

(c) \* \* \*

(144) [Reserved]

(145) [Reserved]

(146) On September 4, 2008, and March 23, 2009, the Ohio Environmental Protection Agency submitted several volatile organic compound rules for approval into the Ohio State Implementation Plan. Only those paragraphs in 3745-21-09 that were revised in the September 4, 2008, and/or March 23, 2009, submittals have been incorporated into the SIP.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rule 3745-21-01 "Definitions.", adopted March 23, 2009, effective April 2, 2009.

(B) Ohio Administrative Code Rule 3745-21-02 "Ambient air quality standards and guidelines.", adopted August 15, 2008, effective August 25, 2008.

(C) Ohio Administrative Code Rule 3745-21-03 "Methods of ambient air quality measurement.", adopted August 15, 2008, effective August 25, 2008.

(D) Ohio Administrative Code Rule 3745-21-04 "Attainment dates and compliance time schedules.", adopted March 23, 2009, effective April 2, 2009.

(E) Ohio Administrative Code Rule 3745-21-06 "Classification of Regions.", adopted August 15, 2008, effective August 25, 2008.

(F) Ohio Administrative Code Rule 3745-21-08 "Control of carbon monoxide emissions from stationary sources.", adopted August 15, 2008, effective August 25, 2008.

(G) Ohio Administrative Code Rule 3745-21-09 "Control of emissions of volatile organic compounds from stationary sources and perchloroethylene from dry cleaning facilities": (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (O), (P), (R), (S), (T), (U)(1)(a), (U)(1)(b), (U)(1)(c), (U)(1)(d), (U)(1)(e), (U)(1)(f), (U)(1)(g), (U)(1)(i), (U)(2)(f), (U)(2)(j), (U)(2)(k), (U)(2)(l), (W), (X), (Y), (Z), (DD), (HH), (NN), (RR), (SS), (TT), (VV), (YY), (DDD), adopted March 23, 2009, effective April 2, 2009.

(H) Ohio Administrative Code Rule 3745-21-10 "Compliance test methods and procedures.", adopted August 15, 2008, effective August 25, 2008.

(I) Ohio Administrative Code Rule 3745-21-12 "Control of volatile organic compound emissions from commercial bakery oven facilities.", adopted August 15, 2008, effective August 25, 2008.

(J) Ohio Administrative Code Rule 3745-21-13 "Control of volatile organic compounds from reactors and distillation units employed in SOCM chemical production.", adopted August 15, 2008, effective August 25, 2008.

(K) Ohio Administrative Code Rule 3745-21-14 "Control of Volatile organic

compound emissions from process vents in batch operations.", adopted March 23, 2009, effective April 2, 2009.

(L) Ohio Administrative Code Rule 3745-21-15 "Control of volatile organic compound emissions from wood furniture manufacturing operations.", adopted August 15, 2008, effective August 25, 2008.

(M) Ohio Administrative Code Rule 3745-21-16 "Control of volatile organic compound emissions from industrial wastewater.", adopted March 23, 2009, effective April 2, 2009.

(N) Ohio Administrative Code Rule 3745-21-18 "Commercial Motor Vehicle and Mobile Equipment Refinishing Operations.", adopted March 23, 2009, effective April 2, 2009.

(O) Ohio Administrative Code Rule 3745-21-19 "Control of volatile organic compound emissions from aerospace manufacturing and rework facilities.", adopted August 15, 2008, effective August 25, 2008.

(P) Ohio Administrative Code Rule 3745-21-20 "Control of volatile organic compound emissions from shipbuilding and ship repair operations.", adopted August 15, 2008, effective August 25, 2008.

(Q) Ohio Administrative Code Rule 3745-21-21 "Storage of volatile organic liquids in fixed roof tanks and external floating roof tanks.", adopted March 23, 2009, effective April 2, 2009.

(R) Ohio Administrative Code Rule 3745-21-22 "Lithographic and letterpress printing.", adopted March 23, 2009, effective April 2, 2009.

