

Dated: December 30, 1997.

**Carol M. Browner,**  
*Administrator.*

[FR Doc. 98-258 Filed 1-2-98; 12:20 pm]

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## ENVIRONMENTAL PROTECTION AGENCY

### 48 CFR Parts 1535 and 1552

[FRL-5944-3]

#### Technical Amendments to Acquisition Regulation: Removal of Certification Requirements Regarding Collection, Use, Access, Treatment, and Disclosure of Confidential Business Information (CBI): Correction of Effective Date Under the Congressional Review Act (CRA)

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

**ACTION:** Final rule; correction of effective date under the CRA.

**SUMMARY:** On July 18, 1997 (62 FR 38476), the Environmental Protection Agency published in the **Federal Register** a final rule concerning the EPA Acquisition Regulation (EPAAR) to remove certification requirements regarding the collection, use, access, treatment, and disclosure of confidential business information (CBI) which are not specifically imposed by statute, and to amend CBI clauses to remove such certification requirements, which established an effective date of August 18, 1997. This document is to correct the effective date of the rule to December 30, 1997 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act.

**EFFECTIVE DATE:** December 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Judith Koontz at (202) 260-8608.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). The EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated July 18, 1997 by operation of law, the rule did not take effect on August 18, 1997 as stated. After EPA discovered its error, the rule was submitted to both Houses of

Congress and the GAO on December 11, 1997. This document is to amend the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since July 18, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

##### B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 18, 1997 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule became effective on December 30, 1997. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

### 48 CFR Parts 1535 and 1552

Environmental protection, Government procurement.

Dated: December 30, 1997.

**Carol M. Browner,**  
*Administrator.*

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

### PARTS 1535 and 1552—[AMENDED]

1. The authority citations for Parts 1535 and 1552 continue to read as follows:

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

2. Section 1552.235-77 is amended by revising the clause heading dates to read "December 1997" and revising the section heading to read as follows:

#### § 1552.235-77 Data Security for Federal Insecticide, Fungicide and Rodenticide Act Confidential Business Information (December 1997).

\* \* \* \* \*

3. Section 1552.235-78 is amended by revising the clause heading dates to read "December 1997" and revising the section heading to read as follows:

#### § 1552.235-78 Data Security for Toxic Substances Control Act Confidential Business Information (December 1997).

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Parts 653 and 654

#### Prevention of Prohibited Drug Use in Transit Operations; Prevention of Alcohol Misuse in Transit Operations

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of random drug and alcohol testing rate.

**SUMMARY:** This notice announces the random testing rates for employers

subject to the Federal Transit Administration's (FTA) drug and alcohol rules.

**EFFECTIVE DATE:** January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Judy Meade, Director of the Office of Safety and Security (202) 366-2896 (telephone) and (202) 366-7951 (fax). Electronic access to this and other documents concerning FTA's drug and alcohol testing rules may be obtained through FTA's Transit Safety and Security Bulletin Board at 1-800-231-2061 or through the FTA World Wide Web home page at <http://www.fta.dot.gov>; both services are available seven days a week.

**SUPPLEMENTARY INFORMATION:** The Federal Transit Administration (FTA) required large transit employers to begin drug and alcohol testing "safety-sensitive" employees on January 1, 1995, and to report, annually by March 15 of each year beginning in 1996, the number of "safety-sensitive" employees who had a verified positive for the use of prohibited drugs, and the number of safety-sensitive employees who tested positive for the misuse of alcohol. Small employers started testing their "safety-sensitive" employees on January 1, 1996, and began reporting the same information as the large employers beginning on March 15, 1997. Employers are required annually to submit other data, not relevant here, in the same report; these data are available from the FTA as discussed below.

The rules established a random testing rate for prohibited drugs and the misuse of alcohol; specifically, the rules require that employers conduct random drug tests at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. The rules provide that the drug random testing rate may be lowered to 25 percent if the "positive rate" for the entire transit industry is less than one percent for two consecutive years. Once lowered, it may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year. ("Positive rate" means the number of positive results for random drug tests conducted under part 653 plus the number of refusals of random tests required by part 653, divided by the total number of random drug tests, plus the number of refusals of random tests required by part 653.)

Likewise, the alcohol rule provides that the random rate may be lowered to 10 percent if the "violation rate" for the entire transit industry is less than .5 percent for two consecutive years. It

will remain at 25 percent if the "violation rate" is equal to or greater than .5 percent but less than one percent, and it will be raised to 50 percent if the "violation rate" is one percent or greater for any one year. ("Violation rate" means the number of covered employees found during random tests given under part 654 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by part 654, divided by the total reported number of random alcohol tests conducted under part 654, plus the total number of refusals of random tests, required by part 654.)

FTA has received and analyzed the 1996 data from large and small transit employers. The "positive rate" for random drug tests was 1.5 percent and the "violation rate" for random alcohol tests was 0.21 percent; therefore, for 1998, transit employers will continue to be required to conduct random drug tests at a rate equivalent to at least 50 percent of the total number of their "safety-sensitive" employees for prohibited drugs. Because the random alcohol violation rate was lower than .5 percent for two consecutive years (0.24 percent for 1995 and 0.21 percent for 1996), the random alcohol testing rate will be lowered to 10 percent for 1998.

FTA will be publishing in December a detailed report on the 1996 data collected from large and small employers. This report may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW, Room 9301, Washington, DC 20590, (202) 366-2896.

Issued: December 31, 1997.

**Gordon J. Linton,**  
*Administrator.*

[FR Doc. 98-217 Filed 1-5-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 600 and 660

[Docket No. 971229312-7312-01; I.D. 12167C]

#### Magnuson Act Provisions; Foreign Fishing; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** 1998 groundfish fishery specifications and management measures; tribal whiting allocation; announcement of exempted fishing permits; request for comments.

**SUMMARY:** NMFS announces the 1998 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). The specifications include the levels of the acceptable biological catch (ABC) and harvest guidelines (HGs), including the distribution between domestic and foreign fishing operations. The HGs are allocated between the limited entry and open access fisheries. The management measures for 1998 are designed to keep landings within the HGs, for those species for which there are HGs, and to achieve the goals and objectives of the FMP and its implementing regulations. The intended effect of these actions is to establish allowable harvest levels of Pacific Coast groundfish and to implement management measures designed to achieve but not exceed those harvest levels, while extending fishing and processing opportunities as long as possible during the year. This action also announces the approval of applications to renew two exempted fishing permits (EFPs) in 1998.

**DATES:** Effective 0001 hours (local time) January 1, 1998, until the 1999 annual specifications and management measures are effective, unless modified, superseded, or rescinded. The 1999 annual specifications and management measures will be published in the **Federal Register**. Comments on the 1998 annual specifications and management measures, tribal whiting allocation, and EFPs will be accepted until February 5, 1998.

**ADDRESSES:** Comments on these specifications and management measures, tribal whiting allocation, and EFPs should be sent to Mr. William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070; or Mr. William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Information relevant to these specifications and management measures, including an environmental assessment (EA) and the stock