

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§§ 721.1710, 721.4200, 721.4240, and 721.4466 [Removed]

■ 2. By removing §§ 721.1710, 721.4200, 721.4240, and 721.4466.

[FR Doc. 04-709 Filed 1-12-04; 8:45 am]

BILLING CODE 6560-50-S

DEPARTMENT OF DEFENSE**48 CFR Parts 202, 232, and 252****Defense Federal Acquisition Regulation Supplement; Technical Amendments**

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement to update activity names and Internet addresses.

EFFECTIVE DATE: January 13, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0311; facsimile (703) 602-0350.

List of Subjects in 48 CFR Parts 202, 232, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Parts 202, 232, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 202, 232, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS**§ 202.101 [Amended]**

■ 2. Section 202.101 is amended in the definition of “Contracting activity”, under the heading “DEFENSE LOGISTICS AGENCY”, by removing “Office of the Executive Director, Logistics Policy and Acquisition Management” and adding in its place “Office of the Deputy Director, Logistics Operations”.

PART 232—CONTRACT FINANCING**232.7003 [Amended]**

■ 3. Section 232.7003 is amended in paragraph (a)(1), in the parenthetical, by removing “<https://rmb.ogden.disa.mil>” and adding in its place “<https://wawf.eb.mil>”.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**252.232-7003 [Amended]**

■ 4. Section 252.232-7003 is amended as follows:

■ a. By revising the clause date to read “(JAN 2004)”;

■ b. In paragraph (b)(1) by removing “<https://rmb.ogden.disa.mil>” and adding in its place “<https://wawf.eb.mil>”.

[FR Doc. 04-567 Filed 1-12-04; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE**48 CFR Parts 212, 213, 225, and 252**

[DFARS Case 2003-D088]

Defense Federal Acquisition Regulation Supplement; Free Trade Agreements—Chile and Singapore

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement to implement new Free Trade Agreements with Chile and Singapore, as approved by Congress in the United States-Chile Free Trade Agreement Implementation Act and the United States-Singapore Free Trade Agreement Implementation Act. The new Free Trade Agreements waive the applicability of the Buy American Act for some foreign supplies and construction materials from Chile and Singapore, and specify procurement procedures designed to ensure fairness.

DATES: *Effective date:* January 13, 2004.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before March 15, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcom>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003-D088 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above

methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D088.

At the end of the comment period, interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0328.

SUPPLEMENTARY INFORMATION:**A. Background**

This rule amends DFARS 212.301, 213.302-5, part 225, and associated clauses to implement new Free Trade Agreements with Chile and Singapore, as approved by Congress in the United States-Chile Free Trade Agreement Implementation Act (Pub. L. 108-77) and the United States-Singapore Free Trade Agreement Implementation Act (Pub. L. 108-78). Applicable changes to the Federal Acquisition Regulation (FAR) were published in Federal Acquisition Circular 2001-19 on January 7, 2004 (69 FR 1051).

The threshold for applicability of the new Free Trade Agreements with Chile and Singapore is \$58,550 for supplies and services, and \$6,725,000 for construction. Singapore was already a signatory to the Agreement on Government Procurement, and therefore was already included as a designated country under the Trade Agreements Act (FAR 25.003), with thresholds of \$175,000 for supplies or services and \$6,725,000 for construction.

The trade agreements clauses at DFARS 252.225-7021, 252.225-7036, and 252.225-7045 are amended to include definitions of “Free Trade Agreement country” and “Free Trade Agreement country end product” or “Free Trade Agreement country construction material” instead of “NAFTA country” and “NAFTA country end product” or “NAFTA country construction material.” The Free Trade Agreement countries are Canada, Chile, Mexico, and Singapore.

