

commitments as specified in 40 CFR 93.125.

On May 12, 2009, EPA initiated an adequacy review of the Guaynabo LMP for transportation conformity purposes in accordance with 40 CFR 93.118(f), in a posting on EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>. As stated above, LMP budgets are unconstrained and consequently, the adequacy review period for these maintenance plans serves to allow the public to comment on whether limited maintenance is appropriate for these areas. The comment period for the adequacy posting for the Guaynabo LMP ended on June 11, 2009. EPA did not receive any comments on this posting.

(2) General Conformity

For federal actions which are required to address the specific requirements of the general conformity rule, one set of requirements applies particularly to ensuring that emissions from the action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. One way that this requirement can be met is to demonstrate that "the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State or Commonwealth agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the applicable SIP." 40 CFR 93.158(a)(5)(i)(A). The decision about whether to include specific allocations of allowable emissions increases to sources is one made by the Commonwealth and local air quality agencies. These emissions budgets are different than those used in transportation conformity. Emissions budgets in transportation conformity are required to limit and restrain emissions. Emissions budgets in general conformity allow increases in emissions up to specified levels. Puerto Rico has chosen not to include specific emissions allocations for federal projects that would be subject to the provisions of general conformity.

V. What Are EPA's Conclusions?

EPA has determined that the PM10 Limited Maintenance Plan submitted by the PREQB on March 31, 2009 for the Municipality of Guaynabo meets all Clean Air Act provisions and EPA policy and guidance, including the criteria outlined in EPA's LMP option memo. Therefore, EPA is proposing to

approve the PM10 Limited Maintenance Plan for the Municipality of Guaynabo and all of its components as they were submitted by PREQB on March 31, 2009. Specifically, EPA is proposing to approve the 2002 PM10 attainment emissions inventory, attainment plan, maintenance demonstration, contingency measures, monitoring network, transportation conformity analysis and revisions to Rules 102 and 423 of the Puerto Rico RCAP.

EPA is also proposing to approve the redesignation request for the Municipality of Guaynabo submitted by the PREQB on March 31, 2009 based on EPA's determination that the supporting documentation for redesignation satisfies all Clean Air Act requirements and EPA's policy and guidance, including the criteria outlined in EPA's redesignation guidance memorandum.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 18, 2009.

Barbara A. Finazzo,

Acting Regional Administrator, Region 2.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 12, 15, 42, and 49

[FAR Case 2008-016; Docket 2009-0032, Sequence 1]

RIN 9000-AL45

Federal Acquisition Regulation; FAR Case 2008-016, Termination for Default Reporting

AGENCIES: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to establish procedures for contracting officers to provide contractor information into the Past Performance Information System (PPIRS). This case sets forth requirements for reporting defective cost or pricing data and terminations for cause or default. Evaluation of past performance information, especially terminations, manages risks associated with timely, effective and cost efficient completion of contracts, a key objective of the President's March 4, 2009, Memorandum on Government Contracting.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before November 2, 2009 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2008–016 by any of the following methods:

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

Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2008–016" into the field "Keyword". Select the link that corresponds with FAR Case 2008–016. Follow the instructions provided to submit your comment. Please include your name, company name (if any), and "FAR Case 2008–016" on your attached document.

- Fax: 202–501–4067.

- Mail: General Services

Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2008–016 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Cromer, Procurement Analyst, at (202) 501–1448 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAR case 2008–016.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed case is subsequent to and supplements FAR Case 2006–022, Contractor Performance Information, that was published in the **Federal Register** as a final rule on July 1, 2009 (74 FR 31557). FAR Case 2006–022 provided requirements for contractor performance information to be entered into PPIRS. This case, at the request of the Office of Federal Procurement Policy (OFPP), expands on FAR Case 2006–022 by adding requirements for other contractor information to be entered into PPIRS, such as defective cost or pricing data and terminations for cause or default.

The Councils further considered the memorandum issued by the Office of the Under Secretary of Defense, subject Termination Notification dated July 23, 2008, in drafting this proposed rule. (See www.acq.osd.mil/dpap/ops/policy_vault_archive.html.)

This proposed FAR rule includes the following:

1. Addition of language in FAR 8.406–8, Reporting, for the ordering activity contracting officer, in accordance with agency procedures, to ensure that information related to termination for cause notices and any amendments are included in PPIRS, and in the event the termination for cause is subsequently converted to a termination for convenience, or is otherwise withdrawn, the contracting officer shall ensure that a notice of the conversion or withdrawal is included in PPIRS.

2. Addition of language in FAR 12.403(c)(4) for the contracting officer, in accordance with agency procedures, to ensure that information related to termination for cause notices and any amendments are included in PPIRS in accordance with FAR 42.1503(f), and, in the event the termination for cause is subsequently converted to a termination for convenience, or is otherwise withdrawn, the contracting officer shall ensure that a notice of the conversion or withdrawal is included in PPIRS.

