

(iii) *Trust assets* are those assets reported on Schedule A, Line 18 of the Annual Report of Trust Assets (FFIEC Form 001). The form is available by mail from the Office of the Comptroller of the Currency, Asset Management Division, 250 E Street, SW., Washington, DC 20219.

Dated: October 20, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

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POSTAL SERVICE

39 CFR Part 111

Nonmailable Written, Printed, and Graphic Matter

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends Part C030 of the Domestic Mail Manual (DMM) to provide for changes to the standards concerning written, printed, and graphic matter as a result of a recent Department of Justice opinion concerning lottery material.

EFFECTIVE DATE: December 14, 2000.

FOR FURTHER INFORMATION CONTACT: Jerome M. Lease (703) 292-4184.

SUPPLEMENTARY INFORMATION: As the result of an inquiry from the Postal Service, the Department of Justice has issued an opinion stating that the statute prohibiting the mailing of truthful advertising concerning lawful gambling activity, whether state-run or private, is no longer enforceable. The Attorney General has notified Congress that it will no longer enforce the criminal lottery statute (18 U.S.C. Section 1302) against gambling advertisement mailers, so long as the activity advertised is legal and the mailing does not provide any entry materials.

The Attorney General's opinion is based upon a decision of the Supreme Court issued in June 1999, which struck down similar prohibitions against truthful broadcast advertising for lawful gambling activity.

Accordingly, the Domestic Mail Manual (DMM) is revised to conform to the Attorney General's new guidance. The changes mean that:

1. Mailers may now mail advertisements for casinos and state-run or private lotteries (so long as that lottery is legal).

2. Newspapers and other publications that are mailed may run advertisements for lawful gambling activity without risking their authorizations to mail at periodicals rates.

3. The Postal Service may actively solicit advertising mail from licensed casinos and others lawfully conducting gambling activity.

The following prohibitions will still apply:

1. No mailing is acceptable if it provides entry materials or instrumentalities (lottery or raffle tickets, for instance) through the mail.

2. Mailing gambling proceeds, instrumentalities, or other means of participation continue to violate the criminal statute.

The changes announced in this document are effective on December 14, 2000, and also will be published in Postal Bulletin 22039 (12-14-00). These revisions to the DMM will be included in the printed version of DMM Issue 56, scheduled for January 2001 (pending a decision about the R2000-1 omnibus rate case). These amendments are being published without provision for public comment because the changes are required by law.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual (DMM) which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise part C030 of the DMM to include the following revisions:

C CHARACTERISTICS AND CONTENT

C000 General Information

* * * * *

C030 Nonmailable Written, Printed, and Graphic Matter

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C031 Written, Printed, and Graphic Matter Generally

* * * * *

3.0 LOTTERY MATTER (18 USC 1302)

* * * * *

[Revise 3.2 to read as follows:]

3.2 Unlawful Mail Matter

Unlawful matter includes any letter, newspaper, periodical, parcel, stamped card or postcard, circular, or other matter permitting or facilitating

participation in a lottery; any lottery ticket or part thereof or substitute; and any form of payment for a lottery ticket or share.

3.3 Fishing Contests, Indian Gaming Regulatory Act, Lotteries

[Remove item b. Redesignate items c and d as b and c, respectively. Revise newly redesignated item c to read as follows:]

* * * * *

c. An advertisement, list of prizes, or other information on a lottery not prohibited by the state where it is conducted.

* * * * *

An appropriate amendment to 39 CFR part 111 to reflect these changes will be published.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00-30810 Filed 12-4-00; 8:45 am]

BILLING CODE 7710-12-U

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1504 and 1552

[FRL-6912-2]

Acquisition Regulation: Business Ownership Representation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulation (EPAAR) to add a new clause that will provide the Agency with information regarding its contract awards. This new clause requests the successful awardee of an EPA contract to voluntarily identify the specific racial/ethnic category that best represents the ownership of its business. The information provided by the clause will not be used for the establishment of a set-aside or quota. The information will be used for general statistical purposes or for the purpose of focusing future outreach initiatives to those businesses owned by racial/ethnic groups who are unaware of EPA contracting opportunities.

DATES: This rule is effective January 4, 2001.

FOR FURTHER INFORMATION CONTACT: Leigh Pomponio, U.S. Environmental Protection Agency, Office of Acquisition Management (3802R), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460, Telephone: (202) 564-4364.

