An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Patricia A. Graham, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–17092/Airspace Docket No. 04–AGL–07.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Janesville, WI, for Southern Wisconsin Regional Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AGL WI E5 Janesville, WI [Revised]

Janesville, Southern Wisconsin Regional Airport, WI
(Lat. 42°37′13N″., long. 89°02′30″W.)
Beloit Airport, WI
(Lat. 42°29′52″N., long. 88°58′03″W.)

That airspace extending upward from 700 feet above the surface within an 8.9-mile radius of the Southern Wisconsin Regional Airport and within a 6.3-mile radius of the Beloit Airport, excluding that airspace within the Belvidere, IL Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on April 7, 2004.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 04–9077 Filed 4–20–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 399

[Dockets Nos. OST–97–2881, OST–97–3014, OST–98–4775, and OST–99–5888]

RIN 2105–AD37

Statements of General Policy: Price Advertising

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Withdrawal of proposed amendments to policy statement.

SUMMARY: The Department had proposed to amend its existing policy

statement on fare advertising, 14 CFR 399.84, which requires airlines and travel agents to disclose the full price for an airline ticket (including all airline surcharges and most government fees), by applying the policy statement to computer reservations systems (''CRSs'' or ''systems'') and requiring travel agents to separately state the amount of any service fees charged by the travel agency. After considering the comments, the Department has decided to withdraw the proposals, because the record does not persuasively show that they are necessary or would be beneficial. The existing policy statement will remain in effect without change.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366–4731.

SUPPLEMENTARY INFORMATION:

Electronic Access

You can view and download this document by going to the Web site of the Department's Docket Management System (*http://dms.dot.gov/*). On that page, click on ''simple search.'' On the next page, type in the last four digits of the docket number shown on the first page of this document, 2881. Then click on ''search.'' An electronic copy of this document also may be downloaded from *http://regulations.gov* and from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.archives.gov/federal_register/index.html* and the Government Printing Office's database at: *http://www.gpoaccess.gov/fr/index.html*.

A. Summary

We began this proceeding to reexamine whether the rules on computer reservations systems (''CRSs'' or ''systems'') adopted by us in 1992, 14 CFR Part 255, remained necessary and should be readopted. We ultimately concluded, after reviewing the comments and the on-going changes in the airline distribution and CRS businesses reflected in those comments, that we should allow most of the rules to sunset on January 31, 2004, and should terminate the remaining rules on July 31, 2004. 69 FR 976 (January 7, 2004). As a result, after July 31, 2004, we will have no regulations prescribing how systems must display airline services.

While the proceeding focused on the CRS rulemaking issues, we also included two proposals that would modify our existing policy statement on price advertising, 14 CFR 399.84. 67 FR 69366, 69417–69418 (November 15, 2002). That policy statement has stated that we will consider an advertisement by an airline or travel agency to be an unfair or deceptive practice if it states a price that is not the complete price that must be paid by the consumer for the air transportation. We adopted the policy statement under 49 U.S.C. 41712, formerly section 411 of the Federal Aviation Act, which authorizes us to define and prohibit unfair and deceptive practices in the marketing of airline transportation (we will refer to the statute herein under its traditional name, section 411).

One of our two proposed amendments to this policy statement would have made it clear that each system has an obligation to ensure that its displays of fare information follow the standards set by § 399.84. The second proposal would have clarified the policy statement by expressly allowing travel agents to state service fees separately from the price of the air transportation, if they complied with conditions ensuring that their customers (i) would understand their obligation to pay a fee for the travel agency service and (ii) would know the total price for the transportation, including any travel agency service fee. We further proposed to require that advertised or quoted fares always include travel agency service fees if the fees exceed either $20 or ten percent of the fare or are *ad valorem* in nature.

Our final CRS rule stated that we would issue our final decision on the policy statement proposals in a separate document. 69 FR 978. This is our final decision on the proposals. We have decided to withdraw the proposals without adopting them, because the record in this proceeding does not adequately show that either proposal would provide significant benefits. The lack of amendments to the policy statement will not prevent us from taking enforcement action against systems and travel agencies if they display fares or service fee information in a manner that constitutes an unfair and deceptive practice in violation of section 411. We have determined that each system, whether or not owned or controlled by an airline, is a ticket agent and therefore subject to our jurisdiction under section 411 (Sabre, however, is seeking judicial review of our determination, *Sabre, Inc.* v. *Department of Transportation,* DC Cir. No. 04–1073 (filed March 1, 2004)). 69 FR 995–998.