Section 106 of Pub. L. 108-77 and section 106 of Pub. L. 108-78 provide for arbitration of certain claims. The United States is authorized to resolve any claim against the United States covered by the section of the applicable Free Trade Agreement relating to Investor-State Disputes Settlement, pursuant to the investor-state dispute settlement procedures set forth in the applicable section (section B of chapter 10 for Chile; section C of chapter 15 for Singapore). DoD invites comment on

appropriate implementation of this authorization. Sections 106 of the same public laws also require that, after the new trade agreements become effective, contracts must specify the law that will apply to resolve any breach of contract claim. The statement that "United States law will apply to resolve any claim of breach of this contract" has been included in each of the trade agreements clauses, rather than creating a separate clause.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Although the rule opens up Government procurement to the products of Chile, and lowers the trade agreements threshold for the products of Singapore, DoD does not believe there will be a significant economic impact on U.S. small businesses. DoD applies the trade agreements to only those non-defense items listed at DFARS 225.401-70, and acquisitions below \$100,000 that are set aside for small businesses are exempt. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D088.

C. Paperwork Reduction Act

This interim rule affects the certification and information collection requirements in the provisions at DFARS 252.225-7020 and 252.225-7035, currently approved under OMB Clearance 0704-0229. The impact, however, is negligible. In the provision at DFARS 252.225-7020, Trade Agreements Certificate, the offeror no longer has to list offers of end products from Chile as nondesignated country end products. However, offers of Chilean end products would have been unlikely, because purchase of foreign products other than eligible products is prohibited by the Trade Agreements Act. In the provision at DFARS 252.225-7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate, the offeror must list all end products that are not domestic end products. The offeror will list products of Chile and

Singapore on the list of Free Trade Agreement country end products, rather than the list of "other foreign end products."

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements new Free Trade Agreements with Chile and Singapore, as approved by Congress in the United States-Chile Free Trade Agreement Implementation Act (Pub. L. 108-77) and the United States-Singapore Free Trade Agreement Implementation Act (Pub. L. 108-78). These agreements waive the applicability of the Buy American Act for some foreign supplies and construction materials from Chile and Singapore, and specify procurement procedures designed to ensure fairness. The new Free Trade Agreements became effective on January 1, 2004. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 212, 213, 225, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR parts 212, 213, 225, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 213, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Section 212.301 is amended by revising paragraph (f)(i)(C) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) * * *

(C) 252.225-7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

* * * * *

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

■ 3. Section 213.302-5 is amended by revising paragraph (d)(ii) to read as follows:

213.302-5 Clauses.

* * * * *

(d) * * *
(ii) 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program, as prescribed at 225.1101(10).

PART 225—FOREIGN ACQUISITION

■ 4. Section 225.003 is amended by revising paragraphs (4), (5), and (10) to read as follows:

225.003 Definitions.

* * * * *

(4) *Domestic end product* has the meaning given in the clauses at 252.225-7001, Buy American Act and Balance of Payments Program; and 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program, instead of the meaning in FAR 25.003.

(5) *Eligible product* means, instead of the definition in FAR 25.003—

(i) A foreign end product that—
(A) Is in a category listed in 225.401-70; and

(B) Is not subject to discriminatory treatment, due to the applicability of a trade agreement to a particular acquisition; or

(ii) A foreign service that is not subject to discriminatory treatment, due to the applicability of a trade agreement to a particular acquisition.

* * * * *

(10) *Qualifying country component and qualifying country end product* are defined in the clauses at 252.225-7001, Buy American Act and Balance of Payments Program; and 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program. *Qualifying country end product* is also defined in the clause at 252.225-7021, Trade Agreements.

* * * * *

■ 5. Section 225.401-70 is amended by revising the section heading and introductory text to read as follows:

225.401-70 Products subject to trade agreements.

Acquisitions of end products in the following Federal supply groups (FSG) are subject to trade agreements, if the value of the acquisition is at or above the applicable trade agreement threshold and no exception applies. If an end product is not in one of the listed groups, the trade agreements do not apply. The definition of Caribbean Basin country end products in FAR 25.003 excludes those end products that are not eligible for duty-free treatment under 19 U.S.C. 2703(b). Therefore certain watches, watch parts, and luggage from

certain Caribbean Basin countries are not eligible products. However, 225.003 expands the definition of Caribbean Basin country end products to include petroleum and any product derived from petroleum.

* * * * *

■ 6. Section 225.502 is amended by revising paragraph (c)(i)(B) to read as follows:

225.502 Application.

* * * * *

- (c) * * *
(i) * * *

(B) If the acquisition is also subject to a Free Trade Agreement, then end products of the applicable Free Trade Agreement country are also exempt from application of the Buy American Act or Balance of Payments Program evaluation factor.

