the expiration of the non-payment testing period, as described in § 1.6050P–1(b)(2)(iv).

* * * * *

(v) *Special rule for certain entities required to file in a year prior to 2008.* In the case of an entity described in section 6050P(c)(1)(A) or (c)(2)(D) required to file an information return in a tax year prior to 2008 due to an identifiable event described in paragraph (b)(2)(i)(H) of this section, and who failed to so file, the date of discharge is the first event, if any, described in paragraphs (b)(2)(i)(A) through (G) of this section that occurs after 2007.

* * * * *

(h) * * *

(1) *In general.* The rules in this section apply to discharges of indebtedness after December 21, 1996, except paragraphs (e)(1) and (e)(3) of this section, which apply to discharges of indebtedness after December 31, 1994, except paragraph (e)(5) of this section, which applies to discharges of indebtedness occurring after December 31, 2004, and except paragraphs (b)(2)(i)(H) and (b)(2)(v) of this section, which apply to discharges of indebtedness occurring after November 10, 2008.

* * * * *

■ **Par. 4.** Section 1.6050P–1T is removed.

Approved: August 28, 2009.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Michael F. Mundaca,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E9–22354 Filed 9–16–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2009–0782]

RIN 1625–AA00

Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Navy Pier Southeast Safety Zone in Chicago Harbor from September 2, 2009, through September 26, 2009. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after fireworks events. This rule will establish restrictions upon and control movement of vessels in the specified area immediately prior to, during, and immediately after the fireworks events. During the enforcement period, no person or vessel may enter the safety zone without permission of the Captain of the Port Lake Michigan.

DATES: The regulations in 33 CFR 165.931 will be enforced during the times listed in the **SUPPLEMENTARY INFORMATION** from September 2, 2009, to September 26, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail BM1 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI; telephone 414–747–7154, e-mail *Adam.D.Kraft@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL, as listed in 33 CFR 165.931, for the following events, dates, and times:

(1) *Navy Pier Wednesday Fireworks:* On September 2, 2009, from 9:15 p.m. through 9:45 p.m.; on September 16, 2009, from 9 p.m. through 9:30 p.m.;

(2) *Navy Pier Friday Fireworks:* On September 18, 2009, from 8:45 p.m. through 9:20 p.m.; on September 25, 2009, from 8:45 p.m. through 9:20 p.m.;

(3) *Navy Pier Saturday Fireworks:* On September 5, 2009, from 10 p.m. through 10:40 p.m.; on September 19, 2009, from 8:45 p.m. through 9:20 p.m.; on September 26, 2009, from 8:45 p.m. through 9:20 p.m.; and

(4) *Navy Pier Sunday Fireworks;* On September 6, 2009, from 9:15 p.m. through 9:45 p.m.

All vessels must obtain permission from the Captain of the Port or a designated representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or the designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.931 Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL. and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. If the Captain of the Port determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port or the designated representative may be contacted via VHF–FM Channel 16.

Dated: August 26, 2009.

L. Barndt,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E9–22359 Filed 9–16–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 12 and 15

[USCG–2007–27761]

RIN 1625–AB16

Large Passenger Vessel Crew Requirements

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule finalizes, with minor non-substantive changes, the amendments to Coast Guard regulations on merchant mariner documentation which were published as an interim rule with request for comments on April 24, 2007. These amendments implement section 3509 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Warner Act), which allows for the issuance of merchant mariner's documents (MMDs), (which have since been consolidated by the Coast Guard into merchant mariner credentials (MMCs)), to certain non-resident aliens for service in the steward's departments of U.S. flag large passenger vessels endorsed for coastwise trade. Prior to publication of the interim rule, the regulations prohibited the Coast Guard from issuing MMDs, which are required for service on large passenger vessels, to non-resident aliens. Specifically, this rule finalizes the amendments to Coast Guard regulations allowing the Coast Guard to issue MMCs to qualified non-resident aliens who are authorized to be employed in the United States, the amendments setting the requirements these aliens must meet in order to qualify for MMCs, and the requirements

for the large passenger vessels that may choose to hire these aliens. This rule only applies to large passenger vessels, as defined under the Warner Act.

DATES: This final rule is effective on October 19, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2007–27761 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov*, inserting USCG–2007–27761 in the ''Keyword'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mayte Medina, Coast Guard; telephone 202–372–1406, e-mail *Mayte.Medina2@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

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I. Abbreviations

DHS Department of Homeland Security
FR Federal Register
GRT Gross register tons
ILO 147 International Labor Organization's Merchant Shipping (Minimum Standards) Convention of 1976
INA Immigration and Nationality Act
MMC Merchant Mariner Credential
NAICS North American Industry Classification System
NCLA Norwegian Cruise Line America
NMC National Maritime Center
NSEERS National Security Entry-Exit Registration System
SBA Small Business Administration
SIU Seafarers International Union
SUP Sailors' Union of the Pacific
TWIC Transportation Worker Identification Credential
U.S.C. United States Code
US–VISIT United States Visitor and Immigrant Status Indicator Technology Program

II. Regulatory History

On April 24, 2007, we published an interim rule with request for comments entitled ''Large Passenger Vessel Crew Requirements'' in the **Federal Register** (72 FR 20278). We received 14 letters commenting on the proposed rule. No public meeting was requested and none was held.

