

110(a)(2)(E)(ii) (as it relates to section 128(a)(1), and 110(a)(2)(J) related to PSD TDEC has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to section 110 of the CAA to ensure that the 2008 lead NAAQS are implemented, enforced, and maintained in Tennessee. With respect to sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) related to PSD, and 110(a)(2)(J) related to PSD, EPA is proposing to conditionally approve Tennessee's infrastructure SIP based on an October 4, 2012, commitment that TDEC will provide the necessary SIP revision to address its SIP deficiencies related to the October 20, 2010, final rulemaking related to PSD PM<sub>2.5</sub> Increments, SILs, and SMC Rule requirements. With respect to section 110(a)(2)(E)(ii) (referencing section 128 of the CAA), EPA is proposing to conditionally approve Tennessee's infrastructure SIP based on a March 28, 2012, commitment that TDEC will adopt specific enforceable measures into its SIP and submit these revisions to EPA July 23, 2013, to address the applicable portions of section 128. EPA intends to move forward with finalizing the conditional approval for these elements consistent with section 110(k)(4) of the Act. EPA is also proposing to approve Tennessee's infrastructure submission for the 2008 Lead NAAQS, with the exception of section 110(a)(2)(E)(ii), because its October 19, 2009, submission is consistent with section 110 of the CAA.

## VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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 CAA. 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 CAA; 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 proposed 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, and Recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 11, 2013.

#### A. Stanley Meiburg,

*Acting Regional Administrator, Region 4.*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 52

[FAR Case 2012-016; Docket 2012-0016; Sequence 1]

RIN 9000-AM50

#### Federal Acquisition Regulation; Defense Base Act

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before May 20, 2013 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2012-016 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2012-016." Select the link "Submit a Comment" that corresponds with "FAR Case 2012-016." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2012-016" on your attached document.

- *Fax:* 202-501-4067.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

*Instructions:* Please submit comments only and cite FAR Case 2012-016, 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:** Mr. Edward N. Chambers, Procurement

Analyst, at 202–501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2012–016.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD, GSA, and NASA are proposing to revise the FAR to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act.

##### II. Discussion and Analysis

The Defense Base Act of 1941, codified at 42 U.S.C. 1651, *et seq.*, extended the federal workers' compensation protections provided by the Longshore and Harbor Workers' Compensation Act (LHWCA) (33 U.S.C. 901, *et seq.*) to the following employment outside of the United States: Work for private employers on United States military bases, generally; work on public work contracts—where "public work" is not limited to construction, but includes service contracts—with a United States Government agency; work on contracts approved and funded by the U.S. under the Foreign Assistance Act; and work for American employers providing welfare or similar services for the benefit of the Armed Services, *e.g.*, the United Service Organizations (USO). It is intended to provide disability compensation and medical benefits to covered employees for work-related injuries, and death benefits to eligible survivors of employees whose deaths are work-related. Recent experience and anticipated contingency contracting efforts require the clarification of the responsibilities of contractors and subcontractors under the LHWCA to purchase workers' compensation insurance or to qualify as a self-insurer; to submit a timely, written report to the Department of Labor (DOL) in the event of an employee's injury or death; to make timely payment of all compensation due for disability or death, and to submit a timely, written report of such payment to the DOL; and to adhere to all other provisions of the Longshore and Harbor Workers' Compensation Act, as extended by the Defense Base Act.

Therefore, this action proposes to revise FAR clause 52.228–3, Workers Compensation Insurance (Defense Base Act) to clarify the responsibilities of contractors under the Defense Base Act,

including the requirement to include flow down of this clause to all subcontractors to which the Defense Base Act applies.

This rule reflects statutory and DOL requirements, and does not impose additional burdens beyond those requirements.

##### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### IV. Regulatory Flexibility Act

DoD, GSA, and NASA 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 revisions to FAR clause 52.228–3, Workers' Compensation Insurance (Defense Base Act), merely clarify the existing requirements set forth in the Defense Base Act of 1941 (DBA), codified at 42 U.S.C. 1651, *et seq.*

However, an initial regulatory flexibility analysis (IRFA) has been prepared consistent with 5 U.S.C. 603, and is summarized as follows:

This rule amends the Federal Acquisition Regulation (FAR) to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act.

The objective of the rule is to amend FAR clause 52.228–3, Workers' Compensation Insurance (Defense Base Act) to clarify the responsibilities of contractors under the Defense Base Act, including the requirement to include flow down of this clause to all subcontractors to which the Defense Base Act applies.