SUPPLEMENTARY INFORMATION:

A. Background Information

A new Environmental Protection Agency Acquisition Regulation clause has been developed to provide statistical data concerning EPA awards made to businesses owned by various racial/ethnic groups, regardless of size or disadvantaged status. The new clause will be incorporated into all EPA solicitations and contracts expected to exceed the simplified acquisition threshold (\$100,000). The clause asks EPA contract recipients to voluntarily identify the specific racial/ethnic category that best represents the ownership of its business. The statistics generated by the clause will help EPA target future outreach initiatives to both large and small business owners who are unaware of EPA contracting opportunities. Possible outreach initiatives may consist of workshops, seminars or conferences and may include presentations on how to do business with EPA or how the Government contracting process works. Such outreach efforts will not be limited to target audiences, but will be open to the general public. Further, the information provided by the clause will not be used to establish a set-aside or a quota.

Currently, statistical data is available to identify the types of small businesses receiving EPA awards. There is no mechanism for obtaining similar information for large businesses. The Federal Acquisition Regulation clause at 52.219-1 (Alt II) permits the Department of Defense, the National Aeronautics and Space Administration, and the U.S. Coast Guard to gather ethnic and minority ownership information. However, the Federal Acquisition Regulation clause at 52.219-1(ALT II) only pertains to offerors who represent themselves as small disadvantaged business concerns, as defined in Title 13 of the Code of Federal Regulations, section 124.1002.

The business ownership racial/ethnic groups in this new clause are similar to the categories listed in the Office of Management and Budget Statistical Policy Directive No. 15, Race and Ethnic Standards of Federal Statistics and Administrative Reporting. The clause contains minor variations to enable EPA to compare collected data to data published by the US Census Bureau. As Census Bureau data becomes compliant with the Office of Management and Budget Statistical Policy Directive No. 15, EPA will adjust the clause accordingly.

The Civilian Agency Acquisition Council (CAAC) was consulted

regarding the development of this clause, and did not voice any objections.

The comment period for the proposed rule extended from June 23, 2000, to August 22, 2000, and yielded one external comment. A Summary and Analysis of Comments document containing the EPA response is included in the docket for this rule and is available by contacting Leigh Pomponio at (202) 564-4364 or E-mail: pomponio.leigh@epa.gov.

In response to the external comment, EPA has made three minor changes to the proposed rule to better describe: (1) Why EPA needs the new clause, (2) the information requirements of the new clause, and (3) statistical evidence to support that there is not an impact on a substantial number of small entities.

While we recognize that statistical data may be available for small businesses, there is no mechanism for obtaining similar data for large businesses. The intent of the new clause is to provide statistical data on whether businesses owned by various racial and ethnic groups are represented in Agency contract awards. Such data will help EPA target audiences for its outreach initiatives.

B. Executive Order 12866

This final rule 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 within the Office of Management and Budget (OMB).

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2030-0041. EPA utilizes outside contractors for the performance of many critical activities. EPA encourages full participation in its contractor selection process and would like to make information about contracting opportunities readily available to the contracting community. By collecting business ownership data, EPA will be able to analyze the data and make business decisions relative to outreach activities. The information collected will not be used to make award decisions. Responses to the collection will be voluntary, and a response is not required to obtain or retain a benefit. Responses will be treated as Confidential Business Information (CBI). CBI is protected from public release in accordance with the

Agency's confidentiality regulation, 40 CFR 2.201 *et seq.*

The burden of responding under this rule is estimated to average 3 minutes per response. The estimated number of respondents, based upon average annual awards, is 240. The frequency of responses is 1 per respondent. Therefore, the estimated total annual hour burden for all respondents is 12 hours (3 x 240 x 1 divided by 60). There are no estimated total annualized capital and operating and maintenance cost burden associated with this rule. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search the data sources; to complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9, and 48 CFR Chapter 15. EPA is amending the table in 48 CFR Chapter 15, of currently approved ICR control numbers issued by OMB for various regulations, to list the information requirements contained in this final rule.

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 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 this 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 final rule on small entities, the Agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The impact on small entities will not be significant. This final rule is voluntary and will have no effect on the evaluation criteria for award. As noted in the Information Collection Request **Federal Register** (65 FR 47985, August 4, 2000) document and the *Paperwork Reduction Act* discussion above, contractors will require only a minimal amount of time (three minutes per respondent) to complete the clause. Therefore, to the extent that this does result in some contractor-incurred costs, EPA anticipates that these will be de minimus. Further, because the clause will only be applicable over the simplified acquisition threshold (\$100,000), this final rule will not have an impact on a substantial number of small entities. It is noted that, historically, small businesses do not receive a large percentage of EPA contracts which exceed the simplified acquisition threshold (\$100,000). In fiscal year 1999, 137 small businesses received EPA awards over \$100,000. This represents only 17.5% of the agency's total contract awards which exceeded \$10,000 in fiscal year 1999. It is anticipated that this percentage will remain the same or be minimally higher for fiscal year 2000.

