

FDC date	State	City	Airport	FDC No.	Subject
06/27/06	OK	MC ALESTER	MC ALESTER REGIONAL	6/1154	VOR/DME RWY 19, AMDT 2.
06/27/06	OR	BURNS	BURNS MUNI	6/1102	RNAV (GPS) RWY 30, ORIG.
06/27/06	TX	DALLAS-FORT WORTH	DALLAS-FT WORTH INTERNATIONAL	6/1093	ILS RWY 13R, AMDT 6B.
06/27/06	TX	DALLAS-FORT WORTH	DALLAS-FT WORTH INTERNATIONAL	6/1151	CONVERGING ILS RWY 13R, AMDT 5B.
06/28/06	AL	MOBILE	MOBILE DOWNTOWN	6/1254	ILS OR LOC RWY 32, AMDT 1.
06/28/06	AL	MOBILE	MOBILE DOWNTOWN	6/1255	VOR RWY 32, AMDT 11.
06/28/06	AL	MOBILE	MOBILE DOWNTOWN	6/1256	RNAV (GPS) RWY 32, ORIG-A.
06/28/06	AZ	TUCSON	TUCSON INTL	6/1251	RNAV (GPS) RWY 3, ORIG.
06/28/06	AZ	TUCSON	TUCSON INTL	6/1252	RNAV (GPS) RWY 29L, ORIG.
06/28/06	OK	CLAREMORE	CLAREMORE REGIONAL	6/1264	VOR/DME A, AMDT 2.
06/28/06	TX	PORT ARANSAS	MUSTANG BEACH	6/1221	RNAV (GPS) RWY 30, ORIG.
06/28/06	TX	PORT ARANSAS	MUSTANG BEACH	6/1222	RNAV (GPS) RWY 12, ORIG.
06/28/06	TX	LAREDO	LAREDO INTL	6/1275	RNAV (GPS) RWY 17R, ORIG.
06/28/06	TX	LAREDO	LAREDO INTL	6/1276	RNAV (GPS) RWY 17L, ORIG.

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BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 700

[Docket No. 060614165-6165-01]

RIN 0694-AD79

Defense Priorities and Allocations System (DPAS): Administrative and Technical Corrections

AGENCY: Bureau of Industry and Security, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Defense Priorities and Allocations System (DPAS) Regulation (15 CFR part 700) to make administrative and technical corrections. These amendments do not alter the substance or effect of the DPAS regulation.

DATES: This rule is effective July 13, 2006.

FOR FURTHER INFORMATION CONTACT: Liam McMenamin, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, Telephone: (202) 482-2233.

SUPPLEMENTARY INFORMATION:

Background

Under Title I of the Defense Production Act of 1950 (DPA), as

amended, (50 U.S.C. App. 2061, *et seq.*), the President is authorized to require preferential acceptance and performance of contracts or orders supporting certain approved national defense and energy programs, and to allocate materials, services, and facilities in such a manner as to promote these approved programs. Additional priorities authority is found in section 18 of the Selective Service Act of 1948 (50 U.S.C. App. 468), 10 U.S.C. 2538, and 50 U.S.C. 82. The President delegated the priorities and allocations authorities of the DPA in Executive Order 12919 (June 3, 1994; amended by Executive Order 13286, February 28, 2003). As part of that delegation, the President designated the Secretary of Commerce to administer the Defense Priorities and Allocations System (DPAS). DPAS authority has also been extended to support emergency preparedness activities under Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended (42 U.S.C. 5195, *et seq.*). The DPAS regulation is found at 15 CFR part 700.

As part of its periodic review of the DPAS regulation, the Department of Commerce has identified several typographical errors and outdated provisions in the DPAS regulation. Accordingly, this rule amends the DPAS regulation to correct those errors and delete outdated or obsolete provisions and language. This rule also amends the list of approved programs in Schedule I to the regulation.

Amendments to the DPAS Regulation

This rule revises the DPAS regulation by correcting the citation to the Defense Production Act’s definition of “national defense” in section 700.1(c) and notes that the definition of this term was amended in the December 2003 reauthorization of the Defense Production Act (Pub. L. 108-195) to include critical infrastructure protection and restoration.

This rule also corrects a typographical error in section 700.2(a) by replacing “Schedule 1” with “Schedule I.”

