

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7920-5]

#### Alabama: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Alabama has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Alabama for RCRA Cluster XIII. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by July 5, 2005.

**ADDRESSES:** Submit your comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *E-mail:* [middlebrooks.gail@epa.gov](mailto:middlebrooks.gail@epa.gov).
- *Fax:* (404) 562-8439 (prior to faxing, please notify the EPA contact listed below).

- *Mail:* Send written comments to Gail Middlebrooks at the address listed below.

*Instructions:* Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The *Federal regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your

comments. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit.

You can view and copy Alabama's application from 8 a.m. to 5 p.m. at the following addresses: Alabama Department of Environmental Management, 1400 Colliseum Blvd., Montgomery, Alabama 36130-1463, (334) 271-7700, and EPA, Region 4, Library, 9th Floor, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8190.

**FOR FURTHER INFORMATION CONTACT:** Gail Middlebrooks, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8494.

**SUPPLEMENTARY INFORMATION:** For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: May 11, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 05-10994 Filed 6-1-05; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 208 and 216

[DFARS Case 2004-D009]

#### Defense Federal Acquisition Regulation Supplement; Competition Requirements for Federal Supply Schedules and Multiple Award Contracts

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update and clarify requirements for competition in the placement of orders under Federal Supply Schedules and multiple award contracts.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 1, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2004-D009, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2004-D009 in the subject line of the message.

- Fax: (703) 602-0350.

- Mail: Defense Acquisition Regulations Council, Attn: Ms. Robin Schulze, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Schulze, (703) 602-0326.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This proposed rule revises procedures for use of Federal Supply Schedules and multiple award contracts to promote competition in the placement of orders for supplies or services. The proposed changes—

- Revise approval requirements for placement of noncompetitive orders exceeding \$100,000 under Federal Supply Schedules for consistency with those at FAR 8.405-6, and extend those requirements to orders under multiple award contracts;

- Apply the same ordering procedures to both supplies and services; and

- Make additional changes to DFARS Subpart 208.4 for consistency with the changes to FAR Subpart 8.4 published in Item V of Federal Acquisition Circular 2001-24 On June 18, 2004 (69 FR 34231).

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

##### B. Regulatory Flexibility Act

This proposed rule is not expected to 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 the proposed changes strengthen and clarify existing requirements for competition in the placement of orders under Federal Supply Schedules and multiple award contracts. Therefore, DoD has not performed an initial regulatory

flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004–D009.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements 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 Parts 208 and 216

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR Parts 208 and 216 as follows:

1. The authority citation for 48 CFR Parts 208 and 216 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

### PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.404 is amended by removing paragraphs (b) and (S–70), and by revising the section heading to read as follows:

#### 208.404 Use of Federal Supply Schedules.

\* \* \* \* \*

#### 208.404–1 through 208.405–2 [Removed]

3. Sections 208.404–1 through 208.405–2 are removed.

4. Sections 208.405–70, 208.406 and 208.406–1 are added to read as follows:

#### 208.405–70 Additional ordering procedures.

(a) This subsection—

(1) Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) for the acquisition of services, and establishes similar policy for the acquisition of supplies;

(2) Applies to orders for supplies or services under Federal Supply Schedules, including orders under blanket purchase agreements established under Federal Supply Schedules; and

(3) Also applies to orders placed by non-DoD agencies on behalf of DoD.

(b) Each order exceeding \$100,000 shall be placed on a competitive basis in accordance with paragraph (c) of this

subsection, unless this requirement is waived on the basis of a justification that is prepared and approved in accordance with FAR 8.405–6 and includes a written determination that—

(1) A statute expressly authorizes or requires that the purchase be made from a specified source; or

(2) One of the circumstances described at FAR 16.505(b)(2)(i) through (iii) applies to the order. Follow the procedures at PGI 216.505–70 if FAR 16.505(b)(2)(ii) or (iii) is deemed to apply.

(c) An order exceeding \$100,000 is placed on a competitive basis only if the contracting officer provides a fair notice of the intent to make the purchase, including a description of the supplies to be delivered or the services to be performed and the basis upon which the contracting officer will make the selection, to—

(1) As many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that offers will be received from at least three contractors that can fulfill the requirements, and the contracting officer—

(i)(A) Receives offers from at least three contractors that can fulfill the requirements; or

(B) Determines in writing that no additional contractors that can fulfill the requirements could be identified despite reasonable efforts to do so (documentation should clearly explain efforts made to obtain offers from at least three contractors); and

(ii) Ensures all offers received are fairly considered; or

(2) All contractors offering the required supplies or services under the applicable multiple award schedule, and affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered. Posting of a request for quotations on the General Services Administration's electronic quote system, "e-Buy" (<http://www.gsaAdvantage.gov>), is one medium for providing fair notice to all contractors as required by this paragraph (c).

(d) See PGI 208.405–70 for requirements relating to the establishment of blanket purchase agreements under Federal Supply Schedules.

#### 208.406 Ordering activity responsibilities.

##### 208.406–1 Order placement.

Follow the procedures at PGI 208.406–1 when ordering from schedules.