3. Addition of language in FAR 15.407–1(d) for the contracting officer, in accordance with agency procedures, to ensure that information relating to a determination that the contractor submitted defective cost or pricing data is provided for inclusion in PPIRS.

4. Addition of language in FAR 42.1503(f) setting forth the procedure for contracting officers within 10 days after determining that a contractor has submitted defective cost or pricing data, or a termination for cause or default notice has been issued or any subsequent conversions or withdrawals have been issued, to ensure information

related to these issues are provided for inclusion in PPIRS.

5. Addition of language in FAR 49.402–8, Reporting Information, for the contracting officer, in accordance with agency procedures, to ensure that information relating to the termination for default notice and any subsequent conversions or withdrawals are provided for inclusion in PPIRS.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule 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 rule does not impose any additional requirements on small businesses. The collection and reporting of contractor information is an internal process to the Government. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 8, 12, 15, 42, and 49 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2008–016), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Parts 8, 12, 15, 42, and 49

Government procurement.

Dated: August 27, 2009.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 8, 12, 15, 42, and 49 as set forth below:

1. The authority citation for 48 CFR parts 8, 12, 15, 42, and 49 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Add section 8.406–8 to read as follows:

8.406–8 Reporting.

An ordering activity contracting officer, in accordance with agency procedures, shall ensure that information related to termination for cause notices and any amendments are included in PPIRS in accordance with 42.1503(f). In the event the termination for cause is subsequently converted to a termination for convenience, or is otherwise withdrawn, the contracting officer shall ensure that a notice of the conversion or withdrawal is included in PPIRS.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

3. Amend section 12.403 by adding paragraph (c)(4) to read as follows:

12.403 Termination.

* * * * *

(c) * * *

(4) The contracting officer, in accordance with agency procedures, shall ensure that information related to termination for cause notices and any amendments are included in PPIRS in accordance with 42.1503(f). In the event the termination for cause is subsequently converted to a termination for convenience, or is otherwise withdrawn, the contracting officer shall ensure that a notice of the conversion or withdrawal is included in PPIRS.

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PART 15—CONTRACTING BY NEGOTIATION

4. Amend section 15.407–1 by adding a new sentence to the end of paragraph (d) to read as follows:

15.407–1 Defective cost or pricing data.

* * * * *

(d) * * * When the contracting officer determines that the contractor submitted defective cost or pricing data, the contracting officer, in accordance with agency procedures, shall ensure that information relating to the determination is provided for inclusion in PPIRS in accordance with 42.1503(f).

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PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

5. Amend section 42.1502 by adding paragraph (i) to read as follows:

42.1502 Policy.

* * * * *

(i) Agencies shall promptly provide other contractor information for inclusion in PPIRS in accordance with 42.1503(f).

6. Amend section 42.1503 by removing from paragraph (a) the words “office, end” and adding “office, audit office, end” in its place; and adding paragraph (f) to read as follows:

42.1503 Procedures.

* * * * *

(f) *Other contractor information.* Within 10 days after a contracting officer determines that a contractor has submitted defective cost or pricing data, or a termination for cause or default notice has been issued or any subsequent conversions or withdrawals have been issued, agencies shall ensure information related to these issues are provided for inclusion in PPIRS.

PART 49—TERMINATION OF CONTRACTS

7. Add section 49.402–8 to read as follows:

49.402–8 Reporting Information.

The contracting officer, in accordance with agency procedures, shall ensure that information relating to the termination for default notice and any subsequent conversions or withdrawals are provided for inclusion in PPIRS in accordance with 42.1503(f).

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

**[FWS-R2-ES-2008-0110]
[MO 9221050083-B2]**

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Sacramento Mountains Checkerspot Butterfly as Endangered with Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12–month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our 12–month finding on a petition to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) as an endangered species and to designate critical habitat under

the Endangered Species Act of 1973, as amended (Act). After a thorough review of all available scientific and commercial information, we find that listing the subspecies is not warranted at this time. We ask the public to continue to submit to us any new information that becomes available concerning the status of or threats to the subspecies. This information will help us to monitor and encourage the conservation of the subspecies.

DATES: This finding was made on September 2, 2009.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov> at Docket Number FWS-R2-ES-2008-0110. Supporting documentation we used to prepare this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Office, 2105 Osuna NE, Albuquerque, NM 87113; telephone (505) 346-2525; facsimile (505) 346-2542. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

FOR FURTHER INFORMATION CONTACT: Wally “J” Murphy, Field Supervisor, New Mexico Ecological Services Office (see **ADDRESSES**). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the List of Endangered and Threatened Wildlife that contains substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are threatened or endangered, and expeditious progress is being made to add or remove qualified species from the List of Endangered and Threatened Wildlife. Section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded be treated as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months.