This rule removes erroneous references in section 700.2(c), 700.10(b), 700.18(b)(1)(i), 700.18(b)(2), and 700.55(b)(2) to copies of delegations of authority and memoranda of understanding being provided as appendices to part 700. The Department has not published these documents as appendices to part 700 since 1998, following a determination that these documents are of limited public interest because they describe administrative interagency agreements.

This rule replaces the words “Director, Federal Emergency Management Agency” with “Secretary of Homeland Security” in the definition of *Approved Program* in section 700.8 to reflect the amendments to Executive Order 12919 contained in Executive Order 13286.

This rule changes the program identification symbol examples in section 700.11(c) from “A1, B2, or H6” to read “A1, C2, or N1.” Program identification symbols indicate which approved program is being supported by

a rated order. The “B2” symbol is not an approved program identification symbol and the “H6” symbol is not commonly used.

This rule corrects a citation error in section 700.18(a)(2)(iv)(b). Information on requesting priority rating authority is found in section 700.51, not in section 700.53.

This rule adds a sentence to section 700.18(b)(1)(i) clarifying that the Departments of Agriculture and Commerce have agreed that the Department of Defense may place rated contracts and orders for food resources in support of troops, including but not limited to, meals ready to eat (MRE), “tray-packs” (T-rations), A-rations, and B-rations. The 1991 agreement between the Departments of Agriculture and Commerce is recorded as Attachment A to the Department of Commerce’s delegation of authority to the Department of Defense. This rule also removes the erroneous reference in section 700.18(b)(1)(i) to a copy of the Department of Commerce’s delegation of authority to the Department of Defense being provided as an appendix to part 700.

This rule removes erroneous references to a memorandum of understanding between the Departments of Commerce and Interior in sections 700.18(b)(1)(vii) and 700.18(b)(2). The Department of Commerce terminated this memorandum of understanding in 1998.

This rule removes section 700.30(b). The Department of Commerce has rescinded DPAS Emergency Delegation 1. The Department of Commerce has reviewed its emergency preparedness plans and determined that DPAS Emergency Delegation 1 is not necessary to administer this regulation in a national emergency because the Department’s internal emergency plans provide for continuation of the DPAS and related activities.

This rule corrects a citation error in section 700.60(b). Administrative Subpoenas, Demands for Information, and Inspection Authorizations are discussed in section 700.71(c), not in section 700.71(b).

This rule changes the name “Office of Industrial Resource Administration,” referenced in sections 700.72(b) and 700.93, to “Office of Strategic Industries and Economic Security” to reflect the current name of that organization.

This rule corrects an error in section 700.81(b) related to the title of the official who has the discretion to accept an appeal after the prescribed 45-day period for good cause shown. The Assistant Secretary for Export Administration has this discretion.

This rule revises Schedule I to the regulation by adding a list of Homeland Security programs in the first column to reflect the Department of Commerce’s March 2006 DPAS delegation to the Department of Homeland Security.

This rule revises the current N1 program identification symbol and adds N2–N8 to the list of approved programs for priorities and allocations support in Schedule I’s first and second columns. The Department of Homeland Security provided the Department of Commerce with the list of Homeland Security programs approved for priorities and allocations support in June 2006.

This rule also replaces the words “Federal Emergency Management Agency” with “Department of Homeland Security” in Schedule I’s third column to reflect the March 2006 DPAS delegation to the Department of Homeland Security.

This rule changes the names of the Department of Defense agencies listed in footnote 1 to Schedule I to reflect the current organizational structure of the Department of Defense.

This rule also corrects an error in Appendix I to part 700 by replacing the former Form BXA–999, “Request for Special Priorities Assistance,” with a copy of the current Form BIS–999, “Request for Special Priorities Assistance.”

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) unless the collection of information displays a currently valid Office of Management and Budget control number. This rule does not involve any collections of information that are subject to the Paperwork Reduction Act.

3. This rule does not contain policies with federalism implications as this term is defined in Executive Order 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act (APA) requiring prior notice and the opportunity for public comment. Because these revisions are not substantive changes to the DPAS regulation, and because the nature of these changes is of little public interest, it is unnecessary to provide notice and

opportunity for public comment under APA standards. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. It is purely administrative in nature and does not affect the rights of the public. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

The analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable because notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law.