On March 16, 2009, we published a final rule entitled ''Consolidation of Merchant Mariner Credentials (MMCs)'' in the **Federal Register** (74 FR 11196). That final rule reorganized the regulations found in title 46, chapter I, subchapter B, and also consolidated the number of credentials issued to mariners by the Coast Guard. Changes made in that final rule have been included in this document, and are highlighted below in section V. ''Discussion of Comments and Changes.''

III. Background

The discussion of the background that follows largely repeats the discussion of the background and purpose set forth in the interim rule.

Prior to October 17, 2006, § 8103 of title 46 United States Code generally required that unlicensed seamen on documented vessels be of the following status: (a) Citizens of the United States; (b) lawful permanent residents; or (c) foreign nationals enrolled in the United States Merchant Marine Academy. Additionally, no more than 25 percent of such unlicensed seamen could be lawful permanent residents.

On October 17, 2006, Congress enacted the John Warner National Defense Authorization Act for Fiscal Year 2007 (Warner Act), Public Law 109–364, sec. 3509, 120 Stat. 2518. Section 3509 of the Warner Act (46 U.S.C. 8103(k)) amends 46 U.S.C. 8103 to permit large passenger vessels to also employ aliens who are not lawful permanent residents of the United States but who are authorized to work in the United States. The statute maintains a cap so that no more than 25 percent of the unlicensed seamen on any large passenger vessel may be aliens, whether admitted to the United States as lawful permanent residents or otherwise allowed to be employed in the United States. ''Large passenger vessel'' is defined under the Warner Act to mean ''a vessel of more than 70,000 gross tons, as measured under section 14302 of this title, with capacity for at least 2,000 passengers and documented with a coastwise endorsement under chapter 121 of this title.''

The Warner Act also contains the following qualifications and restrictions on non-resident aliens serving as unlicensed seamen on large passenger vessels:

1. Non-resident aliens may not perform watchstanding, engine room duty watch, or vessel navigation functions;
2. Non-resident aliens must be authorized for employment in the United States under the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1101 *et seq.*) (INA), including an alien crewman described in section 101(a)(15)(D)(i) of the INA (8 U.S.C. 1101(a)(15)(D)(i));
3. Non-resident aliens must have been employed for a period of at least one year on a passenger vessel, including a foreign flag passenger vessel, under the same common ownership or control as the U.S. flag vessel they will be working on, as certified by the owner or managing operator of such vessel;
4. Non-resident aliens must have no record of material disciplinary actions during such employment, as verified in writing by the owner or managing operator of such vessel;
5. Non-resident aliens must have successfully completed a United States Government security check of the relevant domestic and international databases, as appropriate, or any other national security-related information or database (which is required for an MMC or Transportation Worker Identification Credential (TWIC));
6. Non-resident aliens must have successfully undergone an employer-conducted background check for which the owner or managing operator provides a signed report that describes the background checks undertaken. The background check must consist of a search of all information that is reasonably and legally available to the owner or managing operator in the seaman's country of citizenship and any other country in which the seaman receives employment referrals or resides. The report must be kept on the vessel and available for inspection, and the information derived from the background check must be made available upon request;
7. Non-resident aliens may not be citizens or temporary or permanent residents of a country designated by the United States as a sponsor of terrorism,

or any other country that the Secretary of Homeland Security, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States; and

8. Non-resident aliens may only serve for an aggregate period of 36 months of actual service on all authorized U.S. flag large passenger vessels combined. Once this 36-month limitation has been reached, the MMD (now called an MMC) becomes invalid and the individual's employer must return it to the Coast Guard, and the individual is no longer authorized to be in service in a position requiring an MMD (now called an MMC) on any U.S. flag large passenger vessel.

Under current law, all individuals serving in the steward's department on passenger vessels of 100 gross register tons (GRT) or more must hold an MMC. 46 U.S.C. 8701. The only exception is for entertainment personnel employed for a period of 30 days or less per year, who are exempt from the MMC requirement.

Prior to publication of the interim rule on April 24, 2007, Coast Guard regulations governing the issuance of MMDs (now called MMCs) prohibited the issuance of MMDs (now called MMCs) to non-resident aliens (*see* 46 CFR Part 12). The Coast Guard, through the interim rule, amended its regulations to authorize the issuance of MMDs (now called MMCs) to non-resident aliens authorized to work in the United States who meet the criteria of the Warner Act and the requirements set forth in the rule.

IV. Discussion of Final Rule

This rule finalizes, with minor non-substantive changes, the amendments set forth in the interim rule. A full discussion of the provision of this rule may be found in the ''Discussion of the Interim Rule'' section of the interim rule. 72 FR 20278, at 20280.

V. Discussion of Comments and Changes

We received a total of 14 letters commenting on the proposed rule. One of the comments, discussing marine radio broadcast services, was apparently submitted to the docket in error.

Of the 13 relevant commenters, four essentially argue that foreigners should not be permitted to work on U.S. flag vessels. Three commenters argue that foreigners should be permitted to work on U.S. flag large passenger vessels, and also that the Jones Act should be repealed. Two commenters argue that foreigners should be allowed to work on U.S. flag large passenger vessels because foreign hotel staff on large passenger vessels provide a better level of customer service than U.S. hotel staff.