DoD, NASA and GSA 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 revisions to FAR clause 52.228–3,

Workers' Compensation Insurance (Defense Base Act), merely clarify the existing requirements set forth in the Defense Base Act of 1941 (DBA), codified at 42 U.S.C. § 1651, *et seq.*

The proposed rule imposes no reporting, recordkeeping, or other information collection requirements than what are already required to be reported to the Department of Labor as per the Defense Base Act. The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternatives to the rule.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR case 2012–016) in correspondence.

##### V. Paperwork Reduction Act

The proposed rule does not contain any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

##### List of Subjects in 48 CFR Part 52

Government procurement.

Dated: March 14, 2013.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 52 as set forth below:

##### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Revise section 52.228–3 to read as follows:

##### 52.228–3 Workers Compensation Insurance (Defense Base Act).

As prescribed in 28.309(a), insert the following clause:

## Workers' Compensation Insurance (Defense Base Act) (Mar 2013)

(a) The Contractor shall—

(1) Before commencing performance under this contract, establish provisions to provide for the payment of disability compensation and medical benefits to covered employees and death benefits to their eligible survivors, by purchasing workers' compensation insurance or qualifying as a self-insurer under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 932) as extended by the Defense Base Act (42 U.S.C. 1651, *et seq.*), and continue to maintain provisions to provide such Defense Base Act benefits until contract performance is completed;

(2) Within ten days of an employee's injury or death or from the date the Contractor has knowledge of the injury or death, submit Form LS-202 (Employee's First Report of Injury or Occupational Illness) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 930(a), 20 CFR 702.201 to 702.203);

(3) Pay all compensation due for disability or death within the time frames required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914, 20 CFR 702.231 and 703.232);

(4) Provide for medical care as required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 907, 20 CFR 702.402 and 702.419);

(5) If controverting the right to compensation, submit Form LS-207 (Notice of Controversion of Right to Compensation) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(d), 20 CFR 702.251);

(6) Immediately upon making the first payment of compensation in any case, submit Form LS-206 (Payment Of Compensation Without Award) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(c), 20 CFR 702.234);

(7) When payments are suspended or when making the final payment, submit Form LS-208 (Notice of Final Payment or Suspension of Compensation Payments) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(c) and (g), 20 CFR 702.234 and 702.235); and

(8) Adhere to all other provisions of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act, and Department of Labor regulations at 20 CFR Parts 701 to 704.

(b) The actions set forth under paragraphs (a)(2) through (a)(8) may be performed by the contractor's agent or insurance carrier.

(c) For additional information on the Longshore and Harbor Workers' Compensation Act requirements see <http://www.dol.gov/owcp/dlhwc/lbdba.htm>.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d) in all subcontracts to which the Defense Base Act applies.

(End of clause)

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 120919470-3182-01]

RIN 0648-BC58

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Amendment 9

**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 Amendment 9 (Amendment 9) to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP) as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this rule would revise the criteria and procedures by which a South Atlantic state may request a concurrent closure of the exclusive economic zone (EEZ) to the commercial harvest of penaeid shrimp (brown, pink, and white shrimp) when state waters close as a result of severe winter weather. Amendment 9 would also revise the overfished and overfishing status determination criteria for pink shrimp. The intent of this rule is to increase the flexibility and timeliness of the criteria and process for implementing a concurrent closure of penaeid shrimp harvest in the EEZ to maximize protection of overwintering white shrimp in the South Atlantic.

**DATES:** Written comments must be received on or before April 19, 2013.

**ADDRESSES:** You may submit comments on the amendment identified by "NOAA-NMFS-2012-0227" by any of the following methods:

- **Electronic submissions:** Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** All comments received are a part of the public record and will

generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment", then enter "NOAA-NMFS-2012-0227" in the keyword search and click on "search". To view posted comments during the comment period, enter "NOAA-NMFS-2012-0227" in the keyword search and click on "search". NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of Amendment 9 may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kate Michie, telephone: 727-824-5305, or email: [kate.michie@noaa.gov](mailto:kate.michie@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The penaeid shrimp fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

### Background

Under 50 CFR 622.35(d)(1), NMFS may close the EEZ adjacent to a South Atlantic state that has closed its waters to the harvest of brown, pink, and white shrimp to protect the white shrimp spawning stock that has been severely depleted by cold weather. Based on information from standardized assessments, if a state has determined that unusually cold temperatures have resulted in at least an 80-percent reduction of the white shrimp population in its state waters, the state may request that the EEZ adjacent to its state waters concurrently close to the commercial harvest of penaeid shrimp. The specific criteria that a state must meet to request a concurrent closure of the adjacent EEZ waters is described in the FMP. Under the current procedures, once a state has determined that specific conditions have been met the state sends a request to close EEZ waters to penaeid shrimp harvest to the Council,