List of Subjects in 15 CFR Part 700

Administrative practice and procedure, Business and industry, Government contracts, National defense, Reporting and recordkeeping requirements, Strategic and critical materials.

■ For the reasons discussed in the preamble, the Department of Commerce amends 15 CFR part 700 as follows:

PART 700—[AMENDED]

■ 1. The authority citation for part 700 continues to read as follows:

Authority: Titles I and VII of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*), Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195, *et seq.*), Executive Order 12919, 59 FR 29525, 3 CFR, 1994 Comp. 901, and Executive Order 13286, 68 FR 10619, 3 CFR, 2003 Comp. 166; section 18 of the Selective Service Act of 1948 (50 U.S.C. App. 468), 10 U.S.C. 2538, 50 U.S.C. 82, and Executive Order 12742, 56 FR 1079, 3 CFR, 1991 Comp. 309; and Executive Order 12656, 53 FR 226, 3 CFR, 1988 Comp. 585.

■ 2. In § 700.1, revise the second sentence in paragraph (c) to read as follows:

§ 700.1 Purpose of this regulation.

* * * * *

(c) * * * The definition of “national defense” in section 702(14) of the Defense Production Act provides that this term includes “emergency preparedness activities” conducted pursuant to Title VI of the Stafford Act and “critical infrastructure protection and restoration.”

* * * * *

■ 3. In § 700.2, revise the last sentence in paragraph (a) and paragraph (c) to read as follows:

§ 700.2 Introduction.

(a) * * * A complete list of currently approved programs is provided at Schedule I to this part.

* * * * *

(c) Commerce has delegated authorities to place priority ratings on contracts or orders necessary or appropriate to promote the national defense to the government agencies that issue such contracts or orders. Schedule I includes a list of agencies delegated this authority.

■ 4. In § 700.8, revise the definition of *Approved Program* to read as follows:

§ 700.8 Definitions.

* * * * *

Approved program. A program determined as necessary or appropriate for priorities and allocations support to promote the national defense by the Secretary of Defense, the Secretary of Energy, or the Secretary of Homeland Security, under the authority of the Defense Production Act, the Stafford Act, and Executive Order 12919, or the Selective Service Act and related statutes and Executive Order 12742.

* * * * *

■ 5. In § 700.10, revise paragraph (b) to read as follows:

§ 700.10 Delegation of authority.

* * * * *

(b) Within the Department of Commerce, these responsibilities have been assigned to the Office of Strategic Industries and Economic Security. The Department of Commerce has authorized the Delegate Agencies to assign priority ratings to orders for items needed for approved programs.

■ 6. In § 700.11, revise the first sentence in paragraph (c) to read as follows:

§ 700.11 Priority ratings.

* * * * *

(c) *Priority ratings.* A priority rating consists of the rating symbol—DO and DX—and the program identification symbol, such as A1, C2, or N1. * * *

■ 7. In § 700.18, revise the second sentence in paragraph (a)(2)(iv)(B) and paragraphs (b)(1) and (b)(2) to read as follows:

§ 700.18 Limitations on placing rated orders.

* * * * *

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

(B) * * * [For information on requesting priority rating authority, see § 700.51.]

* * * * *

(b) *Jurisdiction limitations.* (1) The priorities and allocations authority for certain items have been delegated under Executive Orders 12919 and 12742, other executive order, or Interagency Memoranda of Understanding to other agencies. Unless otherwise agreed to by the concerned agencies, the provisions of this part are not applicable to these items which include:

(i) Food resources, food resource facilities, and the domestic distribution of farm equipment and commercial fertilizer (Department of Agriculture) (The Department of Agriculture and the Department of Commerce have agreed that the Department of Defense may place rated contracts and orders for food resources in support of troops, including but not limited to, meals ready to eat (MREs), "tray-packs" (T-rations), A-rations, and B-rations);

(ii) All forms of energy, including radioisotopes, stable isotopes, source material, and special nuclear material produced in Government-owned plants or facilities operated by or for the Department of Energy (Department of Energy);

(iii) Health resources (Department of Health and Human Services);

(iv) All forms of civil transportation (Department of Transportation);

(v) Water resources (Department of Defense/U.S. Army Corps of Engineers); and

(vi) Communications services (National Communications System under Executive Order 12472 of April 3, 1984).

(2) The jurisdiction of the Department of Commerce and the Departments of Energy and Agriculture over certain specific items included in the categories listed above has been clarified by Interagency Memoranda of Understanding.