While the Coast Guard appreciates the countering viewpoints expressed in these comments, none of them discuss the rulemaking. Rather, they discuss issues regarding the appropriateness, fairness and justification for the legislation underlying the rulemaking, *i.e.* section 3509 of the Warner Act. That legislation was enacted by Congress and signed by the President into law. This rulemaking is merely the implementation of that law, and, as such, the viewpoints expressed in these comments are beyond the scope of the rulemaking.

The remaining four commenters discuss, at least in part, the specifics of the rulemaking. Three of these four commenters—from Seafarers International Union (SIU), Transportation Institute, and Norwegian Cruise Line America (NCLA)—support the rulemaking without change.

NCLA owns/operates the only vessels subject to this rulemaking, making NCLA the only vessel owner/operator to which this final rule applies.[1] Their comments indicate that the regulations as issued in the interim rule strike an appropriate balance between flexibility for the vessel owner/operator and safeguards to preserve U.S. interests. NCLA urges that the regulations should be adopted without change in this final rule. We agree with NCLA.

One comment, from the Sailors' Union of the Pacific (SUP), opposes the rulemaking on five grounds: negative consequences to sealift manpower; undermining U.S. maritime security; creating a de facto second register under the U.S. flag; unfair competition; and lack of transparency. We made no changes to the rule based on these comments, which are discussed below.

SUP suggests that this rule will weaken defense readiness by reducing the pool of qualified U.S. mariners necessary to commercially operate military sealift ships, and that it takes away valuable entry-level positions for unlicensed U.S. mariners. Conversely, SIU (one of the other commenters) argues that if the cruise ships impacted by this regulation are re-flagged foreign due to the economic pressures associated with the high turnover of U.S. hotel staff on these vessels, even more U.S. jobs will be lost. Instead of 75 percent of the crew on these vessels being U.S. citizens, none of the crew will be a U.S. citizen if the vessels are re-flagged foreign.

While the Coast Guard appreciates both of these divergent maritime labor viewpoints, they relate to the statute underlying this rulemaking, *i.e.* section 3509 of the Warner Act, and, as noted above, are beyond the scope of this rulemaking.

SUP next suggests that this rulemaking undermines U.S. maritime security because the security standards imposed on non-resident aliens are ''far beneath'' the standards imposed on U.S. mariners. SUP suggests that the aliens who would be allowed to work aboard U.S. large passenger vessels under this rule are exempt from the TWIC requirements, and that the ''real weakness in the rule's security standards is that it depends on unreliable or non-existent information from foreign sources.''

First, it must be clarified that the non-resident aliens who gain employment aboard U.S. large passenger vessels in accordance with this rule are required to obtain TWIC cards, just like any other credentialed U.S. mariner. Section 12.40–5(a) of the interim rule specified that unless otherwise expressly stated, non-resident alien applicants for MMDs (now called MMCs) are subject to all applicable requirements contained in 46 CFR Subchapter B. The final TWIC rule added new sections 10.113, 12.01–11 and 15.415 to 46 CFR Subchapter B. 73 FR 3492. These sections collectively require all credentialed mariners to hold a valid TWIC by April 15, 2009, to be employed or engaged on any U.S. flag vessel.

Furthermore, the TWIC final rule amended 49 CFR 1572.105 to allow a TWIC to be issued to an alien in a lawful nonimmigrant status who has restricted authorization to work in the United States with a C–1/D crewman visa. 49 CFR 1572.105(a)(7)(ii). The C–1/D crewman visa is the most common type of visa that non-resident alien crewmembers have, and it is explicitly referenced in both the statute and the rule as acceptable for issuance of an MMD (now called MMC). To the extent that a non-resident alien crewmember may have something other than a C–1/D visa, there are numerous other lawful immigration statuses listed in 49 CFR 1572.105 allowing for issuance of a TWIC.

Regarding the SUP argument that the non-resident aliens will be subject to lesser security vetting requirements than U.S. mariners, non-resident aliens are subject to not only a government background check at the time of application (including the full security threat assessment done by the

[1] When the interim rule was issued on April 24, 2007, NCLA operated three U.S. flag large passenger vessels in coastwise trade in the Hawaiian Islands. Since that time, they have removed two of those vessels in coastwise trade in the Hawaiian Islands.

Transportation Security Administration when the individual applies for a TWIC), but are also subject to an employer-conducted background check, which must be updated every year that the non-resident alien holds a credential, to search for any changes since the last background check. They are also subject to any immigration background checks required to obtain their lawful immigration status or visa. This is the highest level of security vetting possible within the constraints of section 3509 of the Warner Act, the statute underlying this rulemaking.

Any concerns with respect to the quality of the employer-conducted background check are addressed in §§ 12.40–7(a)(2) and (a)(3) of the rule. Section 12.40–7(a)(2)(ii) requires a review of the available court and police records in the applicant's country of citizenship, and in any other country in which the applicant has resided or received employment referrals for the past 20 years. This is an extensive requirement, and it may include not only criminal arrest and conviction information, but also relevant civil court information such as bankruptcies and lawsuits.

