

(March 8, 1999); and Final Rule, 64 FR 23782 (May 4, 1999).

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Chairman of the Federal Maritime Commission has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant impact on a substantial number of small entities. The affected universe of the parties is limited to vessel-operating common carriers. The Commission has determined that these entities do not come under the programs and policies mandated by the Small Business Regulatory Enforcement Fairness Act as they typically exceed the threshold figures for number of employees and/or annual receipts to qualify as a small entity under Small Business Administration guidelines.

This regulatory action is not a "major rule" under 5 U.S.C. 804(2).

List of Subjects for 46 CFR part 530

Freight, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, the FMC amends 46 CFR part 530 as follows:

PART 530—SERVICE CONTRACTS

1. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. App. 1704, 1705, 1707, 1716.

2. Amend § 530.3 to revise paragraph (k) as follows:

§ 530.3 Definitions.

* * * * *

(k) File or filing (of service contracts or amendments thereto) means the use of the Commission's electronic filing system for receipt of a service contract or an amendment thereto by the Commission, consistent with the method set forth in Appendix A of this part, and the recording of its receipt by the Commission.

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3. Amend § 530.5 to revise paragraph (c)(1) and remove paragraphs (c)(3), (c)(4) and (c)(5) to read as follows:

§ 530.5 Duty to file.

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(c) Registration. (1) Application. Authority to file or delegate the authority to file must be requested by a responsible official of the service contract carrier in writing by submitting to BTCL the Registration Form (FMC-83) in Exhibit 1 to this part.

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4. Amend § 530.8 to revise paragraphs (a) and (c) to read as follows:

§ 530.8 Service contracts.

(a) Authorized persons shall file with BTCL, in the manner set forth in Appendix A of this part, a true and complete copy of every service contract or amendment to a filed service contract before any cargo moves pursuant to that service contract or amendment.

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(c) Certainty of terms. The terms described in paragraph (b) of this section may not:

(1) Be uncertain, vague or ambiguous; or

(2) Make reference to terms not explicitly contained in the service contract itself unless those terms are contained in a publication widely available to the public and well known within the industry.

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§ 530.11 [Removed and Reserved]

- 5. Remove and reserve § 530.11.
6. Revise Appendix A to part 530 to read as follows:

Appendix A to Part 530—Instructions for the Filing of Service Contracts

Service contracts shall be filed in accordance with the instructions found on the Commission's home page, http://www.fmc.gov.

A. Registration, Log-on ID and Password

To register for filing, a carrier, conference, agreement or publisher must submit the Service Contract Registration Form (Form FMC-83) to BTCL. A separate Service Contract Registration Form is required for each individual that will file service contracts. BTCL will direct OIRM to provide approved filers with a log-on ID and password. Filers who wish a third party (publisher) to file their service contracts must so indicate on Form FMC-83. Authority for organizational filing can be transferred by submitting an amended registration form requesting the assignment of a new log-on ID and password. The original log-on ID will be canceled when a replacement log-on ID is issued. Log-on IDs and passwords may not be shared with, loaned to or used by any individual other than the individual registrant. The Commission reserves the right to disable any log-on ID that is shared with, loaned to or used by parties other than the registrant.

B. Filing

After receiving a log-on ID and a password, a filer may log-on to the service contract filing area on the Commission's home page and file service contracts. The filing screen will request such information as: filer name, Registered Persons Index ("RPI") number and carrier RPI number (if different); Service Contract and amendment number; and effective date. The filer will attach the entire service contract file and submit it into the system. When the service contract has been submitted for filing, the system will assign a filing date and an FMC control number, both

of which will be included in the acknowledgment/confirmation message. By the Commission.

Bryant L. VanBrakle, Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1509 [FRL-6409-6]

Acquisition Regulation: Contractor Performance Evaluations

AGENCY: Environmental Protection Agency

ACTION: Final rule; technical amendment.