B. Our Proposals and the Comments

Section 411 prohibits unfair or deceptive practices in the sale of air transportation. To provide guidance on the meaning of this statutory prohibition, our policy statement on fare advertisements, 14 CFR 399.84, states that we will consider an advertisement by an airline or travel agency to be an unfair or deceptive practice if it states a price that is not the complete price that must be paid by the traveler for the air transportation. Section 399.84 requires each airline and travel agency to include in any advertised or quoted fare any charge imposed by the airline, such as a fuel surcharge, and most governmental charges. As a matter of enforcement discretion, we have created limited exceptions to this policy. The stated fare amount need not include certain governmental taxes and fees collected by airlines and travel agencies, such as passenger facilities charges and departure taxes, as long as the charges are not *ad valorem* in nature and are collected on a per-passenger basis, and as long as their existence and amount are clearly stated in the advertisement so that the consumer can determine the full amount to be paid for the transportation. *See*, *e.g., Notice: Prohibition on Deceptive Practices in the Marketing of Airfares to the Public Using the Internet* (February 18, 2001), at *http://airconsumer.ost.dot.gov/rules.htm*.

As noted, our notice of proposed rulemaking proposed two amendments to this policy statement. We gave interested persons the opportunity to file comments and reply comments and to present their views at a public hearing. 69 FR 984.

The first proposed revision would have expressly applied the policy statement to the systems as well as to airlines and travel agencies. In proposing this amendment, we reasoned that a fare display that does not include items such as fuel surcharges and government fees could mislead consumers, since the display would suggest that some airlines are offering lower fares than other airlines when in fact the opposite may be true. *Cf.* Order 2002–3–12 (March 15, 2002) at 7. Our current policy statement on fare advertisements expressly covers airlines and each airline's agents and thus clearly applies to travel agents. By its terms, however, it may not apply to the systems' display of airline fares. *Cf.* 69 FR at 996. We therefore proposed to require the systems to include all charges in their displays of airline fares.

Our second proposal would have amended the policy statement by adding standards for the travel agencies' disclosure of their service fees to their customers. The policy statement bars airlines and travel agencies from

separately listing surcharges which would confuse consumers and keep them from making accurate fare comparisons. The Department's Enforcement Office has traditionally interpreted the policy statement as barring the separate listing of a travel agency's service fee and instead as requiring the agency to include the fee in the fare amount quoted the customer. *See* Order 2001–12–7 at 3. However, we granted a request by Orbitz, the on-line travel agency created by five of the major airlines, for a conditional exemption from the policy statement so that its initial display of available fares need not include Orbitz' planned $5 service fee. Order 2001–12–7 (December 7, 2001), *affirmed on reconsideration*, Order 2002–3–12 (March 15, 2002). The order allowed Orbitz to omit the fee from its first quotation of fares but required Orbitz to include the amount of the fee in the price whenever it presents an itinerary that can be purchased. The order imposed several other conditions, including requirements that Orbitz place a notice just above its display of possible itineraries that advises consumers that it charges a fee and that Orbitz provide a link to its fee schedule. We noted that we would further consider what disclosures should be required for travel agency fees in a rulemaking. Order 2001–12–7 at 5. The Enforcement Office thereafter stated that it would apply the Orbitz exemption order's standards to all Internet agencies. Notice of the Office of Aviation Enforcement and Proceedings (December 19, 2001), cited at Order 2002–3–12 at 1.

In proposing to modify our policy statement on the disclosure of travel agency service fees, we thought that consumers could benefit by requiring separate listings of the amount of service fees being charged by all sellers of air transportation, as long as standards were in place to prevent deception. The separate disclosure of the amount of any service fee could enable consumers to make better informed decisions on which booking channel to use, since consumers then could see whether they could save money by buying the ticket directly from the airline or from another agency that charges a lower service fee or no service fee. 67 FR 69417–69418.