Furthermore, § 12.40–7(a)(3) states that the employer-conducted background check must be conducted ''to the satisfaction of the Coast Guard'' for a credential to be issued. This gives the Coast Guard broad discretion to accept or reject employer-conducted background checks. In fact, NCLA utilizes a company, at significant expense to NCLA, which specializes in foreign criminal background checks. This company has agents who physically search available court and police records at each local foreign jurisdiction where each non-resident alien applicant has resided, received employment referrals, or claimed citizenship. They produce a professionally styled, comprehensive report on each non-resident alien applicant. This is the type of background check that the Coast Guard expects under § 12.40–7(a)(3). Anything less could be rejected with no credential being issued to the applicant.

SUP next suggests that this rulemaking creates a de facto second register under the U.S. flag by allowing the employment of foreign mariners on U.S. vessels who may be paid less and employed under lower standards than U.S. mariners. SUP states, correctly, that neither the statute nor the rule requires non-resident alien mariners to be employed under the same collective bargaining agreement as presently applies to U.S. mariners on the same vessels.

The Coast Guard has no authority to require any vessel owner/operator to employ mariners under a collective bargaining agreement. As long as the vessel owner/operator complies with the provisions of the International Labor Organization's Merchant Shipping (Minimum Standards) Convention of 1976 (ILO 147), as required in section 15.530(b) of the rule, they are under no obligation to provide the same compensation to non-resident aliens as they do to U.S. mariners on these vessels. This issue is discussed in more detail below in the ''Regulatory Planning and Review'' section, under ''Direct Impacts.''

Significantly, compliance with ILO 147 entails compliance with the scope of all the Conventions listed in the Appendix of ILO 147, specifically including social security, medical exams, and repatriation. Moreover, nothing in this rule relieves any vessel owner/operator from compliance with all applicable provisions of 46 U.S.C. Part G, Chapters 101–115, Merchant Seamen Protection and Relief.

SUP next suggests that this rule creates unfair competition by enabling NCLA to compete for crews under different rules than other U.S. flag companies, interfering in the operation of commercial maritime labor markets. Again, this argument relates to the statute underlying the rule, *i.e.*, section 3509 of the Warner Act, which provides that up to 25 percent of the unlicensed seamen on large passenger vessels can be qualified non-resident aliens (limited to hotel staff). This issue is beyond the scope of this rulemaking.

Finally, SUP suggests that both section 3509 of the Warner Act and the rule itself lack transparency. SUP states that the law was ''buried in the massive 2007 defense authorization bill,'' and that the Coast Guard has bypassed the notice of proposed rulemaking phase of public comment and gone right to an interim rule, thus further limiting discussion of the rule.

The comment concerning the legislative procedure that led to the creation of the Warner Act is beyond the scope of this rulemaking. In the interim rule, published April 24, 2007, the Coast Guard explained that, under the Administrative Procedure Act, it had good cause to issue an effective rule without first providing notice and an opportunity for comment (*see* 72 FR 20281). Even with the good cause, however, we requested public comment on the interim rule. For this reason, we disagree with the assertion that this rule ''lacks transparency.''

In preparing this final rule, the Coast Guard made three minor, non-substantive changes, from the interim rule, in the regulatory text. Two of the changes occur in 46 CFR 12.40–7 ''Employer Requirements,'' and the third occurs in 12.40–13 ''Restrictions.'' In section 12.40–7, first we capitalized the term ''Transportation Worker Identification Credential,'' to correctly identify it. Second, we reorganized paragraph (d) to more clearly identify when an employer must return a mariner's TWIC and/or MMD (now called MMC) to the government (either TSA or Coast Guard, as appropriate). Our third change is found in section 12.40–13, where we spelled out the abbreviation ''STCW.'' None of these edits change the substance of the Interim Rule.

Since publication of the interim rule, the Coast Guard published a final rule titled ''Consolidation of Merchant Mariner Qualification Credentials'' (74 FR 11196; USCG–2006–24371). That final rule consolidated all previously issued Coast Guard credentials (including the MMD) into one new credential, called a merchant mariner credential (MMC). It also reorganized 46 CFR chapter I, subchapter B. Changes made by that final rule have been incorporated into this final rule. These include: changing the term ''merchant mariner's document'' to ''merchant mariner credential'' in every place that it appeared; updating cross references (where the sections referenced in the interim rule were moved as part of the reorganization); moving the definitions from subpart 12.40 to the definition section covering all of subchapter B (46 CFR 10.107); and revising the subpart's title.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below, we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Public comments on the interim rule are summarized in Part V of this publication. We received no public comments that would alter our assessment of impacts in the interim rule. We have adopted the assessment in the interim rule as final. *See* the

''Regulatory Evaluation'' section of the interim rule for more details. A summary of the assessment follows.

The Coast Guard issues this rule as mandated by Congress through the Warner Act. *See* the ''Background'' section for more information about this legislation.