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 final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in aggregate, or the private sector in any 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 that have a disproportionate effect on children.

G. 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 for the direct compliance costs incurred by the 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 governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This 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.

H. National Technology Transfer and Advancement Act of 1995

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), 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 rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. 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 final 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. This rule amends the EPA Acquisition Regulation relating to internal agency procedures addressing business ownership categories of contractors who receive EPA awards. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

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 rule report, which includes a copy of the rule, to each House of 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).

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

List of Subjects in 48 CFR Parts 1504 and 1552

Government procurement.

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

1. The authority citation for Parts 1504 and 1552 is revised to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); 41 U.S.C. 418b.

2. Part 1504 is amended by adding subpart 1504.6 as follows:

PART 1504—ADMINISTRATIVE MATTERS

Subpart 1504.6—Contract Reporting

1504.670 Business Ownership Representation.

Contracting officers shall insert the clause at 1552.204-70, Business Ownership Representation, in solicitations and contracts with an estimated dollar value greater than the simplified acquisition threshold. Completion of the clause by the successful awardee is voluntary.

3. Subpart 1552.2 is amended by adding 1552.204-70 as follows:

1552.204-70 Business Ownership Representation.

As prescribed in 1504.670, insert the following clause in solicitations and contracts:

Business Ownership Representation (JAN 2001)

The successful awardee shall check one or more of the categories below that represents its business ownership and return this information to the contracting officer within ten (10) calendar days after award. Completion of this clause by the successful awardee is voluntary.

"Ownership," as used in this clause, means: (a) At least 51 percent of the concern is owned by one or more individuals from a category listed below; or, in the case of any publicly owned business, at least 51 percent of the stock of the concern is owned by one or more such individuals; and (b) The management and daily business operations of the concern are controlled by one or more such individuals.

Ethnicity

- Hispanic or Latino.
- Not Hispanic or Latino.

Race

- American Indian, Eskimo, or Aleut.
- Asian or Pacific Islander.
- Black or African American.
- White.

(End of clause)

Dated: November 29, 2000.

Judy S. Davis,

Acting Director, Office of Acquisition Management.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[I.D. 102600E]

Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders

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

ACTION: Inseason orders.

SUMMARY: NMFS publishes the Fraser River salmon inseason orders regulating salmon fisheries in U.S. waters. The orders were issued by the Fraser River

Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by NMFS during the 2000 sockeye and pink salmon fisheries within the U.S. Fraser River Panel Area. These orders established fishing times, areas, and types of gear for U.S. treaty Indian and all-citizen fisheries during the period the Commission exercised jurisdiction over these fisheries. Due to the frequency with which inseason orders are issued, publication of individual orders is impracticable. The 2000 orders are therefore being published in this document to avoid fragmentation.

DATES: Each of the following inseason actions was effective upon the dates and times as specified at 50 CFR 300.97(b)(1). Comments will be accepted through December 20, 2000.

ADDRESSES: Comments may be mailed to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700-Bldg. 1, Seattle, WA 98115-0070. Information relevant to this document is available for public review during business hours at the office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, 206-526-6140.

SUPPLEMENTARY INFORMATION: The treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631-3644.

Under authority of the Act, Federal regulations at 50 CFR part 300 subpart F provide a framework for implementation of certain regulations of the Commission and inseason orders of the Commission's Panel for U.S. sockeye and pink salmon fisheries in the Fraser River Panel Area.

The regulations close the Fraser River Panel Area (U.S.) to U.S. sockeye and pink salmon fishing unless opened by Panel orders or by inseason regulations published by NMFS that give effect to Panel orders. During the fishing season, NMFS may issue regulations that establish fishing times and areas consistent with the Commission agreements and inseason orders of the Panel. Such orders must be consistent with domestic legal obligations. The Regional Administrator, Northwest Region, NMFS, issues the inseason orders. Official notification of these inseason actions of NMFS is provided by two telephone hotline numbers described at 50 CFR 300.97(b)(1).