Our proposal would also have required the travel agency to include any service fees in the total price displayed or quoted before the customer decided whether to purchase the ticket. Furthermore, we proposed to block travel agency service fees from being stated separately (i) if they were *ad valorem* in nature, since simply identifying percentage add-ons make price comparisons more difficult, or (ii) if they exceeded $20 or ten percent of the ticket price, since we wished to ensure that service fees were not used merely to make the advertised fare seem lower. 67 FR 69418. We were not proposing, however, to bar travel agencies from charging *ad valorem* fees or fees that exceeded $20 or more than ten percent of the ticket price. 68 FR 12622 (March 17, 2003). We also asked the parties to comment on an alternative proposal: a policy allowing travel agencies to choose between listing their fees separately and including the fees in the price quoted for air transportation. 67 FR 69418.

Southwest, the American Society of Travel Agents (''ASTA''), Expedia, Travelocity, and the Mercatus Center opposed the proposal to require travel agencies to unbundle the amount of the air transportation cost from the amount of any travel agency service fee. Galileo, Orbitz, Alaska, America West, and American Express supported the proposal in principle, but most of them contended that it required substantial modification. AAA argued that travel agencies should be able to choose whether to bundle or unbundle their service fees and that they should be required to disclose any such fees.

Amadeus, Worldspan, ASTA, and Travelocity opposed the proposal to apply the policy statement to the systems, while America West supported it and Galileo stated that a revised proposal would be acceptable. Some commenters, like Sabre, did not specifically comment on this proposed change in the policy statement but argued that we have no authority under section 411 to regulate systems that are not owned or controlled by one or more airlines, in which event the policy statement could not cover such non-airline systems.

Finally, section 542 of the Consolidated Appropriations Act, 2004, Public Law 108–199, states, ''None of the funds [from this Act] may be used to adopt rules or regulations concerning travel agent service fees unless the Department of Transportation publishes in the **Federal Register** revisions to the proposed rule and provides a period for additional public comment on such proposed rule for a period not less than 60 days.''

C. Final Decision

We continue to seek to prevent airlines and travel agencies from providing consumers with misleading or inaccurate information. To prevent such practices, we can use both our enforcement authority and our rulemaking authority. We may bring enforcement cases against airlines and travel agencies for engaging in conduct that violates section 411 even if there is no regulation or policy statement that states that the specific conduct at issue is unlawful as an unfair or deceptive practice.

As we stated in our final CRS rule, we should adopt rules regulating industry practices under section 411 only if those rules are reasonably necessary to prevent anti-competitive or deceptive practices that are likely to occur, and would cause significant consumer harm if they did occur, and only if market forces are unlikely to remedy the problem. 69 FR 977. Judged against that standard, the record in this proceeding does not justify the adoption of either proposed amendment to the policy statement.

With respect to the proposal on the disclosure of travel agency service fees, the record does not provide a factual basis for mandating a specific format for the disclosure of travel agency service fees. While consumers could benefit from a separate disclosure of any such fee, the record does not show that consumers have been harmed when travel agencies instead display a total price including such fees. *See*, *e.g.*, ASTA Comments at 36. Expedia, for example, represents that no consumer has ever complained that Expedia's practice of showing a total price for a trip without a separate disclosure of a service fee is misleading or hides necessary information. Expedia Comments at 25. Expedia further argues that its display of only a total price is not deceptive. Expedia Supp. Comments at 2. Given our decision in the CRS rulemaking that airline distribution should not be subject to industrywide regulations unless necessary, we have concluded that the comments do not show a basis for mandating one form of fee disclosure rather than another.

In addition, adopting the proposal seems unwise at this time due to potential difficulties discussed in the comments. First, the First Amendment, which protects commercial speech, would allow us to dictate how service fees must be disclosed only if we have a record demonstrating a substantial need for such a regulation. *See*, *e.g.*, *Edenfield* v. *Fane*, 507 U.S. 761, 770–771 (1993) (the burden of justifying a restriction on non-deceptive commercial speech ''is not satisfied by mere speculation or conjecture; rather, a governmental body seeking to sustain a restriction on commercial speech must demonstrate that the harms it recites are real and that its restriction will in fact alleviate them to a material degree'').