(S) Ohio Administrative Code Rule 3745-21-23 "Industrial cleaning solvents.", adopted March 23, 2009, effective April 2, 2009.

(T) Ohio Administrative Code Rule 3745-21-24 "Flat wood paneling coatings.", adopted March 23, 2009, effective April 2, 2009.

(U) August 15, 2008, "Director's Final Findings and Orders", signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

(V) March 23, 2009, "Director's Final Findings and Orders", signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

[FR Doc. E9-17829 Filed 7-27-09; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 48 CFR Parts 1537 and 1552

[EPA-HQ-OARM-2007-1115; FRL-8935-6]

RIN 2030-AA96

### Acquisition Regulation: Guidance on Technical Direction

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

**ACTION:** Final rule.

**SUMMARY:** EPA is amending the EPA Acquisition Regulation (EPAAR) to revise the prescription for and the content of a clause that addresses issuing technical direction in contracts. This revision incorporates and supersedes several class deviations to the EPAAR and updates terminology and procedures related to issuing technical direction.

**DATES:** This final rule is effective August 12, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OARM-2007-1115. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Office of Environmental (OEI) Information Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

**FOR FURTHER INFORMATION CONTACT:** Donna S. Blanding, Policy, Training, and Oversight Division, Office of Acquisition Management (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-564-1130; fax number: 202-565-2475; e-mail address: [blanding.donna@epa.gov](mailto:blanding.donna@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does This Action Apply to Me?

Entities potentially affected by this action include firms that are performing

or will perform under contract for the EPA. This includes firms in all industry groups.

## II. Background

Under certain contracts the Contracting Officer authorizes a designated individual, e.g., the Contracting Officer Technical Representative (COTR), to issue technical direction to the contractor. The technical direction clause in the contract defines what constitutes technical direction, which officials are authorized to issue technical direction, and procedures for issuing technical direction.

Since the EPAAR technical direction guidance was originally issued, several class deviations to the clause have been approved. (A class deviation is a change to the EPAAR necessary to meet specific contract requirements.) This revision incorporates and supersedes the class deviations and makes additional revisions to the technical direction guidance as specified below.

## III. Final Rule

This rule amends the EPAAR to revise the prescription for using the Technical Direction clause and the wording of the clause itself. The current prescription states the clause is used in cost reimbursement type solicitations and contracts. The revised prescription allows COs to use the clause, or a clause substantially the same, in solicitations and contracts where the CO will delegate authority to issue technical direction to the COTR.

The EPAAR clause entitled "Technical Direction" adds and defines these two new terms "contracting officer technical representative" and "task order". These two terms will standardize titles and terminology used at EPA with terms used in the Federal Acquisition Regulation (FAR) and other Federal procurement policy.

## IV. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) Order.

### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* No

information is collected under this action.

### C. 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 Regulatory Flexibility Act 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 economic 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 today's final 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 this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action revises a current EPAAR clause and does not impose requirements involving capital investment, implementing procedures, or record keeping. This rule will not have a significant economic impact on small entities.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal governments and the private sector.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

### E. Executive Order 13132: Federalism

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."

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. Today's rule on technical direction provides guidance on the interaction between contracting officials and contractors only. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and Local governments, EPA specifically solicited comments from State and Local officials on this rule and no comments were received.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This rule does not have tribal implications, as specified in Executive Order 13175. This rule on technical direction provides guidance on the interaction between contracting officials and contractors only. This Executive Order 13175 does not apply to this rule. EPA specifically solicited additional comments on this rule from tribal officials and no comments were received.

### G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, entitled "Protection of Children From

Environmental Health 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 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. 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.

#### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution of Use” (66 FR 28335 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

#### I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) (15 U.S.C 272 note) of NTTA, Public Law 104–113, 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 NTTA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

#### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations

because it does not affect the level of protection provided to human health or the environment. This proposed rulemaking does not involve human health or environmental effects.

#### K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### List of Subjects in 48 CFR Parts 1537 and 1552

Environmental protection,  
Government procurement.

Dated: July 10, 2009.

