

Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

John A. Karousos,

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

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1535 and 1552

[FRL-5639-4]

Acquisition Regulation: Removal of Certification Requirements Regarding Collection, Use, Access, Treatment, and Disclosure of Confidential Business Information (CBI)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the Environmental Protection Agency Acquisition Regulation (EPAAR) (48 CFR Chapter 15) by removing certification requirements regarding the collection, use, access, treatment, and disclosure of confidential business information (CBI) not specifically imposed by statute, and to amend CBI clauses to remove such certification requirements.

DATE: Written comments on this proposed rule must be received on or before December 23, 1996.

ADDRESSES: Comments should be addressed to the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, attn: Paul Schaffer (Mail Code 3802F). Comments may also be transmitted electronically by electronic mail (e-mail) to Schaffer.paul@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on disk in Wordperfect in 6.1 file format or ASCII file format. Electronic comments on the proposed rule may be filed online at many Federal Deposit Libraries.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer at (202) 260-9032.

SUPPLEMENTARY INFORMATION:

A. Background

Section 4301(b) of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106) requires agencies to remove all non-statutory certifications from their acquisition regulation, unless the head of the agency approves a justification for the retention of a certification requirement. The basis for the justification must be that there is no less burdensome means for administering and enforcing the certification requirement.

The Senior Procurement Official has provided the Administrator of EPA a determination, which the Administrator has approved, that there is no less burdensome means for administering and enforcing protections for EPA from organizational conflicts of interests than by certification. The following conflict of interest certifications are therefore not affected by this rule:

48 CFR 1552.209-72 Organizational Conflicts of Interest Certification.

48 CFR 1552.210-80 Annual Certification.

48 CFR 1552.212-71 Work Assignments.

A copy of the determination approved by the EPA Administrator for retention of the conflict of interest certifications listed above may be obtained from the contact point listed in this rule.

An analysis of the certifications for 48 CFR 1552.235-72 (Control and Security of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Confidential Business Information), and 48 CFR 1552.235-74, (Control and Security of Toxic Substances Control Act (TSCA) Confidential Business Information) revealed these certifications can be removed. Existing FIFRA and TSCA CBI clauses will be amended to mandate that prior to receipt of FIFRA CBI and TSCA CBI by the Contractor, the Contractor will ensure that their employees have read and are familiar with the handling, control, and data security requirements without the need for a certification.

B. Executive Order 12866

This is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review was required by the Office of Information and Regulatory Affairs.

C. Paperwork Reduction Act

The Paperwork Reduction Act did not apply because this 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

The EPA certifies that this rule does not exert a significant economic impact on a substantial number of small entities. This rule imposes no reporting, record-keeping, or any compliance costs for any entity, whether large or small.

E. Unfunded Mandates

This rule will not impose unfunded mandates on state or local entities, or others.

List of Subjects in 48 CFR Parts 1535 and 1552

Government procurement.

Therefore, 48 CFR Chapter 15 is proposed to be amended as set forth below:

1. The authority citation for Parts 1535 and 1552 continues to read as follows:

Authority: Sec. 205(c), 63 stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1535.007 is revised to read as follows:

1535.007 Solicitations.

(a) Contracting Officers shall insert 48 CFR 1552.235-73, Access to Federal Insecticide, Fungicide, and Rodenticide Act Confidential Business Information, in all solicitations when the Contracting Officer has determined that EPA may furnish the contractor with confidential business information which EPA had obtained from third parties under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*).

(b) Contracting Officers shall insert 48 CFR 1552.235-75, Access to Toxic Substances Control Act Confidential Business Information, in all solicitations when the Contracting Officer has determined that EPA may furnish the contractor with confidential business information which EPA had obtained from third parties under the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

3. Sections 1552.235-72 and 1552.235-74 are removed and reserved.

4. Section 1552.235-77 is amended by revising the heading and paragraph (a)(3) to read as follows:

1552.235-77 Data Security for Federal Insecticide, Fungicide and Rodenticide Act Confidential Business Information (Sept. 1966)

(a) * * *

(3) Prior to receipt of FIFRA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to FIFRA CBI have been briefed on the handling, control, and security requirements set forth in the FIFRA Information Security Manual.

* * * * *

5. Section 1552.235-78 is amended by revising the heading and paragraph (a)(1) to read as follows:

1552.235-78 Data Security for Toxic Substances Control Act Confidential Business Information (Sept. 1966)

(a) * * *

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the TSCA CBI Security Manual. The manual may be obtained from the Director, Information Management Division (IMD), Office of Pollution Prevention and Toxics (OPPT), U.S. Environmental Protection Agency (EPA), 401 M Street, SW, Washington, DC 20460. Prior to receipt of TSCA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to TSCA CBI have been briefed on the handling, control, and security requirements set forth in the TSCA CBI Security Manual.