The rule creates an exemption to allow qualified non-resident aliens to obtain MMCs for employment as unlicensed seamen in the steward's departments of large passenger vessels, as entertainment and service personnel, including wait staff, hotel housekeeping staff, and food handlers. Prior to issuance of the interim rule, only U.S. citizens, lawful permanent residents, and foreign nationals enrolled at the U.S. Merchant Marine Academy could obtain MMDs (now MMCs) as unlicensed seamen (and no more than 25 percent of these unlicensed seamen may be lawful permanent residents). This rule will permit non-resident aliens to also obtain MMCs for employment as rated seamen on large passenger vessels, except no more than 25 percent of the rated seamen on a large passenger vessel can be aliens (whether non-resident, non-permanent resident aliens or lawful permanent residents). The rule further requires that the non-resident aliens may only be employed in the steward's department of a large passenger vessel.

Although the Warner Act and this rule allow large passenger vessels to hire non-resident aliens, neither the Act nor this rule mandates that they do so. Accordingly, there are no mandatory costs to large passenger vessels resulting from this rule. Rather, a company will only choose to avail itself of the exemption if the benefits to the company from the hiring of non-resident aliens are greater than the costs.

Based on Coast Guard Marine Inspection, Safety, and Law Enforcement system (MISLE) data, we determined there is only one large passenger vessel currently in service that meets the qualifications of this rule. Norwegian Cruise Line America (NCLA) operates the vessel in coastwise service in the Hawaiian Islands.[2] NCLA is the only company directly regulated by this rulemaking.

We expect most of the direct costs of the rule will be borne by NCLA. The rule will require NCLA to perform an employer-conducted background check and submit additional required merchant mariner application information to the Coast Guard on the employee's behalf. However, NCLA participation in this alternative compliance method is voluntary, and NCLA will only participate if the net benefits of doing so are positive. We estimate the benefit to NCLA from participating in this rule to be the cost savings made through reduced turnover and decreased startup training costs, since the non-resident aliens hired under this program will have experience aboard foreign-flag vessels.

This reduction in labor cost is the cost savings or net benefit for NCLA to participate in the alternative MMC citizenship compliance method of this rule. See the ''Regulatory Evaluation'' section of the interim rule for additional details.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). As discussed in the interim rule, the Coast Guard determined that this regulatory action is exempt from notice and comment rulemaking pursuant to 5 U.S.C. 553(b)(B). Therefore, an RFA analysis is not required for this rule. The Coast Guard, nonetheless, expects that this rule will not have a significant economic impact on a substantial number of small entities.

Based on Coast Guard MISLE data, we have determined that there is only one company (NCLA) is affected by this rule. We researched the company size and revenue data and found that this company is not considered a small entity by the Small Business Administration's size standards.

In the interim rule, we certified under 5 U.S.C. 605(b) that the interim rule would not have a significant economic impact on a substantial number of small entities. We have found no additional data or information that would change our findings in the interim rule. We have adopted the certification in the interim for this final rule. See the ''Small Entity'' section of the interim rule for additional detail.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule does not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard. Small businesses may send comments on the actions of Federal Employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520). Under OMB regulations implementing the PRA, ''Controlling Paperwork Burdens on the Public'' (5 CFR 1320), collection of information means the obtaining, soliciting, or requiring the disclosure to an agency of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons. ''Ten or more persons'' refers to the number of respondents to whom a collection of information is addressed by the agency within any 12-month period and does not include employees of the respondent acting within the scope of their employment, contractors engaged by a respondent for the purpose of complying with the collection of information, or current employees of the Federal government. Collections of information affecting ten or more respondents within any 12-month period require OMB review and approval.

This rule will require employers to submit employee information to the Coast Guard before the Coast Guard will issue an MMC for their employees. However, we expect only one company will be affected by this requirement each year, as there is only one company (NCLA) in a position to take advantage of these regulations. NCLA has been submitting information under the

[2] Since April 2007, NCLA has removed two vessels from U.S. service and re-flagged them for foreign service.

interim rule since April 2007. We have no data or information to suggest that there will be additional companies affected by the rule. As such, the number of respondents is less than the threshold of ten respondents per 12-month period for collection of information requirements under the PRA.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This final rule deals with personnel qualifications and the manning requirements on large passenger vessels. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(c) of the Instruction. This paragraph excludes regulatory actions concerning the training, qualifying, licensing, and disciplining of maritime personnel from further environmental documentation, and this final rule concerns the licensing of maritime personnel. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 12

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 12 and 15 by adopting as final the interim rule published April 24, 2007 (72 FR 20278), with the following changes:

PART 12—CERTIFICATION OF SEAMEN

■ 1. Revise Subpart 12.40 to read as follows:

Subpart 12.40—-Non-resident Alien Unlicensed Members of the Steward's Department on U.S. Flag Large Passenger Vessels

Sec.

12.40–1 Purpose of rules.
12.40–3 [Reserved].
12.40–5 General application requirements.
12.40–7 Employer requirements.
12.40–9 Basis for denial.
12.40–11 Citizenship and identity.
12.40–13 Restrictions.
12.40–15 Alternative means of compliance.

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701 and 8103; Department of Homeland Security Delegation No. 0170.1.

§ 12.40–1 Purpose of rules.

The rules in this subpart implement 46 U.S.C. 8103(k) by establishing requirements for the issuance of merchant mariner credentials, valid only for service in the steward's department of U.S. flag large passenger vessels, to non-resident aliens.

§ 12.40–3 [Reserved]

§ 12.40–5 General application requirements.