* * * * *

225.901 [Amended]

■ 7. Section 225.901 is amended in the introductory text and paragraph (2) by removing "NAFTA" and adding in its place "a Free Trade Agreement".

■ 8. Section 225.1101 is amended by revising paragraphs (2)(iv)(B), (3)(iii), (9), and (10) to read as follows:

225.1101 Acquisition of supplies.

* * * * *

- (2) * * *
(iv) * * *

(B) 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program.

- (3) * * *

(iii) 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program.

* * * * *

(9) Use the provision at 252.225-7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate, instead of the provision at FAR 52.225-4, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, in solicitations that include the clause at 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program. Use the provision with its Alternate I when the clause at 252.225-7036 is used with its Alternate I.

(10)(i) Use the clause at 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program, instead of the clause at FAR 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act, in solicitations and contracts for the items listed at 225.401-70, when the estimated value equals or exceeds

\$25,000, but is less than \$175,000, and a Free Trade Agreement applies to the acquisition.

(A) Use the basic clause when the estimated value equals or exceeds \$58,550.

(B) Use the clause with its Alternate I when the estimated value equals or exceeds \$25,000 but is less than \$58,550.

(ii) Do not use the clause if purchase from foreign sources is restricted (see 225.401(a)(2)), unless the contracting officer anticipates a waiver of the restriction.

(iii) The acquisition of eligible and noneligible products under the same contract may result in the application of a Free Trade Agreement to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Buy American Act—Free Trade Agreements—Balance of Payments Program clause.

■ 9. Section 225.7501 is amended by revising paragraphs (b)(1)(ii) and (b)(2) to read as follows:

225.7501 Policy.

* * * * *

- (b) * * *
(1) * * *

(ii) Is an eligible product;

* * * * *

(2) The construction material is designated country construction material or Free Trade Agreement country construction material, and the acquisition is subject to the Trade Agreements Act or a Free Trade Agreement respectively; or

* * * * *

225.7503 [Amended]

■ 10. Section 225.7503 is amended as follows:

a. In paragraph (a), and in paragraph (b) in the first and second sentences, by removing "\$6,481,000" and adding in its place "\$6,725,000"; and

b. In paragraph (b), in the second sentence, by removing "\$7,304,733" and adding in its place "\$7,611,532".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 11. Section 252.212-7001 is amended as follows:

■ a. By revising the clause date to read "(JAN 2004)";

■ b. In paragraph (b), in entry "252.225-7021", by removing "(AUG 2003)" and adding in its place "(JAN 2004)"; and

■ c. In paragraph (b), by revising entry "252.225-7036" to read as follows:

252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

* * * * *

- (b) * * *

252.225-7036 Buy American Act—Free Trade Agreements—Balance of Payments Program (JAN 2004) (___ Alternate I) (JAN 2004) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).

* * * * *

■ 12. Section 252.225-7013 is amended as follows:

■ a. By revising the clause date to read "(JAN 2004)";

■ b. By revising paragraphs (a)(2) and (3); and

■ c. In paragraph (e)(2)(iv)(B) by revising the parenthetical to read as follows:

252.225-7013 Duty-Free Entry.

* * * * *

- (a) * * *

(2) Eligible product means—

(i) Designated country end product or Caribbean Basin country end product as defined in the Trade Agreements clause of this contract;

(ii) Free Trade Agreement country end product as defined in the Trade Agreements clause or the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this contract; or

(iii) Canadian end product as defined in Alternate I of the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this contract.

(3) Qualifying country and qualifying country end product have the meanings given in the Trade Agreements clause, the Buy American Act and Balance of Payments Program clause, or the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this contract.

* * * * *

- (e) * * *
(2) * * *
(iv) * * *

(B) * * * (If the shipment will be consigned to a contractor's plant and no duty-free entry certificate is required due to a trade agreement, the Contractor shall claim duty-free entry under the applicable trade agreement and shall comply with the U.S. Customs Service requirements. No notification to Commander, DCMA New York, is required.)

