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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 331

RIN 2105-AD93

#### Procedures for Reimbursement of General Aviation Operators and Service Providers in the Washington, DC Area; Removal

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule removes a DOT rule, *Procedures for Reimbursement of General Aviation Operators and Service Providers in the Washington, DC Area*, 14 CFR Part 331. This rule is being removed because all reimbursements under the program have been made and all program activities completed. The rule established procedures to reimburse eligible fixed-based general aviation operators and providers of ground support services, at five Washington, DC area airports, for direct and incremental financial losses incurred while the airports were closed to general aviation operations solely due to actions of the Federal government after the September 11, 2001 terrorist attacks. The rule implemented a provision in the Department's Fiscal Year 2006 Appropriations Act, which made up to \$17 million available for such reimbursements until expended. The rule required applications for reimbursement to be submitted by June 8, 2007. All applications have been processed, payments made, and required releases executed.

**DATES:** *Effective Date:* February 2, 2010.

**FOR FURTHER INFORMATION CONTACT:** Timothy E. Carmody, Transportation Industry Analyst, Office of Aviation Analysis, X-50, 1200 New Jersey Ave., SE., Washington, DC 20590, (202) 366-2348.

**SUPPLEMENTARY INFORMATION:** On November 30, 2005, the Congress authorized the Department to reimburse eligible fixed-based general aviation operators or providers of general aviation ground support services at five airports in the Washington, DC metropolitan area for direct and incremental losses due to the actions of the Federal Government to close airports to general aviation operations following the terrorist attacks of September 11, 2001. Section 185,

Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriation Act, 2006, Public Law 109-115, 119 Stat. 2396 (2005) ("Section 185").

Section 185 further appropriated up to \$17 million to reimburse the eligible parties, to be available until expended, and identified the five airports as Ronald Reagan Washington National Airport; College Park Airport in College Park, Maryland; Potomac Airfield in Fort Washington, Maryland; Washington Executive/Hyde Field in Clinton, Maryland; and Washington South Capitol Street Heliport in Washington, DC. Of the total \$17 million, the Department was directed to set aside and make available up to \$5 million to reimburse eligible operators and providers at College Park, Potomac Airfield, and Hyde Field airports. Section 185 stated various other conditions for reimbursement, among them that those losses incurred as the result of violations of law, or through fault or negligence of such entities or of third parties (including airports) were not eligible for reimbursement, and that the obligation and expenditure of funds were conditional upon full release of the United States Government for all claims for financial losses resulting from such actions.

On October 4, 2006, the Department published in the **Federal Register** a Notice of Proposed Rulemaking seeking comments on its proposed procedures implementing Section 185 (71 FR 58546 *et seq.*). Comments were received from 16 submitters. After fully considering all comments, the Department prepared a final rule and published it on April 9, 2007 in the **Federal Register** (at 72 FR 17381 *et seq.*). It was codified as 14 CFR Part 331.

The final rule set out eligibility standards for participation; specified the methodology that would be used in determining losses; stated the eligibility periods applicable at each airport; established special procedures for the \$5 million set-aside; and provided an application form for reimbursement. The final rule also set a deadline of June 8, 2007 for applications. 14 CFR 331.27. Twenty-one applicants submitted claims for reimbursement, of which 18 were determined to be eligible and to have incurred reimbursable losses. The Department has completed its review of all applications and has reimbursed the eligible claimants for their financial losses in accordance with Section 185. Prior to payment each claimant signed a full release of the United States for all claims of loss due to such actions, as required by section 185.

The Department has completely fulfilled its responsibilities under Section 185 and ceased all actions under the regulations. As a result, 14 CFR Part 331 serves no further purpose and may be removed.

#### Regulatory Analyses and Notices

##### A. Administrative Procedure Act

The Department has determined that this rule may be issued without a prior opportunity for notice and comment because providing prior notice and comment would be unnecessary, impracticable, or contrary to the public interest. The final rule limited the period for submitting applications to June 8, 2007. The rule also limited the amount of money available for reimbursement and the scope of potential beneficiaries. Accordingly, there would not be any harm to any identifiable beneficiary by repealing the rule. The Department has completely fulfilled its responsibilities under Section 185 and ceased all actions under the regulations. Thus, this rule should be removed. For the same reasons, the Department finds that there is good cause to make the rule effective immediately.

##### B. Executive Order 12866 and Regulatory Flexibility Act

The Department has determined that this action is not considered a significant regulatory action for purposes of Executive Order 12866 or the Department's regulatory policies and procedures. This rule is being adopted solely to remove a rule that is no longer necessary due to the Department's fulfillment of statutory responsibilities. Given the absence of compliance costs to anyone, I certify that this final rule does not have a significant economic impact on a substantial number of small entities.

##### C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

##### D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not

significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

*E. Paperwork Reduction Act*

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*F. Unfunded Mandates Reform Act*

The Department of Transportation has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

**List of Subjects in 14 CFR Part 331**

Air carriers.

**Authority:** Section 185, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriation Act, 2006, Public Law 109–115, 119 Stat. 2396 (2005); 49 U.S.C. 322(a).

■ Accordingly, under the authority of 119 Stat. 2396 (2005) and 49 U.S.C. 322(a), the Department of Transportation amends 14 CFR chapter 2 by removing part 331:

**PART 331—PROCEDURES FOR REIMBURSEMENT OF GENERAL AVIATION OPERATORS AND SERVICE PROVIDERS IN THE WASHINGTON, DC AREA**

**PART 331—[REMOVED AND RESERVED]**

■ Remove and reserve Part 331, consisting of subparts A through C.

Issued in Washington, DC, on January 25, 2010.

**Susan Kurland,**

*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 2010–2134 Filed 2–1–10; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 706**

**Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972**

**AGENCY:** Department of the Navy, DoD.  
**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS BUNKER HILL (CG 52) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** This rule is effective February 2, 2010 and is applicable beginning January 21, 2010.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Ted Cook, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS BUNKER HILL (CG 52) is a vessel of the Navy which, due to its special construction and purpose, cannot fully

comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a), pertaining to the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

**List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, the Navy amends part 706 of title 32 of the Code of Federal Regulations as follows:

**PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972**

■ 1. The authority citation for part 706 continues to read as follows:

**Authority:** 33 U.S.C. 1605.

■ 2. Section 706.2 is amended in Table Five by revising the entry for USS BUNKER HILL (CG 52) to read as follows:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

TABLE FIVE

Vessel	No.	Masthead light not over all other lights and obstructions Annex I, section 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than 1/2 ship's length aft of forward mast-head light Annex I, section 3(a)	Percentage horizontal separation attained
USS BUNKER HILL .....	CG 52 .....	*	X	X	36.8
*	*	*	*	*	*