through January 7, 2000. Comments on this action are requested, and must be received by January 7, 2000.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 727-570-5312, or Barbara A. Schroeder, 301-713-1401. For assistance in modifying TED escape openings to exclude leatherback sea

turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS laboratory by phone (228)-762 4591 or by fax (228) 769-8699.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species as a result of shrimp trawling activities has been documented in the Gulf of Mexico and in the Atlantic Ocean. Under the Endangered Species Act (ESA) and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year-round.

The regulations provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings of sea turtles that may be likely to jeopardize the continued existence of listed species or that would violate the terms and conditions of an incidental take statement or incidental take permit. Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions may be imposed to conserve listed species and to avoid unauthorized takings. Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each (50 CFR 223.206(d)(4)).

Leatherback Sea Turtles

Leatherback sea turtles are the largest species of sea turtle. They weigh between 600 and 1300 pounds (272 and 590 Kg) and have carapaces 5 to 6 ft (1.5 to 1.8 m) in length. Leatherbacks are widely distributed and can range from the tropics to sub-Arctic waters during their feeding migrations. They nest in low numbers on U.S. beaches and are primarily seen in coastal waters of the southeast U.S. during their northern springtime migration, especially when high abundances of jellyfish occur nearshore. However, they can be found in U.S. waters throughout the year.