* * * * *

252.225-7020 [Amended]

■ 13. Section 252.225-7020 is amended as follows:

■ a. By revising the clause date to read "(JAN 2004)"; and

■ b. In paragraph (a), paragraph (b)(2) introductory text, and paragraph (c)(1) by removing "NAFTA" and adding in its place "Free Trade Agreement".

■ 14. Section 252.225-7021 is amended as follows:

- a. By revising the clause date to read “(JAN 2004)”;
- b. By revising paragraphs (a)(7), (a)(8), (a)(9) and (b);
- c. In paragraph (c) introductory text and paragraph (c)(2)(i) by removing “NAFTA” and adding in its place “Free Trade Agreement”;
- d. By redesignating paragraph (e) as paragraph (f); and
- e. By adding a new paragraph (e) to read as follows:

252.225-7021 Trade Agreements.

* * * * *

(a) * * *

(7) *Free Trade Agreement country* means Canada, Chile, Mexico, or Singapore.

(8) *Free Trade Agreement country end product* means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(9) *Nondesignated country end product* means any end product that is not a U.S.-made end product or a designated country end product.

* * * * *

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

* * * * *

(e) United States law will apply to resolve any claim of breach of this contract.

* * * * *

- 15. Section 252.225-7035 is amended by revising the section heading, clause title, clause date, paragraphs (a) and (b)(2), paragraph (c)(1) introductory text, paragraph (c)(2)(ii), and Alternate I to read as follows:

252.225-7035 Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

* * * * *

Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate (Jan 2004)

(a) *Definitions. Domestic end product, foreign end product, Free Trade Agreement country end product, qualifying country end product, and United States* have the meanings given in the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this solicitation.

(b) * * *

(2) For line items subject to Free Trade Agreements, will evaluate offers of qualifying country end products or Free Trade Agreement country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c) * * *

(1) For all line items subject to the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this solicitation, the offeror certifies that—

* * * * *

(2) * * *

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products:

(Line Item Number)

(Country of Origin)

* * * * *

Alternate I (Jan 2004)

As prescribed in 225.1101(9), substitute the phrase “Canadian end product” for the phrase “Free Trade Agreement country end product” in paragraph (a) of the basic provision; and substitute the phrase “Canadian end products” for the phrase “Free Trade Agreement country end products” in paragraphs (b) and (c)(2)(ii) of the basic provision.

- 16. Section 252.225-7036 is amended as follows:

■ a. By revising the section heading, clause title, clause date, and paragraph (a)(5);

■ b. In paragraph (a)(6) introductory text, paragraph (a)(6)(i), and the first sentence of paragraph (a)(6)(ii) by removing “NAFTA” and adding in its place “Free Trade Agreement”;

■ c. By revising paragraphs (b) and (c);

■ d. By adding paragraph (e); and

■ e. In Alternate I by revising the date and the first sentence of paragraph (c) to read as follows:

252.225-7036 Buy American Act—Free Trade Agreements—Balance of Payments Program.

* * * * *

Buy American Act—Free Trade Agreements—Balance of Payments Program (Jan 2004)

(a) * * *

(5) *Free Trade Agreement country* means Canada, Chile, Mexico, or Singapore.

* * * * *

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country, Free Trade Agreement country, or other foreign end products in the Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Free Trade Agreement country end product, the Contractor shall deliver a qualifying country end product, a Free Trade Agreement country end product, or, at the Contractor’s option, a domestic end product.

* * * * *

(e) United States law will apply to resolve any claim of breach of this contract.

(End of clause)

Alternate I (Jan 2004)

* * * * *

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country, Canadian, or other foreign end products in the Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate provision of the solicitation. * * *

- 17. Section 252.225-7045 is amended as follows:

■ a. By revising the clause date to read “(Jan 2004)”;

■ b. In paragraph (a) by removing the definitions of “North American Free Trade Agreement (NAFTA) country” and “North American Free Trade Agreement (NAFTA) country construction material”;

■ c. In paragraph (a) by adding, in alphabetical order, definitions of “Free Trade Agreement country” and “Free Trade Agreement country construction material”;

■ d. By revising paragraph (b);

■ e. In paragraph (c) introductory text by removing “NAFTA” and adding in its place “Free Trade Agreement”;

■ f. By adding paragraph (d); and

■ g. By revising Alternate I to read as follows:

252.225-7045 Balance of Payments Program—Construction Material Under Trade Agreements.