**John C. Gherardini III,**

*Acting Director, Office of Acquisition Management.*

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

#### PART 1537—SERVICE CONTRACTING

■ 1. The authority citation for part 1537 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

■ 2. Amend 1537.110 by revising paragraph (b) to read as follows:

#### § 1537.110 Solicitation provisions and contract clauses.

\* \* \* \* \*

(b) The contracting officer shall insert a clause substantially the same as the clause in 1552.237–71, Technical Direction, in solicitations and contracts where the contracting officer intends to delegate authority to issue technical direction to the contracting officer technical representative(s).

\* \* \* \* \*

#### PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 1552 continues to read as follows:

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

■ 4. Revise 1552.237–71 to read as follows:

#### 1552.237–71 Technical direction.

As prescribed in 1537.110, insert a clause substantially the same as the following:

#### TECHNICAL DIRECTION (AUG 2009)

(a) Definitions.

*Contracting officer technical representative (COTR)*, means an individual appointed by the contracting officer in accordance with Agency procedures to perform specific technical and administrative functions.

*Task order*, as used in this clause, means work assignment, delivery order, or any other document issued by the contracting officer to order work under a service contract.

(b) The contracting officer technical representative(s) may provide technical direction on contract or work request performance. Technical direction includes:

- (1) Instruction to the contractor that approves approaches, solutions, designs, or refinements; fills in details; completes the general descriptions of work shifts emphasis among work areas or tasks; and
- (2) Evaluation and acceptance of reports or other deliverables.

(c) Technical direction must be within the scope of work of the contract and any task order there under. The contracting officer technical representative(s) does not have the authority to issue technical direction which:

- (1) Requires additional work outside the scope of the contract or task order;
- (2) Constitutes a change as defined in the “Changes” clause;
- (3) Causes an increase or decrease in the estimated cost of the contract or task order;
- (4) Alters the period of performance of the contract or task order; or
- (5) Changes any of the other terms or conditions of the contract or task order.

(d) Technical direction will be issued in writing or confirmed in writing within five (5) days after oral issuance. The contracting officer will be copied on any technical direction issued by the contracting officer technical representative.

(e) If, in the contractor’s opinion, any instruction or direction by the contracting officer technical representative(s) falls within any of the categories defined in paragraph (c) of the clause, the contractor shall not proceed but shall notify the contracting officer in writing within 3 days after receiving it and shall request that the contracting officer take appropriate action as described in this paragraph. Upon receiving this notification, the contracting officer shall:

(1) Advise the contractor in writing as soon as practicable, but no later than 30 days after receipt of the contractor’s notification, that the technical direction is within the scope of the contract effort and does not constitute a change under the “Changes” clause of the contract;

(2) Advise the contractor within a reasonable time that the government will issue a written modification to the contract; or

(3) Advise the contractor that the technical direction is outside the scope of the contract and is thereby rescinded.

(f) A failure of the contractor and contracting officer to agree as to whether the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto, shall be subject to the provisions of the clause entitled “Disputes” in this contract.

(g) Any action(s) taken by the contractor, in response to any direction given by any person acting on behalf of the government or any government official other than the contracting officer or the contracting officer technical representative, shall be at the contractor's risk.

(End of clause)

[FR Doc. E9-17938 Filed 7-27-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-2009-0116]

RIN 2127-AK35

#### Federal Motor Vehicle Safety Standards; Door Locks and Door Retention Components, Correction

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule; correction.

**SUMMARY:** NHTSA published in the *Federal Register* of July 20, 2009, a document delaying the compliance date of the sliding door provisions of a February 6, 2007 final rule. The regulatory text adopted by that document contained errors. This document corrects those errors.

**DATES:** Effective on September 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah Alves, NHTSA Office of the Chief Counsel, DOT, 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone (202) 366-2992, fax (202) 366-3820.