SUMMARY: The Environmental Protection Agency is revising its EPA Acquisition Regulation (48 CFR Chapter 15) concerning contractor performance evaluations to clarify that contractor performance evaluations will be completed after each 12 month period from the effective date of contract. The final rule dated April 26, 1999 (64 FR 20201) indicated that contractor performance evaluations will be completed each 12 months after contract award. Because an EPA contract award date may commence prior to the contract effective date, EPA's regulation will be technically amended to reflect that contractor performance evaluations will be completed each 12 months after the effective date of contract.

DATES: This amendment was effective as of May 26, 1999.

FOR FURTHER INFORMATION CONTACT: Frances Smith, U.S. Environmental Protection Agency, Office of Acquisition Management, (3802R), 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 564-4368.

SUPPLEMENTARY INFORMATION:

A. Background

The final rule for contractor performance evaluations was published in the Federal Register on April 26, 1999 (64 FR 20201). The final rule indicated that contractor performance evaluations will be completed each 12 months after contract award. EPA contracts often have a contract award date and a contract effective date which may or may not be the same date. As such, this technical amendment provides a revision to the EPA Acquisition Regulation to clarify that contractor performance evaluations will be completed each 12 months after the

effective date of contract. The effective date of contract denotes the beginning of contractor performance.

B. Executive Order 12866

This action is a technical amendment to the final rule concerning contractor performance evaluations (April 26, 1999, 64 FR 20201). This technical amendment is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget.

C. Paperwork Reduction Act

This technical amendment merely changes the wording in the final rule (April 26, 1999, 64 FR 20201) to reflect that contractor performance evaluations will be completed each 12 months after the effective date of contract. Reference the final rule for an analysis pertaining to the Paperwork Reduction Act.

D. Regulatory Flexibility Act

This technical amendment does not exert a significant economic impact on a substantial number of small entities. The final rule (April 26, 1999, 64 FR 20201) for contractor performance evaluations provides supporting rationale.

E. The National Technology Transfer and Advancement Act

As referenced in the final rule (April 26, 1999, 64 FR 20201), section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) 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 NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This technical amendment does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

This technical amendment does not create a mandate on State, local or tribal governments. Reference the final rule (April 26, 1999, 64 FR 20201) for an analysis concerning Executive Order 12875.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

This technical amendment does not significantly or uniquely affect the communities of Indian tribal governments. Reference the final rule (April 26, 1999, 64 FR 20201) for a complete analysis.

H. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and tribal governments, and the private sector. This technical amendment does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in aggregate, or the private sector in one year. This technical amendment is not subject to the requirements of sections 202 and 205 of the UMRA. Reference the final rule (April 26, 1999, 64 FR 20201).

I. Executive Order 13045

Protection of Children from Environmental Health Risks 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 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. Reference the final rule (April 26, 1999, 64 FR 20201).

This technical amendment is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety.

J. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise

provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This finding must be supported by a brief statement (5 U.S.C. 808(2)). We are making a good cause finding for this rule under 5 U.S.C. 553(b) that notice and comment are unnecessary because this rule is a minor technical clarification as described earlier. In light of this finding, we have established an effective date of May 26, 1999. EPA will submit a report containing this technical amendment and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This technical amendment is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 48 CFR Part 1509

Environmental protection,
Government procurement.

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

1. The authority citation for part 1509 continues to read as follows:

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended.

2. Section 1509.170-4 is amended by revising paragraph (b) to read as follows:

§ 1509.170-4 Definitions.

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(b) *Interim Report* refers to a Contractor Performance Report that covers each 12 month period after the effective date of contract.

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3. Section 1509.170-5 is amended by revising paragraph (d) to read as follows:

§ 1509.170-5 Policy.

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(d) The contracting officer must complete interim Reports covering each 12 month period after the effective date of contract for all contracts in excess of \$100,000, except those acquisitions identified in 1509.170-3, Applicability. In addition to interim Reports, the contracting officer must complete a final Report which covers the last 12 months (or less) of contract performance.

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Pat Patterson,

Acting Director, Office of Acquisition Management.

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