

settlement services<sup>12</sup> are being increased proportionately. A firm providing such services will be required to have a minimum net capital of \$4 million plus \$200,000 times the number of firms over four that it services.

The proposed increases in OCC's net capital requirements will not be unduly burdensome. Only two OCC clearing members (one of which is an execution-only firm) maintain net capital below the proposed minimum of \$2 million. (No firm that provides facilities management services or stock settlement services will be affected by the proposed increase for those firms.) Although clearing members will be given a one-year grace period from October 1, 2003, to achieve compliance with the new requirements, OCC's membership/margin committee shall have the discretion to extend that deadline to a date no later than October 1, 2006, for clearing members admitted to membership after the date that this proposed rule change is approved by the Commission, provided that such clearing members undertake not to engage in a CMTA execution business during the period of such extension.

Execution-only clearing members pose a special risk because they do not ordinarily carry position overnight and therefore do not ordinarily deposit margin with OCC. This means that if a position is returned to an execution-only member and if the execution-only member fails to make settlement, the only asset of the member that OCC can draw upon to liquidate the position is the member's clearing fund deposit. Today, execution-only members maintain the minimum clearing fund deposit of \$150,000 because OCC's clearing fund requirements are based on positions maintained during the preceding month, and execution-only firms ordinarily do not maintain positions. To determine a new minimum clearing fund requirement for execution-only members, OCC analyzed executed trade activity for the four execution-only clearing members over a period where total volume was deemed to be within normal ranges and assessed the net price change risk (through simulation) of the contracts executed by the firms relative to average daily executed volume. Dividing net price change risk by average daily executed volume resulted in net risk per contract of \$15.85. OCC proposes to increase the minimum clearing fund requirement for execution-only members to \$150,000 plus \$15 times average daily executed volume for the preceding month.

Execution-only firms will also be given the one-year grace period described above to comply with this new minimum.

OCC also proposed to make conforming changes to the definitional provisions of its by-laws, qualification standards for admission, various financial responsibility rules, and the rule defining monthly contributions to the clearing fund.

OCC believes that the proposed rule change is consistent with Section 17A of the Act because it fosters the prompt and accurate clearance and settlement of securities transactions, the safeguarding of funds and securities, and the protection of investors and the persons facilitating transactions by and acting on behalf of investors.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed rule change would impose any burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

OCC has not solicited or received written comments with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve the proposed rule change or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549-0069. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No.

SR-OCC-2003-11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in either hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at OCC's principal office and on OCC's Web site at [http://www.optionsclearing.com/publications/rules/proposed\\_changes/proposed\\_changes.jsp](http://www.optionsclearing.com/publications/rules/proposed_changes/proposed_changes.jsp). All submissions should refer to File No. SR-OCC-2003-11 and should be submitted by April 5, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04-5786 Filed 3-12-04; 8:45 am]

BILLING CODE 8010-01-P

## **SMALL BUSINESS ADMINISTRATION**

### **Small Business Size Standards: Waiver of the Nonmanufacturer Rule**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of waiver of the Nonmanufacturer Rule for General Aviation Turboprop Aircraft.

**SUMMARY:** The U. S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for General Aviation Turboprop Aircraft. The basis for the waiver is that no small business manufacturers are supplying this class of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Business Development Program.

**DATES:** This waiver is effective on March 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at

<sup>12</sup> Proposed OCC Rule 309A [File No. SR-OCC-2003-09].

<sup>13</sup> 17 CFR 200.30-3(a)(12).

(202) 205-7280; or by e-mail at [edith.butler@sba.gov](mailto:edith.butler@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1204, in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code established by the Federal Procurement Data System.

The SBA received a request on January 12, 2004 to waive the Nonmanufacturer Rule for General Aviation Turboprop Aircraft. In response, on February 4, 2004, SBA published in the **Federal Register** a notice of intent to grant the waiver of the Nonmanufacturer Rule for General Aviation Turboprop Aircraft. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, no comments were received from any interested party. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for General Aviation Turboprop Aircraft, NAICS 441229.

**Authority:** 15 U.S.C. 637(a)(17).

Dated: March 8, 2004.

**Barry S. Meltz,**

*Acting Associate Administrator for Government Contracting.*

[FR Doc. 04-5705 Filed 3-12-04; 8:45 am]

**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **Small Business Size Standards: Waiver of the Nonmanufacturer Rule**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of termination of waiver of the Nonmanufacturer Rule for Small Arms Manufacturing.

**SUMMARY:** The U.S. Small Business Administration (SBA) is terminating the waiver of the Nonmanufacturer Rule for Small Arms Manufacturing based on our recent discovery of small business manufacturers for this class of products. Terminating this waiver will require recipients of contracts set aside for small or 8(a) businesses to provide the products of small business manufacturers or processor on such contracts.

**DATES:** This termination of waiver is effective on March 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX (202) 205-7280; or by e-mail at [edith.butler@sba.gov](mailto:edith.butler@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1204, in order to be considered available to participate in the Federal market for a class of product, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on the

six digit North American Industry Classification System (NAICS) and the four digit Product and Service Code established by the Federal Procurement Data System.

SBA granted a waiver of the Nonmanufacturer Rule for Small Arms Manufacturing, based on its determination that no small business manufacturers were available to participate in the Federal market for this class of products. It was recently brought to SBA's attention by small business manufacturers and a SBA Procurement Center Representative that small business manufacturers exist for items within the Small Arms Manufacturing class of products, identified under the NAICS 332994. In response, on October 29, 2003, SBA published in the **Federal Register** a notice of intent to terminate the waiver of the Nonmanufacturer Rule for Small Arms Manufacturing. SBA explained in the notice that it had discovered the existence of small business manufacturers of that class of products. SBA did not receive any comments in response to the published notice. Accordingly, based on the available information, SBA has determined that there are small business manufacturers of this class of products, and is therefore terminating the class waiver of the Nonmanufacturer Rule for Small Arms Manufacturing, NAICS 332994.

**Authority:** 15 U.S.C. 637(a)(17).

Dated: March 8, 2004.

**Barry S. Meltz,**

*Acting Associate Administrator for Government Contracting.*

[FR Doc. 04-5706 Filed 3-12-04; 8:45 am]

**BILLING CODE 8025-01-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration**

#### **Environmental Impact Statement; Cobb and Cherokee Counties, GA**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed combined highway and Bus Rapid Transit (BRT) project on I-75 and I-575 in Cobb and Cherokee Counties, Georgia.

**FOR FURTHER INFORMATION CONTACT:** Mr. Walter Boyd, Urban Transportation Engineer, FHWA, 61 Forsyth Street, SW., Suite 17T100, Atlanta, Georgia