* * * * *

■ 8. In § 700.30, remove and reserve paragraph (b).

■ 9. In § 700.55, revise paragraph (b)(2) to read as follows:

§ 700.55 Assistance programs with Canada and other nations.

* * * * *

(b) * * *
(2) The Department of Commerce coordinates with the Canadian Public

Works and Government Services Canada on all matters of mutual concern relating to the administration of this regulation.

* * * * *

■ 10. In § 700.60, revise the second sentence in paragraph (b) to read as follows:

§ 700.60 General provisions.

* * * * *

(b) * * * Other official actions which pertain to compliance (Administrative Subpoenas, Demands for Information, and Inspection Authorizations) are discussed in § 700.71(c).

■ 11. In § 700.72, revise paragraph (b) to read as follows:

§ 700.72 Compulsory process.

* * * * *

(b) Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of the Director of the Office of Strategic Industries and Economic Security, U.S. Department of Commerce, in consultation with the Chief Counsel for Industry and Security, U.S. Department of Commerce, there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other circumstances exist which make such process desirable or necessary.

■ 12. In § 700.81, revise the last sentence in paragraph (b) to read as follows:

§ 700.81 Appeals.

* * * * *

(b) * * * After this 45-day period, an appeal may be accepted at the discretion of the Assistant Secretary for Export Administration for good cause shown.

* * * * *

■ 13. Revise § 700.93 to read as follows:

§ 700.93 Communications.

All communications concerning this regulation, including requests for copies of the regulation and explanatory information, requests for guidance or clarification, and requests for adjustment or exception shall be addressed to the Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, Washington, DC 20230, Ref: DPAS; telephone: (202) 482-3634 or fax: (202) 482-5650.

Schedule I to Part 700—Approved Programs and Delegate Agencies

■ 14. In Schedule I to Part 700, add the heading “Homeland security programs”, revise N1, add N2–N8, and revise ¹ to read as follows:

* * * * *

Program identification symbol	Approved program	Delegate agency
* * * * *		
Homeland security programs:		
N1	Federal emergency preparedness, mitigation, response, and recovery	Department of Homeland Security.
N2	State, local, tribal government emergency preparedness, mitigation, response, and recovery.	Do.
N3	Intelligence and warning systems	Do.
N4	Border and transportation security	Do.
N5	Domestic and counter-terrorism, including law enforcement	Do.
N6	Chemical, biological, radiological, and nuclear countermeasures	Do.
N7	Critical infrastructure protection and restoration	Do.
N8	Miscellaneous	Do.

* * * * *

■ 15. Revise Appendix I to part 700 to read as follows:

Appendix I to Part 700—Form BIS-999—Request for Special Priorities Assistance

BILLING CODE 3510-33-P

¹ Department of Defense includes: The Office of the Secretary of Defense, the Military Departments, the Joint Staff, the Combatant Commands, the

Defense Agencies, the Defense Field Activities, all other organizational entities in the Department of Defense, and, for purposes of this regulation, the

Central Intelligence Agency and the National Aeronautics and Space Administration as Associated Agencies.

<p>FORM BIS-999 (formerly form BXA-999) REV. 4-03</p> <p style="text-align: center;">U.S. DEPARTMENT OF COMMERCE BUREAU OF INDUSTRY AND SECURITY</p> <p style="text-align: center;">REQUEST FOR SPECIAL PRIORITIES ASSISTANCE</p> <p style="text-align: center;">READ INSTRUCTIONS ON LAST PAGE FILL OUT USING YOUR COMPUTER</p>	<p>FOR DOC USE _____ OMB NO. 0694-0057</p> <p>CASE NO. _____</p> <p>RECEIVED _____</p> <p>ASSIGNED TO _____</p>
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Submission of a completed application is required to request Special Priorities Assistance (SPA). See sections 700.50-55 of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR 700). It is a criminal offense under 18 U.S.C. 1001 to make a willfully false statement or representation to any U.S. Government agency as to any matter within its jurisdiction. All company information furnished related to this application will be deemed BUSINESS CONFIDENTIAL under Sec. 705(d) of the Defense Production Act of 1950 [50 U.S.C. App. 2155(d)] which prohibits publication or disclosure of this information unless the President determines that withholding it is contrary to the interest of the national defense. The Department of Commerce will assert the appropriate Freedom of Information Act (FOIA) exemptions if such information is the subject of FOIA requests. The unauthorized publication or disclosure of such information by Government personnel is prohibited by law. Violators are subject to fine and/or imprisonment. [Note: The Bureau of Export Administration is now the Bureau of Industry and Security (BIS).]

