

(c) *Tolerances with regional registration.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

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DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

48 CFR Parts 419 and 452

[AGAR Case 2000-01]

RIN 0599-AA09

Agriculture Acquisition Regulation; North American Industrial Classification System

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Direct final rule.

SUMMARY: This direct final rule amends the Agriculture Acquisition Regulation (AGAR) by replacing references to Standard Industrial Classification (SIC) Codes with references to North American Industrial Classification System (NAICS) codes. On July 26, 2000, the Federal Acquisition Regulation (FAR) was amended to employ NAICS codes for small business size determinations and other purposes in lieu of SIC codes. Since the AGAR supplements the FAR, USDA is amending the AGAR to reflect the FAR's adoption of NAICS codes.

DATES: This rule is effective November 26, 2001 without further action, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before October 29, 2001. If we receive adverse comments, the Office of Procurement and Property Management will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Please submit any adverse comments, or a notice of intent to submit adverse comments, in writing to U.S. Department of Agriculture, Office of Procurement and Property Management, Procurement Policy Division, Stop 9303, 1400 Independence Avenue SW, Washington, DC 20250-9303. You may submit comments or request additional information via electronic mail (E-mail) to joe.daragan@usda.gov or via fax at (202) 720-8972.

FOR FURTHER INFORMATION CONTACT: Joseph J. Daragan, (202) 720-5729.

SUPPLEMENTARY INFORMATION:

I. Background

II. Procedural Requirements

- A. Executive Orders Nos. 12866 and 12988
- B. Regulatory Flexibility Act
- C. Paperwork Reduction Act
- D. Small Business Regulatory Enforcement Fairness Act
- E. Unfunded Mandates Reform Act
- F. Executive Order 13132: Federalism
- G. Executive Order 13084: Consultation and Coordination With Indian Tribal governments

I. Background

The AGAR implements the FAR (48 CFR chapter 1) where further implementation is needed, and supplements the FAR when coverage is needed for subject matter not covered by the FAR. On July 26, 2000, the FAR was amended to employ NAICS codes for small business size determinations and other purposes in lieu of SIC codes (65 FR 46055-46063). AGAR 452.219-70, a solicitation provision prescribed for use by AGAR 419.508, informs prospective offerors which small business size standards will be used in determining whether an offeror is a large business or a small business. The provision sets out size standards by SIC code. We are amending this provision and prescription to use NAICS codes to identify business classifications and applicable size standards. In this rulemaking document, USDA is amending the AGAR as a direct final rule, since the changes are non-controversial and unlikely to generate adverse comment.

Rules that an agency believes are noncontroversial and unlikely to result in adverse comments may be published in the **Federal Register** as direct final rules. The Office of Procurement and Property Management published a policy statement in the **Federal Register** (63 FR 9158, Feb. 24, 1998) notifying the public of its intent to use direct final rulemaking in appropriate circumstances.

This rule makes the following changes to the AGAR:

(a) In parts 419 and 452, we substitute the term "North American Industrial Classification System" and its acronym "NAICS" for the term "Standard Industrial Classification" and its acronym "SIC".

(b) In part 452, we change the date of the solicitation provision at AGAR 452.219-70, because the provision is amended by this direct final rule.

II. Procedural Requirements

A. Executive Orders Nos. 12866 and 12988

USDA prepared a work plan for this regulation and submitted it to the Office of Management and Budget (OMB)

pursuant to Executive Order No. 12866. OMB determined that the rule was not significant for the purposes of Executive Order No. 12866. Therefore, the rule has not been reviewed by OMB. USDA has reviewed this rule in accordance with Executive Order No. 12988, Civil Justice Reform. The proposed rule meets the applicable standards in section 3 of Executive Order No. 12988.

B. Regulatory Flexibility Act

USDA reviewed this rule under the Regulatory Flexibility Act, 5 U.S.C. 601-611, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. USDA certifies that this rule will not have a significant economic effect on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared. However, comments from small entities concerning the effects of the rule will be considered. Such comments must be submitted separately and cite 5 U.S.C. 609 (AGAR Case 2000-01) in correspondence.

C. Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed on the public by this rule. Accordingly no OMB clearance is required by the Paperwork Reduction Act, 44 U.S.C. chapter 35, or OMB's implementing regulations at 5 CFR Part 1320.

D. Small Business Regulatory Enforcement Fairness Act

A report on this rule has been submitted to each House of Congress and the Comptroller General in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801-808. This rule is not a major rule for purposes of the Act.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. USDA has determined that this direct final rule does not contain a Federal mandate as defined in 2 U.S.C. 658(a). USDA has also determined that this direct final rule does not significantly or uniquely affect small governments. Accordingly, this rule is not subject to the requirements of Title II of UMRA.

F. Executive Order 13132: Federalism

Executive Order 13132, Federalism (64 FR 43255, Aug. 10, 1999), imposes requirements 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."

USDA has determined that this 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. The rule will not impose substantial costs on States and localities. Accordingly, this rule is not subject to the procedural requirements of Executive Order 13132 for regulatory policies having federalism implications.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 9, 2000), imposes requirements in the development of regulatory policies that have tribal implications. Executive Order 13175 defines "policies that have tribal implications" as having "substantial direct effects 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." USDA has determined that this rule does not have tribal implications and, therefore, the consultation and coordination requirements of Executive Order 13175 do not apply.

List of Subjects in 48 CFR Parts 419 and 452

Acquisition regulations, Government contracts, Government procurement, Procurement.

For the reasons set out in the preamble, the Office of Procurement and Property Management amends 48 CFR Parts 419 and 452 as set forth below:

PART 419—SMALL BUSINESS PROGRAMS

1. The authority citation for Part 419 continues to read as follows:

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

2. Amend section 419.508 by removing the acronym "SIC" and adding, in its place, the acronym "NAICS".

PART 452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for Part 452 continues to read as follows:

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

2. Amend section 452.219–70 as follows:

- a. Remove the acronym "SIC" and add, in its place, the acronym "NAICS".
- b. Remove the date "NOV 1996" and add, in its place, the date "SEP 2001".
- c. Remove the words "Standard Industrial Classification" and add, in their place, the words "North American Industrial Classification System".

Done at Washington, DC, this 20th day of September, 2001

W.R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 01–24057 Filed 9–26–01; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 010111010–1223–02; I.D. 113000B]

RIN 0648–AO42

International Fisheries Regulations; Pacific Tuna Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement fishery conservation and management measures for the U.S. purse seine fishery in the eastern Pacific Ocean (EPO) to reduce bycatch of juvenile tuna, non-target fish species, and non-fish species. These measures were recommended by the Inter-American Tropical Tuna Commission (IATTC) and approved by the U.S. Department of State (DOS), in accordance with the Tuna Conventions Act of 1950. In addition, this rule establishes reporting requirements for

U.S. vessels fishing for tuna in the EPO in order to gather information that NMFS can provide to the IATTC for a regional vessel register. The vessel register will promote consistent compliance across all IATTC member nations by ensuring constant attention to fleets active in the area and aiding in identification of vessels engaged in illegal, unreported or undocumented fishing in the EPO.

DATES: Effective October 29, 2001.

ADDRESSES: Copies of the final environmental assessment regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the Southwest Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90802–4213. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions to reduce the burden, to the Regional Administrator, Southwest Region, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Sustainable Fisheries Division, Southwest Region, NMFS, 562–980–4030; fax 562–980–4047.

SUPPLEMENTARY INFORMATION:**Electronic Access**

This **Federal Register** document is also accessible via the Internet at the Office of the Federal Register's website at <http://www.access.gpo.gov/su-docs/aces/aces140.html>.

Background

The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed in 1949. The IATTC was established to provide an international arrangement to ensure conservation and management of yellowfin tuna and of other fish species taken by tuna fishing vessels in the EPO (also known as the Convention Area), defined at 50 CFR part 300, subpart C, as the waters bounded by the coast of the Americas, 40° N. lat., 150° W. long., and 40° S. lat. The IATTC maintains a scientific research and fishery monitoring program, which annually assesses the status of tuna stocks and conditions in the fisheries to determine appropriate harvest levels or other measures to prevent overexploitation and promote maximum sustainable yield. The IATTC is devoting an