### PART 216—TYPES OF CONTRACTS

5. Section 216.505–70 is revised to read as follows:

#### 216.505–70 Orders under multiple award contracts.

(a) This subsection—

(1) Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) for the acquisition of services, and establishes similar policy for the acquisition of supplies;

(2) Applies to orders for supplies or services exceeding \$100,000 placed under multiple award contracts;

(3) Also applies to orders placed by non-DoD agencies on behalf of DoD; and

(4) Does not apply to orders for architect-engineer services, which shall be placed in accordance with the procedures in FAR Subpart 36.6.

(b) Each order exceeding \$100,000 shall be placed on a competitive basis in accordance with paragraph (c) of this subsection, unless this requirement is waived on the basis of a justification that is prepared and approved in accordance with FAR 8.405–6 and includes a written determination that—

(1) A statute expressly authorizes or requires that the purchase be made from a specified source; or

(2) One of the circumstances described at FAR 16.505(b)(2)(i) through (iv) applies to the order. Follow the procedures at PGI 216.505–70 if FAR 16.505(b)(2)(ii) or (iii) is deemed to apply.

(c) An order exceeding \$100,000 is placed on a competitive basis only if the contracting officer—

(1) Provides a fair notice of the intent to make the purchase, including a description of the supplies to be delivered or the services to be performed and the basis upon which the contracting officer will make the selection, to all contractors offering the required supplies or services under the multiple award contract; and

(2) Affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered.

(d) When using the procedures in this subsection—

(1) The contracting officer should keep contractor submission requirements to a minimum;

(2) The contracting officer may use streamlined procedures, including oral presentations;

(3) The competition requirements in FAR Part 6 and the policies in FAR Subpart 15.3 do not apply to the ordering process, but the contracting officer shall consider price or cost under

each order as one of the factors in the selection decision; and

(4) The contracting officer should consider past performance on earlier orders under the contract, including quality, timeliness, and cost control.

[FR Doc. 05-10911 Filed 6-1-05; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

RIN 1018-AU28

#### Migratory Bird Hunting; Application for Approval of Tungsten-Tin-Iron Shot as Nontoxic for Waterfowl Hunting

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) hereby provides public notice that Nice Shot, Inc. of Albion, Pennsylvania, has applied for approval of 58 percent tungsten, 38 percent tin, and 4 percent iron shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of the shot under the criteria set out in Tier 1 of the nontoxic shot approval procedures given at 50 CFR 20.134.

**DATES:** A comprehensive review of the Tier 1 information is to be concluded by August 1, 2005.

**ADDRESSES:** The Nice Shot, Inc., application may be reviewed in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1825.

**SUPPLEMENTARY INFORMATION:** The Migratory Bird Treaty Act of 1918 (Treaty Act) (16 U.S.C. 703-712) and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712) implement migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Treaty Act. The Treaty Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the

U.S. Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20. Use of shot types other than those listed in 50 CFR 20.21(j)(1) for hunting waterfowl and coots and any species that make up aggregate bag limits is prohibited.

Since the mid-1970s, the Service has sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved nontoxic shot types and added them to the migratory bird hunting regulations in 50 CFR 20. We will continue to review all shot types submitted for approval as nontoxic.

Nice Shot has submitted its application with the counsel that it contained all of the specified information for a complete Tier 1 submittal, and has requested unconditional approval pursuant to the Tier 1 time frame. The Service has determined that the application is complete, and has initiated a comprehensive review of the Tier 1 information. After the review, the Service will either publish a Notice of Review to inform the public that the Tier 1 test results are inconclusive or publish a proposed rule for approval of the candidate shot. If the Tier 1 tests are inconclusive, the Notice of Review will indicate what other tests will be required before we will again consider approval of the Tungsten-Tin-Iron shot as nontoxic. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot.

Dated: May 19, 2005.

**Matt Hogan,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 05-10909 Filed 6-1-05; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 050520137-5137-01; I.D. 050905F]

RIN 0648-AT10

#### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 17

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Framework 17 to the Atlantic Sea Scallop Fishery Management Plan (Framework 17) developed by the New England Fishery Management Council (Council). Framework 17 would require that vessels issued a general category scallop permit and that intend to land over 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of in-shell scallops, install and operate vessel monitoring systems (VMS). Framework 17 would also allow general category scallop vessels with VMS units to turn off (power-down) the VMS units after they have offloaded scallops and while they are tied to a fixed dock or mooring. Finally, Framework 17 proposes to revise the broken trip adjustment provision for limited access scallop vessels fishing in the Sea Scallop Area Access Program. The intent of this action is to provide more complete monitoring of the general category scallop fleet, to reduce VMS operating costs, and to eliminate a provision that may have a negative influence on vessel operator decisions at sea.

**DATES:** Comments must be received at the appropriate address or fax number (see **ADDRESSES**) by 5 p.m., local time, on June 17, 2005.

**ADDRESSES:** Comments should be submitted by any of the following methods:

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Frameworks 17."

- Fax: (978) 281-9135.
- E-mail: [ScallopAT10@noaa.gov](mailto:ScallopAT10@noaa.gov).
- Federal e-Rulemaking Portal:

<http://www.regulations.gov>.

Written comments regarding the burden-hour estimates or other aspects