1. APPLICANT INFORMATION

<p>a. Name and complete address of Applicant (Applicant can be any person needing assistance - Government agency, contractor, or supplier. See definition of "Applicant" in Footnotes section on last page of this form).</p> <p>Applicant Name _____</p> <p>Address _____</p> <p>City _____ State _____ Zip _____</p> <p>Contact's name _____</p> <p>Title _____</p> <p>Telephone _____ Fax _____</p> <p>E-mail address: _____</p>	<p>b. If Applicant is not end-user Government agency, give name and complete address of Applicant's customer.</p> <p>Customer Name _____</p> <p>Address _____</p> <p>City _____ State _____ Zip _____</p> <p>Contact's name _____</p> <p>Title _____</p> <p>Telephone _____ FAX _____</p> <p>Contract/purchase order no. _____</p> <p>Dated _____ Priority rating _____</p>
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2. APPLICANT ITEM(S). If Applicant is not end-user Government agency, describe item(s) to be delivered by Applicant under its customer's contract or purchase order through the use of item(s) listed in Block 3. If known, identify Government program and end-item for which these items are required. If Applicant is end-user Government agency and Block 3 item(s) are not end-items, identify the end-item for which the Block 3 item(s) are required. See definition of "item" in Footnotes section on last page of this form.

3. ITEM(S) (including service) FOR WHICH APPLICANT REQUESTS ASSISTANCE

Quantity <i>Pieces, units</i>	Description <i>Include identifying information such as model or part number</i>	Dollar Value <i>Each quantity listed</i>

4. SUPPLIER INFORMATION

a. Name and complete address of Applicant's Supplier.

Supplier Name _____

Address _____

City _____ State _____ Zip _____

Contact Name _____

Title _____

Telephone _____ Fax _____

E-mail address: _____

b. Applicant's contract or purchase order to Supplier.

Number _____

Dated _____

Priority rating _____
(If none, so state)

If Supplier is an agent or distributor, give complete producer or lower tier supplier information in Continuation Block on page 3, including purchase order number, date, and priority rating (if none, so state).

5. SHIPMENT SCHEDULE OF ITEM(S) SHOWN IN BLOCK 3

a. Applicant's <u>original</u> shipment/performance requirement	Month Year							Total units
	Number of units							
b. Supplier's <u>original</u> shipment/performance promise	Month Year							Total units
	Number of units							
c. Applicant's <u>current</u> shipment/performance requirement	Month Year							Total units
	Number of units							
d. Supplier's <u>current</u> shipment/performance promise	Month Year							Total units
	Number of units							

6. REASONS GIVEN BY SUPPLIER for inability to meet Applicant's required shipment or performance date(s).

7. BRIEF STATEMENT OF NEED FOR ASSISTANCE. As applicable, explain effect of delay in receipt of Block 3 item(s) on achieving timely shipment of Block 2 item(s) (e.g., production line shutdown), or the impact on program or project schedule. Describe attempts to resolve problems and give specific reasons why assistance is required. If priority rating authority is requested, please so state.

8. CERTIFICATION: I certify that the information contained in Blocks 1 - 7 of this form, and all other information attached, is correct and complete to the best of my knowledge and belief (omit signature if this form is electronically generated and transmitted - use of name is deemed certification).