(a) Unless otherwise expressly specified in this subpart, non-resident alien applicants for Coast Guard-issued merchant mariner credentials are subject to all applicable requirements contained in this subchapter.

(b) No application from a non-resident alien for a merchant mariner credential issued pursuant to this subpart will be accepted unless the applicant's employer satisfies all of the requirements of § 12.40–7 of this subpart.

§ 12.40–7 Employer requirements.

(a) The employer must submit the following to the Coast Guard, as a part of the applicant's merchant mariner credential application, on behalf of the applicant:

(1) A signed report that contains all material disciplinary actions related to the applicant, such as, but not limited to, violence or assault, theft, drug and alcohol policy violations, and sexual harassment, along with an explanation of the criteria used by the employer to determine the materiality of those actions;

(2) A signed report regarding an employer-conducted background check. The report must contain:

(i) A statement that the applicant has successfully undergone an employer-conducted background check;

(ii) A description of the employer-conducted background check, including all databases and records searched. The background check must, at a minimum, show that the employer has reviewed all information reasonably and legally available to the owner or managing operator, including the review of available court and police records in the applicant's country of citizenship, and any other country in which the applicant has received employment referrals, or resided, for the past 20 years prior to the date of application; and

(iii) All information derived from the employer-conducted background check.

(3) The employer-conducted background check must be conducted to the satisfaction of the Coast Guard for a merchant mariner credential to be issued to the applicant.

(b) If a merchant mariner credential is issued to the applicant, the report and information required in paragraph (a)(2) of this section must be securely kept by the employer on the U.S. flag large passenger vessel, or U.S. flag large passenger vessels, on which the applicant is employed. The report and information must remain on the last U.S. flag large passenger vessel on which the applicant was employed until such time as the merchant mariner credential is returned to the Coast Guard in accordance with paragraph (d) of this section.

(c) If a merchant mariner credential or a Transportation Worker Identification Credential (TWIC) is issued to the applicant, each merchant mariner credential and TWIC must be securely kept by the employer on the U.S. flag large passenger vessel on which the applicant is employed. The employer must maintain a detailed record of the seaman's total service on all authorized U.S. flag large passenger vessels, and must make that information available to the Coast Guard upon request, to demonstrate that the limitations of § 12.40–13(c) of this subpart have not been exceeded.

(d) In the event that the seaman's merchant mariner credential and/or TWIC expires, the seaman's visa status terminates, the seaman serves onboard the U.S. flag large passenger vessel(s) for 36 months in the aggregate as a nonimmigrant crewman, the employer terminates employment of the seaman or if the seaman otherwise ceases working with the employer, the employer must return the merchant mariner credential to the Coast Guard and the TWIC to the Transportation Security Administration within 10 days of the event.

(e) In addition to the initial material disciplinary actions report and the initial employer-conducted background check specified in paragraph (a) of this section, the employer must:

(1) Submit an annual material disciplinary actions report to update whether there have been any material disciplinary actions related to the applicant since the last material disciplinary actions report was submitted to the Coast Guard.

(i) The annual material disciplinary actions report must be submitted to the satisfaction of the Coast Guard in accordance with the same criteria set forth in paragraph (a)(1) of this section, except that the period of time examined for the material disciplinary actions report need only extend back to the date of the last material disciplinary actions report; and

(ii) The annual material disciplinary actions report must be submitted to the Coast Guard on or before the anniversary of the issuance date of the merchant mariner credential.

(2) Conduct a background check each year that the merchant mariner's document is valid to search for any changes that might have occurred since the last employer-conducted background check was performed:

(i) The annual background check must be conducted to the satisfaction of the Coast Guard in accordance with the same criteria set forth in paragraph (a)(2) of this section, except that the period of time examined during the annual background check need only extend back to the date of the last background check; and

(ii) All information derived from the annual background check must be submitted to the Coast Guard on or before the anniversary of the issuance date of the merchant mariner credential.

(f) The employer is subject to the civil penalty provisions specified in 46 U.S.C. 8103(f) for any violation of this section.

§ 12.40–9 Basis for denial.

In addition to the requirements for a merchant mariner credential established elsewhere in this subchapter, and the basis for denial established in §§ 10.209, 10.211, and 10.213 of this subchapter, an applicant for a merchant mariner credential issued pursuant to this subpart must:

(a) Have been employed, for a period of at least one year, on a foreign flag passenger vessel(s) that is/are under the same common ownership or control as the U.S. flag large passenger vessel(s) on which the applicant will be employed upon issuance of a merchant mariner credential under this subpart.

(b) Have no record of material disciplinary actions during the employment required under paragraph (a) of this section, as verified in writing by the owner or managing operator of the U.S. flag large passenger vessel(s), on which the applicant will be employed.

(c) Have successfully completed an employer-conducted background check, to the satisfaction of both the employer and the Coast Guard.

(d) Meet the citizenship and identity requirements of § 12.40–11 of this subpart.

§ 12.40–11 Citizenship and identity.

(a) In lieu of the requirements of § 10.221 of this subchapter, a non-

resident alien may apply for a Coast Guard-issued merchant mariner credential, endorsed and valid only for service in the steward's department of a U.S. flag large passenger vessel as defined in this subpart, if he or she is authorized for employment under the immigration laws of the United States, including an alien crewman described in section 101(a)(15)(D)(i) of that Act.