* * * * *

(a) * * *

“Free Trade Agreement country” means Canada, Chile, Mexico, or Singapore.

“Free Trade Agreement country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction

material distinct from the material from which it was transformed.

* * * * *

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act and Free Trade Agreements apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country and Free Trade Agreement country construction materials.

* * * * *

(d) United States law will apply to resolve any claim of breach of this contract.
(End of clause)

Alternate I (Jan 2004)

As prescribed in 225.7503(b), delete the definitions of "Free Trade Agreement country" and "Free Trade Agreement country construction material" from the definitions in paragraph (a) of the basic clause, add the following definition of "Chilean construction material" to paragraph (a) of the basic clause, and substitute the following paragraphs (b) and (c) for paragraphs (b) and (c) of the basic clause:

"Chilean construction material" means a construction material that—

(1) Is wholly the growth, product, or manufacture of Chile; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Chile into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act, the Chile Free Trade Agreement, and the Singapore Free Trade Agreement apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country and Chilean construction material.

(c) The Contractor shall use only domestic, designated country, or Chilean construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none".]

[FR Doc. 04-568 Filed 1-12-04; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 222 and 229

[Docket No. FRA-1999-6439, Notice No. 9]

[RIN 2130-AA71]

Use of Locomotive Horns at Highway-Rail Grade Crossings

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Interim final rule; correction and announcement of public hearing.

SUMMARY: On December 18, 2003, FRA published an Interim Final Rule (IFR) in the **Federal Register** (68 FR 70585) addressing the use of locomotive horns at highway-rail grade crossings. FRA is interested in receiving public comments on all aspects of the IFR. In the IFR, FRA announced that it would schedule a public hearing to allow interested parties the opportunity to comment on these issues. This notice announces the scheduling of the public hearing and makes one technical correction to the IFR.

DATES: Correction: The correction to part 222 is effective December 18, 2004.

Public Hearing: The date of the public hearing is February 4, 2004, at 9:30 a.m. in Washington, DC. Any person wishing to participate in the public hearing should notify FRA's Docket Clerk by telephone (202-493-6030), by fax (202-493-6068), or by mail at the address provided below at least five working days prior to the date of the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address.

ADDRESSES: (1) Docket Clerk: Written notification should identify the docket number of this proceeding (Docket No. FRA-1999-6439) and must be submitted to Ms. Ivornette Lynch, Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC-10, 1120 Vermont Avenue, NW., Stop 10, Washington, DC 20590.

(2) Public Hearing: The public hearing will be held at the Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ron Ries, Office of Safety, FRA, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590 (telephone 202-493-6299); or Kathryn Shelton, Office of Chief Counsel, FRA, 1120 Vermont

Avenue, NW., Stop 10, Washington, DC 20590 (telephone 202-493-6038).

SUPPLEMENTARY INFORMATION:

Technical Correction

■ In interim final rule document 03-30606 beginning on page 70586 in the issue of Thursday, December 18, 2003, make the following correction:

Appendix C to Part 222 [Corrected]

■ 1. On page 70677, in the first column, in the first paragraph, in the first line, the parenthetical sentence "(New Quiet Zones within the Chicago Region will reflect an increased risk index of 17.3 percent.)" is removed.

Issued in Washington, DC, on January 8, 2004.

Allan Rutter,

Administrator.

[FR Doc. 04-705 Filed 1-12-04; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030130026-3323-02; I.D. 121202B]

RIN 0648-AM30

Fisheries of the Exclusive Economic Zone off Alaska; Halibut Fisheries in U.S. Convention Waters Off Alaska; Management Measures to Reduce Seabird Incidental Take in the Hook-and-Line Halibut and Groundfish Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to revise regulations requiring seabird avoidance measures in the hook-and-line groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) and in the Pacific halibut fishery in U.S. Convention waters off Alaska. This action is intended to improve the current requirements and further mitigate interactions with the short-tailed albatross (*Phoebastria albatrus*), an endangered species protected under the Endangered Species Act (ESA), and with other seabird species in hook-and-line fisheries in and off Alaska, and thus further the goals and objectives of the Magnuson-Stevens Fishery