Signature of Applicant's authorized official _____

Title _____

Print or type name of authorized official _____

Date _____

9. U.S. GOVERNMENT AGENCY INFORMATION	
<p>a. Name/complete address of cognizant sponsoring service/agency/activity headquarters office. Provide lower level activity, program, project, contract administration, or field office information in Continuation Block below, on duplicate of this page, or on separate sheet of paper.</p> <p>Name _____</p> <p>Address _____</p> <p>City _____ State _____ Zip _____</p> <p>Contact name _____</p> <p>Signature _____ Date _____</p> <p>Title _____</p> <p>Telephone _____ Fax _____</p> <p>E-mail address: _____</p>	<p>b. Case reference no. _____</p> <p>c. Government agency program or project to be supported by Block 2 item(s). Identify end-user agency if not sponsoring agency.</p>
<p>d. Statement of urgency of particular program or project and Applicant's part in it. Specify the extent to which failure to obtain requested assistance will adversely affect the program or project.</p>	
<p>e. Government agency/activity actions taken to attempt resolution of problem.</p>	
<p>f. RECOMMENDATION</p>	
<p>g. ENDORSEMENT by authorized Department or Agency headquarters official (omit signature if this form is electronically generated and transmitted -- use of name is deemed authorization). This endorsement is required for all Department of Defense and foreign government requests for assistance.</p> <p>Signature of authorized official _____ Type name of authorized official _____</p> <p>Title _____ Date _____</p>	
<p>CONTINUATION BLOCK <i>Identify each statement with appropriate block number</i></p>	
Empty space for continuation block content	

INSTRUCTIONS FOR FILING FORM BIS-999

NOTE: You may fill out this form using your computer. Save the downloaded blank file to your computer and generate forms for submission via U.S. mail, e-mail, or fax. Navigate between the form's data fields using the tab key, back tab or backspace.

REQUESTS FOR SPECIAL PRIORITIES ASSISTANCE (SPA) MAY BE FILED for any reason in support of the Defense Priorities and Allocations System (DPAS); e.g.: when its regular provisions are not sufficient to obtain delivery of item(s)¹ in time to meet urgent customer or program/project requirements; for help in locating a supplier or placing a rated order; to ensure that rated orders are receiving necessary preferential treatment by suppliers; to resolve production or delivery conflicts between or among rated orders; to verify the urgency or determine the validity of rated orders; or to request authority to use a priority rating. Requests for SPA must be sponsored by the cognizant U.S. Government agency responsible for the program or project supported by the Applicant's² contract or purchase order.

REQUESTS FOR SPA SHOULD BE TIMELY AND MUST ESTABLISH:

- The urgent defense (including civil emergency) or energy program or project related need for the item(s); and that
- The Applicant has made a reasonable effort to resolve the problem.

APPLICANT MUST COMPLETE BLOCKS 1-8. SPONSORING U.S. GOVERNMENT AGENCY/ACTIVITY MUST COMPLETE BLOCKS 9-10.

Sponsoring agency, if not the Department of Defense (DOD), must obtain DOD concurrence if the agency is supporting a DOD program or project. This form may be mechanically or electronically prepared and may be mailed, FAXed, or electronically transmitted.

WHERE TO FILE THIS FORM:

- Private sector Applicants should file with their respective customers as follows: **lower-tier suppliers** file with customer/subcontractor for forwarding to subcontractor/prime contractor; **subcontractors/suppliers** file with prime contractor for forwarding to one of the below listed cognizant U.S. Government (DPAS Delegate) agencies; **prime contractors** file directly with one of the below listed cognizant U.S. Government (DPAS Delegate) agencies:
 - **Department of Defense (DOD)** -- File with the local Defense Contract Management Area Office, plant representative or contracting officer, or the appropriate DOD military service, associated agency, program, or project office.
 - **Department of Energy (DOE)** -- File with the appropriate Field Operations Office. Requests for SPA for domestic energy projects should be filed with DOE headquarters in Washington, D.C.
 - **General Services Administration (GSA) and Federal Emergency Management Agency (FEMA)** -- File with the contracting officer in the agency's regional office or with its headquarters office in Washington, D.C.
- Applicants who are lower level **contract administration, program, project, or field offices**, or when these activities cannot resolve the private sector request for assistance, should forward this form to cognizant sponsoring service/agency/activity headquarters for review, Block 10 endorsement, and forwarding to the U.S. Department of Commerce. **Foreign government or private sector entities** should file directly with the DOD Office of the Secretary of Defense. Timely review and forwarding is essential to providing timely assistance.
- If for any reason the Applicant is unable to file this form as specified above, see **CONTACTS FOR FURTHER INFORMATION** below.

CONTACTS FOR FURTHER INFORMATION:

- For any information related to the production or delivery of items against particular rated contracts or purchase orders, contact the cognizant U.S. Government agency, activity, contract administration, program, project, or field office (see **WHERE TO FILE** above).
- If for any reason the Applicant is unable to file this form as specified in **WHERE TO FILE** above, if the cognizant U.S. Government agency for filing this form cannot be determined, or for any other information or problems related to the completion and filing of this form, the operation or administration of the DPAS, or to obtain a copy of the DPAS or any DPAS training materials, contact the **Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230** (Attn.: DPAS); telephone (202) 482-3634, or FAX (202) 482-5650.