(b) To meet the citizenship and identity requirements of this subpart, an applicant must present an unexpired passport issued by the government of the country of which the applicant is a citizen or subject; and either a valid U.S. C–1 or D visa or other valid evidence of employment authorization in the United States deemed acceptable by the Coast Guard.

(c) Any non-resident alien applying for a merchant mariner credential under this subpart may not be a citizen of, or a temporary or permanent resident of, a country designated by the Department of State as a ''State Sponsor of Terrorism'' pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

§ 12.40–13 Restrictions.

(a) A merchant mariner credential issued to a non-resident alien under this subpart authorizes service only in the steward's department of the U.S. flag large passenger vessel(s), that is/are under the same common ownership and control as the foreign flag passenger vessel(s), on which the non-resident alien served to meet the requirements of § 12.40–9(a) of this subpart:

(1) The merchant mariner credential will be endorsed for service in the steward's department in accordance with § 12.25–10 of this part;

(2) The merchant mariner credential may also be endorsed for service as a food handler if the applicant meets the requirements of § 12.25–20 of this part; and

(3) No other rating or endorsement is authorized, except lifeboatman, in which case all applicable requirements of this subchapter and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention), and the Seafarers' Training, Certification and Watchkeeping Code (STCW Code), must be met.

(b) The following restrictions must be printed on the merchant mariner credential, or listed in an accompanying Coast Guard letter, or both:

(1) The name and official number of all U.S. flag vessels on which the non-resident alien may serve. Service is not authorized on any other U.S. flag vessel;

(2) Upon issuance, the merchant mariner credential must remain in the custody of the employer at all times;

(3) Upon termination of employment, the merchant mariner credential must be returned to the Coast Guard within 10 days in accordance with § 12.40–7 of this subpart;

(4) A non-resident alien issued a merchant mariner credential under this subpart may not perform watchstanding, engine room duty watch, or vessel navigation functions; and

(5) A non-resident alien issued a merchant mariner credential under this subpart may perform emergency-related duties provided:

(i) The emergency-related duties do not require any other rating or endorsement, except lifeboatman as specified in paragraph (a)(3) of this section;

(ii) The non-resident alien has completed familiarization and basic safety training as required in § 15.1105 of this subchapter;

(iii) That if the non-resident alien serves as a lifeboatman, he or she must have the necessary lifeboatman's endorsement; and

(iv) The non-resident alien has completed the training for crewmembers on passenger ships performing duties involving safety or care for passengers, as required in subpart 12.35 of this part.

(c) A non-resident alien may only serve for an aggregate period of 36 months actual service on all authorized U.S. flag large passenger vessels combined under the provisions of this subpart:

(1) Once this 36-month limitation is reached, the merchant mariner credential becomes invalid and must be returned to the Coast Guard under § 12.40–7(d) of this subpart, and the non-resident alien is no longer authorized to serve in a position requiring a merchant mariner credential on any U.S. flag large passenger vessel; and

(2) An individual who successfully adjusts his or her immigration status to that of an alien lawfully admitted for permanent residence to the United States or who becomes a United States citizen may apply for a merchant mariner credential, subject to the requirements of § 10.221 of this subchapter, without any restrictions or limitations imposed by this subpart.

§ 12.40–15 Alternative means of compliance.

(a) The owner or managing operator of a U.S. flag large passenger vessel, or U.S. flag large passenger vessels, seeking to employ non-resident aliens issued merchant mariner credential under this subpart may submit a plan to the Coast Guard, which, if approved, will serve as an alternative means of complying with the requirements of this subpart.

(b) The plan must address all of the elements contained in this subpart, as well as the related elements contained in § 15.530 of this subchapter, to the satisfaction of the Coast Guard.

PART 15—MANNING REQUIREMENTS

■ 2. The authority citation for part 15 is revised to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, 9102, and 8103; and Department of Homeland Security Delegation No. 0170.1.

■ 3. Revise § 15.530 in subpart D to read as follows:

§ 15.530 Large passenger vessels.

(a) The owner or operator of a U.S. flag large passenger vessel must ensure that any non-resident alien holding a Coast Guard-issued merchant mariner credential described in subpart 12.40 of this subchapter is provided the rights, protections, and benefits of the International Labor Organization's Merchant Shipping (Minimum Standards) Convention of 1976.

(b) On U.S. flag large passenger vessels, non-resident aliens holding a Coast Guard-issued merchant mariner credential described in subpart 12.40 of this subchapter:

(1) May only be employed in the steward's department on the vessel(s) specified on the merchant mariner credential or accompanying Coast Guard letter under § 12.40–13(b)(1) of this subchapter;

(2) May only be employed for an aggregate period of 36 months actual service on all authorized U.S. flag large passenger vessels combined, under § 12.40–13(c) of this subchapter;

(3) May not perform watchstanding, engine room duty watch, or vessel navigation functions, under § 12.40–13(b)(4) of this subchapter; and

(4) May perform emergency-related duties only if, under § 12.40–13(b)(5) of this subchapter:

(i) The emergency-related duties do not require any other rating or endorsement, except lifeboatman as specified in § 12.40–13(a)(3) of this subchapter;

(ii) The non-resident alien has completed familiarization and basic safety training, as required in § 15.1105 of this part;

(iii) That if the non-resident alien serves as a lifeboatman, he or she must have the necessary lifeboatman's endorsement; and

(iv) The non-resident alien has completed the training for crewmembers on passenger ships performing duties involving safety or care for passengers, as required in subpart 12.35 of this subchapter.