Second, travel agencies charge a variety of fees, and some charge different fees for bookings on different airlines. *See*, *e.g.*, American Express Comments; Expedia Comments at 25. Our notice did not address how the proposed disclosure requirements would apply to these different practices. We note as well that Orbitz, which originally urged us to require the separate disclosure of service fees, is apparently not using the exemption authority granted by us and instead is displaying a total price for air transportation that includes the service fee. Tr. at 227. Finally, many of the commenters viewed the proposed provision requiring the bundling of service fees when they exceeded $20 or ten percent of the ticket price as unreasonable and counterproductive. *See*, *e.g.*, National Travel Comments.

Our decision to withdraw the rule proposals and end this rulemaking without changing the policy statement will not keep us from taking appropriate enforcement action or other action to prevent travel agencies and other firms selling airline tickets from engaging in price advertising that misleads the public. Section 411 authorizes us to prevent unfair and deceptive practices in the marketing of air transportation, and the First Amendment does not protect commercial speech that is deceptive or misleading. 69 FR 1003–1004.

At this time, we will also maintain the exemption granted by Order 2001–12–7. Giving travel agencies exemption authority to initially state the amount of any service fee separately from the ticket price, subject to adequate conditions designed to ensure that consumers will also know the total price including the fees, has not caused discernible harm. Several commenters contend that we should allow the market and consumer preferences to decide which method of disclosure is best. *See*, *e.g.*, Expedia Reply Comments at 10; ASTA Reply Comments at 23. Doing so would be consistent with our decisions that we should not adopt rules generally regulating the displays offered by on-line travel agencies. 69 FR 977, 1003, 1020.

Unlike the disclosure of travel agency service fees, the failure of an airline or travel agency to include fuel surcharges and similar airline charges in the initial display of a ticket price is likely to mislead consumers. *See*, *e.g.*, ASTA Comments at 36–37. A failure to include such charges in the price would violate our existing policy statement.

Because we are adopting no rule on the disclosure of travel agency service fees, the Congressional directive requiring us to issue an additional notice of proposed rulemaking is inapplicable. The statute requires us to use further procedures only if we were adopting a rule or regulation on service fees.

We have also decided not to adopt the other proposed amendment, which would make the policy statement expressly cover the systems as well as airlines and travel agencies. We determined in this rulemaking to deregulate the CRS industry by terminating the rules generally regulating CRS practices. Given that decision, at this time we prefer not to make the policy statement applicable to the systems when they have not been subject to it before. The systems, moreover, are situated somewhat differently than the firms now covered by the policy statement, airlines and travel agencies. The policy statement by its terms refers to "advertising'' and "solicitation,'' terms which more accurately describe the conduct of airlines and travel agents than the systems' conduct, despite the systems' important role in airline distribution. *See*, *e.g.*, Amadeus Comments at 106; ASTA Reply Comments at 22–23. In addition, although the systems necessarily rely on the information provided by the airlines, our deregulation of the CRS business will eliminate the rule expressly requiring airlines to provide complete and accurate information to the systems, 14 CFR 255.4(f) (2003 ed.). Finally, almost none of the commenters supported the proposal, and the systems' major users—the travel agencies—are not urging us to revise the policy statement.

However, as noted above, the systems are subject to our jurisdiction under section 411, and we will take action as appropriate if a system's displays of fare information (or other information) involve unfair and deceptive practices.

Regulatory Process Matters

Regulatory Assessment and Unfunded Mandates Reform Act Assessment

1. Unfunded Mandates Reform Act Assessment

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually.

The decision to withdraw the rule proposals will not result in expenditures by State, local, or tribal governments because we are not adopting any new regulation. The Regulatory Assessment below discusses the costs and benefits for the withdrawal.

2. The Department's Regulatory Assessment

Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), defines a significant regulatory action as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. Regulatory actions are also considered significant if they are likely to create a serious inconsistency or interfere with the actions taken or planned by another agency or if they materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of the recipients of such programs.

The Department's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) outline similar definitions and requirements with the goal of simplifying and improving the quality of the Department's regulatory process. They state that a rule will be significant if it is likely to generate much public interest.