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Dated: October 8, 1996.

Betty L. Bailey,

Director, Office of Acquisition Management.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 961008282-6282-01; I.D. 092796A]

RIN 0648-A197

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands; Red Hind Spawning Aggregations

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 regulatory amendment prepared by the Caribbean Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). In the Caribbean exclusive economic zone (EEZ) off western Puerto Rico, the regulatory amendment would adjust the

boundary of the existing red hind spawning aggregation seasonal/area closure and add two additional red hind spawning aggregation seasonal/area closures. The intended effect is to protect red hind spawning aggregations by prohibiting fishing in these areas during the spawning season.

DATES: Written comments must be received on or before November 8, 1996.

ADDRESSES: Comments on the proposed rule must be sent to Georgia Cranmore, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the regulatory amendment, which includes an environmental assessment and a regulatory impact review, should be sent to the Caribbean Fishery Management Council, 268 Ave. Muñoz Rivera, Suite 1108, San Juan, PR 00918-2577.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of Puerto Rico and the U.S. Virgin Islands is managed under the FMP. The FMP was prepared by the Council and is implemented by regulations at 50 CFR part 622 under the authority of the Magnuson Fishery Conservation and Management Act.

Background

Red hind, like most groupers, are long-lived, slow-growing, and aggregate for spawning. Hook and line and fish traps are the most commonly used gear in the commercial fishery; little data exist on the recreational fishery.

Commercial landings of red hind off western Puerto Rico have declined substantially since 1991. Almost 30,000 lb (13,608 kg) of red hind were reported landed in western Puerto Rico in 1991; landings in 1994 totaled about 11,000 lb (4,990 kg). Both the number and size of fish caught have declined in commercial landings. Fishing effort for red hind is highest during the spawning season, December 1 through February 28. The Council believes that protection of spawning aggregations is a practical way to reduce fishing mortality and also increase the likelihood of spawning success.

Amendment 2 (1993) to the FMP established a red hind spawning aggregation seasonal/area closure in the EEZ off western Puerto Rico, around Buoy 8 at Tourmaline Bank. In 1996, commercial fishermen testified that this area is larger and further to the west than needed to encompass the spawning aggregation around Tourmaline Bank. Additionally, Puerto Rico's Department of Natural and Environmental

Resources, working in cooperation with commercial fishermen, has identified two additional red hind spawning aggregations off western Puerto Rico that need protection.

Management Measures

In the EEZ off western Puerto Rico, the Council is proposing to: (1) Adjust the boundary of the existing red hind spawning aggregation seasonal/area closure around Buoy 8 at Tourmaline Bank by moving the closed area further to the east and reducing the size of the area from approximately 15 square nautical miles (nm²) to approximately 9 nm²; and (2) add two additional red hind spawning aggregation seasonal/area closures of 9 nm² each—one around Buoy 6 at Abrir La Sierra Bank and the other around a buoy to be deployed in the area known as "Bajo de Cico."

Red hind can be taken as bycatch in fish or crustacean traps or by other non-selective gear used in directed fisheries off western Puerto Rico. Thus, all commercial and recreational fishing for all species needs to be prohibited in the red hind spawning aggregation areas from December 1 through February 28, each year, to protect the spawning aggregations and to facilitate effective enforcement of the closed areas.

Commercial fishermen support these measures to protect the red hind spawning aggregations. They can shift effort to other species, such as snappers, outside the closed areas. Also, the adjustment of the boundary of the existing closure to exclude sandy bottom areas, previously closed to fishing, will allow trap fishermen to use these areas to store traps during bad weather. Although testimony by commercial fishermen indicates that recreational fishermen fish these spawning aggregations, no data exist on the potential impact on recreational fishermen of the proposed closed areas.

This proposed rule will close only those portions of the spawning aggregations off Puerto Rico that are in the EEZ. Complementary regulations by the Commonwealth of Puerto Rico are required to protect remaining portions within Puerto Rico's waters.

Action on the Recommended Changes

The Council's recommended changes are within the scope of the management measures that may be adjusted by the framework procedure specified in the FMP. The Administrator, Southeast Region, NMFS, initially concurs that the Council's recommended measures are consistent with the objectives of the FMP, the national standards, and other applicable law. Accordingly, the