(c) No more than 25 percent of the total number of ratings on a U.S. flag large passenger vessel may be aliens, whether admitted to the United States for permanent residence or authorized for employment in the United States as non-resident aliens.

(d) The owner or operator of a U.S. flag large passenger vessel employing non-resident aliens holding Coast Guard-issued merchant mariner credentials described in subpart 12.40 of this subchapter must:

(1) Retain custody of all non-resident alien merchant mariner credentials for the duration of employment, under § 12.40–13(b)(2) of this subchapter; and

(2) Return all non-resident alien merchant mariner credentials to the Coast Guard upon termination of employment, under § 12.40–13(b)(3) of this subchapter.

(e) The owner or operator of a U.S. flag large passenger vessel employing non-resident aliens holding Coast Guard-issued merchant mariner credentials described in subpart 12.40 of this subchapter is subject to the civil penalty provisions specified in 46 U.S.C. 8103(f), for any violation of this section.

Dated: September 10, 2009.

Jeffrey G. Lantz,

Director of Commercial Regulations & Standards CG–52.

[FR Doc. E9–22355 Filed 9–16–09; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 514, and 552

[GSAR Amendment 2009–11; GSAR Case 2008–G505 (Change 39); Docket 2008–0007; Sequence 20]

RIN 3090–AI73

General Services Acquisition Regulation; GSAR Case 2008–G505; Rewrite of GSAR Part 514, Sealed Bidding

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the GSA Acquisition Regulation (GSAR) by revising the sections of GSAR Part 514 that provide requirements for sealed bidding. This rule is a result of the GSA Manual (GSAM) Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR), and to implement streamlined and innovative acquisition procedures that contractors, bidders, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy.

DATES: October 19, 2009.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson at (202) 208–4949. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2008–G505 (Change 39), in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Background

The GSA is amending the GSAR to revise sections of GSAR Part 514 that provide requirements for sealed bidding.

This final rule is a result of the GSA Acquisition Manual (GSAM) rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR) and to implement streamlined and innovative acquisition procedures that contractors, bidders, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy.

The GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This rule covers the rewrite of GSAR Part 514. The specific changes are as follows:

501.106 OMB Approval under the Paperwork Reduction Act.

• Added OMB Control No. 3090–0162 as a cross reference for 514.201–1.

514.201–2 Part I—The Schedule.

• Changed paragraph (a) from ''When you'' to ''When using''. Also in paragraph (a) changed ''which'' to ''that'' and added all three FAR clauses for Prompt Payment (52.232–25, 52.232–26, and 52.232–27).

• Changed the word ''offer'' to ''bid''.

• Changed paragraph (b) from ''When you use'' to ''When using'' to clarify the reference to ''you'' and added a reference to the Standard Form 1449 as an example that this form can also be used.

514.201–6 Solicitation provisions.

• Changed ''When you'' to ''When considering'' to delete the reference to the word ''you''.

• Changed ''All or None Offers'' to ''All or None Bids''.

• Deleted the reference for Alternate I because the alternate is being proposed for deletion because it is not consistent with the intention of the basic clause.

514.201–7 Contract clauses.

• In the old paragraph (a) changed ''you'' to ''The contracting officer''.

• Deleted paragraph (b), Examination of Records. The clause does not provide basic audit rights that are in addition to the FAR clauses at 52.215–2, Audit and Records—Negotiation and 52.214–26, Audit and Records—Sealed Bidding. And as opposed to the GSA clause, the FAR clause is specific to sealed bids. Further, the GSA clause grants to the agency rights to audit subcontractors that are in excess of those granted by the FAR and the statute.

514.202–4 Bid samples.

• Renamed paragraphs (a) and (b) to be more consistent with the FAR.

• Also in paragraphs (a) and (b) restructured the language to remove the word ''you'' and replaced with contracting officer.

• Clarified the language to state who must take physical custody of bid samples.

• Deleted paragraph (c) because it is redundant with FAR 14.202–4(d).

514.202–5 Descriptive Literature.

• Added a new GSAR section in order to address the requirements of FAR 14.202–5(c).

514.270–1 Definition. Deleted hyphenation in ''separately-priced''.

514.270–2 Justification for use.

• Inserted ''the contracting officer should'' in paragraph (b) and made last sentence of paragraph (3) a new number paragraph (4) and renumbered old paragraphs (4) and (5) to paragraphs (5) and (6), respectively.

• Added ''the contracting officer should'' to replace the understood ''you'' and deleted ''Do'' in paragraph (c).

514.270–3 Evaluation factors for award.

• Edited to avoid either using the passive voice or repeating ''the contracting officer''.

514.270–4 Grouping line items for aggregate award.

• In paragraph (a) the title ''Type of contract'' was changed to one that is more descriptive of the substance of the paragraph; type of contract refers to Part 16 contract types.