The Department has determined that the withdrawal of the proposals is not an economically significant regulatory action under the Executive Order. The Department is not making any regulatory change and so is taking no action that would likely have an annual impact on the economy of $100 million or more.

The Department's withdrawal is not significant under the Department's Regulatory Policies and Procedures because it will not change the existing regulations governing the disclosure of travel agency service fees. The Department's regulatory assessment for this withdrawal, which incorporates the earlier discussion in this document, is set forth below. This withdrawal has not been reviewed by the Office of Management and Budget under the Executive Order.

The notice of proposed rulemaking contained a preliminary regulatory impact analysis of the proposed rules. That analysis focused on the proposed changes in the CRS rules. We requested interested persons to provide detailed information on the potential consequences of the proposed rules. 67 FR 69419.

We are not adopting any rule modifying the policy statement's standards, because we cannot conclude from the record in this proceeding that the benefits of the proposed modifications would exceed their costs, as discussed above. The record does not demonstrate that the disclosure requirements for travel agency service fees established by the existing policy statement and the exemption granted Orbitz are causing any significant consumer harm. Some travel agencies, moreover, contend that the proposed change would unreasonably interfere with their business practices while not providing any significant consumer benefit. Therefore, we are not imposing any additional costs.

Regulatory Flexibility Statement

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to publish a final regulatory flexibility analysis for regulations that may have a significant economic impact on a substantial number of small entities.

Our notice of proposed rulemaking, which assumed that the relevant small entities included smaller U.S. airlines and travel agencies, included an initial regulatory flexibility analysis. That notice, which focused on the proposed amendments to the CRS rules, also set forth the reasons for our rule proposals and their objectives and legal basis. The notice's analysis relied in part on the factual, policy, and legal analysis set forth in the remainder of the notice, as allowed by 5 U.S.C. 605(a). We invited comments on our initial regulatory flexibility analysis. 67 FR 69424.

The Regulatory Flexibility Act requires us to publish a final regulatory flexibility analysis that considers such matters as the impact of a final rule on small entities if the rule will have "a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). Our proposed changes to the policy statement would have affected the systems and travel agencies. None of the systems is a small entity, but most travel agencies are small entities. 69 FR 1030–1031. Since we are not adopting any new rules regulating travel agency operations, I certify that our withdrawal will not have a significant economic impact on a substantial number of small entities. No final regulatory flexibility analysis is therefore required for this action.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding our decision so that they can better evaluate its effects on them and take it into account in operating their businesses. If the decision affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or requirements, please consult Thomas Ray at (202) 366–4731.

Paperwork Reduction Act

The withdrawal of the rule proposals will create no collection-of-information requirements subject to the Paperwork Reduction Act, Public Law 96–511, 44 U.S.C. Chapter 35. *See* 57 FR at 43834.

Federalism Implications

The Department's withdrawal will have no substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, dated August 4, 1999, we have determined that this decision does not present sufficient federalism implications to warrant consultations with State and local governments.

Taking of Private Property

Our withdrawal will not effect a taking or private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed our withdrawal under Executive Order 13045, Protection of Children from Environmental Heath Risks and Safety Risks. The withdrawal does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Consultation and Coordination With Tribal Governments

This withdrawal will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Therefore, it is exempt from the consultation requirements of Executive Order 13175. No tribal implications were identified.

Energy Effects

We have analyzed our withdrawal under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not classified as a "significant energy action'' under that order because it would not have a significant adverse effect on the supply, distribution, or use of energy.

Environment

Our withdrawal will have no significant impact on the environment. Therefore, an Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

Issued in Washington, DC on April 14, 2004, under authority delegated by 49 CFR 1.56a(h)2.

Michael W. Reynolds,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 04–9058 Filed 4–20–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–139792–02]

RIN 1545–BB11

Partner's Distributive Share: Foreign Tax Expenditures

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rule making by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the proper allocation of partnership expenditures for foreign taxes. The proposed regulations affect partnerships and their partners. In the rules and regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations that modify the rules relating to the proper allocation of creditable foreign taxes. The text of the temporary regulations also serves as the text of these proposed regulations. This document also contains a notice of public hearing on these proposed regulations.