APPLICANTS REQUIRING PRIORITY RATING AUTHORIZATION TO OBTAIN PRODUCTION OR CONSTRUCTION EQUIPMENT for the performance of rated contracts or orders in support of DOD programs or projects must file **DOD Form DD-691, "Application for Priority Rating for Production or Construction Equipment"** in accordance with the instructions on that form. For DOE, GSA, or FEMA programs or projects, Applicants may use this form unless the agency requires its own form.

SPECIAL INSTRUCTIONS:

- If the space in any block is insufficient to provide a clear and complete statement of the information requested, use the **Continuation Block** provided on this form or a separate sheet to be attached to this form.
- Entries in Block 3 should be limited to information from a single contract or purchase order. If SPA is requested for additional contracts or purchase orders placed with a supplier for the same or similar items, information from these contracts or purchase orders may be included in one application. However, each contract or purchase order number must be identified and the quantities, priority rating, delivery requirements, etc., must be shown separately.
- If disclosure of certain information on this form is prohibited by security regulations or other security considerations, enter "classified" in the appropriate block in lieu of the restricted information.

FOOTNOTES:

1. "Item" is defined in the DPAS as any raw, in process or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process or service.
2. "Applicant" as used in this form, refers to any person requiring Special Priorities Assistance, and eligible for such assistance under the DPAS. "Person" is defined in the DPAS to include any individual, corporation, partnership, association, any other organized group of persons, a U.S. Government agency, or any other government.

BURDEN ESTIMATE AND REQUEST FOR COMMENT

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing the form. Please send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Director of Administration, Bureau of Industry and Security, Room 3889, U.S. Department of Commerce, Washington, D.C. 20230. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Dated: July 3, 2006.

Matthew S. Borman,
Deputy Assistant Secretary for Export
Administration.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038 AB86

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-54106; File No. S7-07-06]

RIN 3235-AJ54

Joint Final Rules: Application of the Definition of Narrow-Based Security Index to Debt Securities Indexes and Security Futures on Debt Securities

AGENCIES: Commodity Futures Trading
Commission and Securities and
Exchange Commission.

ACTION: Joint final rules.

SUMMARY: The Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") (together, the "Commissions") are adopting a new rule and amending an existing rule under the Commodity Exchange Act ("CEA") and adopting two new rules under the Securities Exchange Act of 1934 ("Exchange Act"). The rules will modify the applicable statutory listing standards requirements to permit security futures to be based on individual debt securities or a narrow-based security index composed of such securities. In addition, these rules and rule amendment will exclude from the definition of "narrow-based security index" debt securities indexes that satisfy specified criteria. A future on a debt securities index that is excluded from the definition of narrow-based security index will not be a security future and may trade subject to the exclusive jurisdiction of the CFTC.

EFFECTIVE DATE: August 14, 2006.

FOR FURTHER INFORMATION CONTACT:

CFTC: Elizabeth L. Ritter, Deputy General Counsel, at 202/418-5052, or Julian E. Hammar, Counsel, at 202/418-5118, Office of General Counsel; or Thomas M. Leahy, Jr., Associate Director, Product Review, at 202/418-5278, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SEC: Yvonne Fraticelli, Special Counsel, at 202/551-5654; or Leah Mesfin, Special Counsel, at 202/551-5655, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-6628.

SUPPLEMENTARY INFORMATION: The Commissions are adopting Rule 41.15 and amending Rule 41.21 under the CEA,¹ and adding Rule 3a55-4 and Rule 6h-2 under the Exchange Act.²

I. Introduction

A. Background

Futures contracts on single securities and on narrow-based security indexes (collectively, "security futures") are jointly regulated by the CFTC and the SEC.³ The definition of narrow-based security index under both the CEA and the Exchange Act sets forth the criteria for such joint regulatory jurisdiction. Futures on indexes that are not narrow-based security indexes are subject to the exclusive jurisdiction of the CFTC. Under the CEA and the Exchange Act, an index is a narrow-based security index if it meets any one of four criteria.⁴ Further, the CEA and Exchange Act provide that, notwithstanding the statutory criteria, an index is not a narrow-based security index if a contract of sale for future delivery on the index is traded on or subject to the rules of a board of trade and meets such requirements as are jointly established by rule, regulation, or order of the Commissions.⁵