#### SUPPLEMENTARY INFORMATION:

##### Background

NHTSA published in the *Federal Register* of July 20, 2009 (74 FR 35131), a document delaying the compliance date of the sliding door provisions of a February 6, 2007 final rule (FR Doc. E9-17078). In the regulatory text adopted by that document, in S4.2.2.3, a statement erroneously reads: "This S4.2.2.3 applies to vehicle manufactured on or after September 1, 2010." The statement should read: "This S4.2.2 applies to vehicles manufactured on or after September 1, 2010." This document corrects that error.

##### Correction of Publication

In rule FR Doc. E9-17078 published on July 20, 2009 (74 FR 35131), make the following correction. On page

35135, in the third column, S4.2.2.3 is corrected to read as follows:

S4.2.2.3 This S4.2.2 applies to vehicles manufactured on or after September 1, 2010.

Issued: July 23, 2009.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E9-17918 Filed 7-27-09; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 090428799-9802-01]

RIN 0648-XQ39

#### Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Closure of the Primary Pacific Whiting Season for the Shore-Based Sector

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

**ACTION:** Fishing closure restrictions.

**SUMMARY:** NMFS announces the closure of the primary season for the Pacific whiting fishery for the shore-based sector at 10 a.m. local time (l.t.) July 7, 2009. This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. This action is intended to keep the harvest of Pacific whiting at the 2009 allocation levels.

**DATES:** Effective from 10 a.m. l.t. July 7, 2009, until the start of the 2010 primary season for the shore-based sector, unless modified, superseded or rescinded by notification in the *Federal Register*.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko at 206-526-6110.

**SUPPLEMENTARY INFORMATION:** This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. Regulations at 50 CFR 660.323(a) established separate allocations for the catcher/processor, mothership, and shore-based sectors of the Pacific whiting fishery. The 2009 Optimum Yield (OY) for Pacific whiting is 135,939 mt. The 2009 commercial OY is 81,939 mt. The commercial OY is calculated by deducting the 50,000-mt tribal set-aside and 4,000-mt for

research catch and bycatch in non-groundfish fisheries from the 135,939 mt total catch OY. Each sector receives a portion of the commercial OY, with the catcher/processors getting 34 percent (27,859 mt), motherships getting 24 percent (19,665 mt), and the shore-based sector getting 42 percent (34,414 mt). When each sector's allocation is reached, the primary season for that sector is ended.

If the Regional Administrator determines that a portion of the tribal set aside or another sector's allocation will not be used during the year, regulations at 50 CFR 660.323(c) allow the Regional Administrator to reapportion that Pacific whiting to other sectors in proportion to their initial allocations. At the Pacific Fishery Management Council's March 2009 meeting, the Makah Tribal representatives stated their intent to harvest only 23,789 mt of their 42,000 mt set aside and asked that the remaining 18,211 mt be reapportioned to the non-tribal sectors of the fishery. Therefore, the shore-based sector received an additional 7,649 mt, resulting in a harvest guideline of 42,063 mt.

The shore-based sector is composed of vessels that harvest Pacific whiting for delivery to land-based processors. The primary season for the shore-based sector is the period or periods when the large-scale target fishery is conducted, and when "per trip" limits are not in effect for vessels targeting Pacific whiting with mid-water gear.

The best available information on July 6, 2009 indicated that 32,933 mt of Pacific whiting had been taken through July 3, 2009, and the 42,063 mt allocation for the shore-based sector would be reached by 10 a.m. on July 7, 2009. This *Federal Register* notice announces the date that the primary season for the shore-based sector was ended. Regulations at 50 CFR 660.323(b)(4) allow this action to be taken. To prevent an allocation from being exceeded, regulations at 50 CFR 660.323(e) allow closure of the commercial Pacific whiting fisheries by actual notice to the fishery participants. Actual notice includes e-mail, internet, phone, fax, letter or press release. NMFS provided actual notice by e-mail and fax on July 6, 2009.

#### NMFS Action

This document announces achievement of the shore-based sector allocation specified at 50 CFR 660.323(a) and in the final rule published on May 5, 2009 (74 FR 20620). The best available information on July 6, 2009, indicated that 32,933 mt