The statutory definition of narrow-based security index was designed primarily for indexes composed of equity securities, not debt securities.⁶ For example, while three criteria in the narrow-based security index definition

¹ All references to the CEA are to 7 U.S.C. 1 *et seq.*

² All references to the Exchange Act are to 15 U.S.C. 78a *et seq.*

³ See Section 1a(31) of the CEA, 7 U.S.C. 1a(31); Section 3(a)(55)(A) of the Exchange Act, 15 U.S.C. 78c(a)(55)(A).

⁴ The four criteria are as follows: (1) It has nine or fewer component securities; (2) any one of its component securities comprises more than 30% of its weighting; (3) any group of five of its component securities together comprise more than 60% of its weighting; or (4) the lowest weighted component securities comprising, in the aggregate, 25% of the index's weighting have an aggregate dollar value of average daily trading volume ("ADTV") of less than \$50 million (or in the case of an index with 15 or more component securities, \$30 million). See Section 1a(25)(A)(i)-(iv) of the CEA, 7 U.S.C. 1a(25)(A)(i)-(iv); Section 3(a)(55)(B)(i)-(iv) of the Exchange Act, 15 U.S.C. 78c(a)(55)(B)(i)-(iv).

⁵ See Section 1a(25)(B)(vi) of the CEA, 7 U.S.C. 1a(25)(B)(vi); Section 3(a)(55)(C)(vi) of the Exchange Act, 15 U.S.C. 78c(a)(55)(C)(vi).

⁶ Debt securities include notes, bonds, debentures, or evidences of indebtedness.

evaluate the composition and weighting of the securities in the index, another criterion evaluates the liquidity of an index's component securities. The liquidity criterion in the statutory definition of narrow-based security index, which is important for indexes composed of common stock, is not an appropriate criterion for indexes composed of debt securities because debt securities generally do not trade in the same manner as equity securities. In particular, because few debt securities meet the ADTV criterion in the statutory definition of narrow-based security index, most indexes composed of debt securities, regardless of the number or amount of underlying component securities in the index, would fall within the statutory definition of narrow-based security index.

On April 10, 2006, the Commissions proposed rules⁷ that would exclude debt securities indexes that satisfied certain criteria from the statutory definition of narrow-based security index. Futures on debt securities indexes that satisfy the criteria of the exclusion would not be security futures and thus would be subject to the exclusive jurisdiction of the CFTC. In addition, the proposed rules and rule amendment would modify the statutory listing standards to permit the trading of security futures on single debt securities and narrow-based security indexes composed of debt securities.

The Commissions received comment letters on the proposed rules from two futures exchanges, the Chicago Mercantile Exchange ("CME") and the Board of Trade of the City of Chicago ("CBOT"),⁸ and from the Futures Industry Association ("FIA").⁹ All of the commenters generally supported the Commissions' proposal. The CME and the CBOT requested the opportunity for public comment on the listing standards

⁷ See Securities Exchange Act Release No. 53560 (March 29, 2006), 71 FR 18030 (April 10, 2006) ("Proposing Release").

⁸ See letter from Craig S. Donohue, Chief Executive Officer, CME, to Jean A. Webb, Secretary, CFTC, and Jonathan G. Katz, Secretary, SEC, dated April 25, 2006 ("CME Letter"); letter from Bernard Dan, CBOT, to Jean A. Webb, Secretary, CFTC, and Nancy M. Morris, Secretary, SEC, dated May 10, 2006 ("CBOT Letter").

⁹ See letter from John M. Damgard, President, FIA, to Jean A. Webb, Secretary, CFTC, and Nancy M. Morris, Secretary, SEC, dated May 16, 2006 ("FIA Letter"). In addition, the FIA supported the comments of the CME and the CBOT and urged the Commissions to propose a regulatory standard governing the offer and sale of security futures contracts on indexes composed of non-U.S. equities that trade on or are subject to the rules of exchanges or boards of trade located outside of the United States. Because the proposed rules did not relate to indexes composed of non-U.S. equities, the Commissions are not addressing this comment in this release.