

## Background

On November 28, 2011, the Federal Aviation Administration (FAA) issued Docket No. FAA-2011-0117; Airspace Docket No. 09-AGL-31, Proposed Establishment of Restricted Areas R-5402, R-5403A, R-5403B, R-5403C, R-5403D, R-5403E, R-5403F; Devils Lake, ND (76 FR 72869; November 28, 2011). Comments to that document were to be received on or before January 12, 2012.

By request submitted to the docket on January 2, 2012, the NDAC, representing eight member groups including the Airport Association of North Dakota, North Dakota Business Aviation Association, North Dakota Pilots Association, North Dakota Professional Aviation Mechanics Association, and North Dakota Flying Farmers, requested that the FAA extend the comment period for Airspace Docket FAA-2011-0117; Airspace Docket No. 09-AGL-31 from January 12, 2012, to April 30, 2012. The organizations requesting an extension stated that the comment period deadline of January 12, 2011, did not allow adequate time to respond. They noted that the comment period between the November 28, 2011 notice and the January 12, 2012 deadline provided very little opportunity to research the issue, gain comments and adequately consider the issue. The NDAC offered their eight member organization are holding their annual meetings during the Upper Midwest Aviation Symposium, scheduled for March 4-6, 2012, and plan to use the opportunity to discuss the proposal, gain insight into concerns, and receive position guidance from their members related to the proposed action; hence the extension request to April 30, 2012. Additionally, the NDAC commented the Christmas and New Year holiday season fell within the comment period which greatly reduced the ability to communicate and get meaningful coordination completed.

The FAA supports the petitioners' request for an extension of the comment period on Docket No. FAA-2011-0117; Airspace Docket No. 09-AGL-31, for an additional 30 days in lieu of the 120-day extension requested. The FAA believes a 120-day extension of the existing 45-day comment period for the proposed action to be excessive and unreasonable. The FAA must balance the length of the comment period against the need to proceed expeditiously with airspace actions that support realistic training requirements in modern tactics for the military as we manage the safe and efficient use of the National Airspace System. The FAA believes an additional 30 days would be adequate for

commenters to collect cost and operational data necessary to provide meaningful comment to Docket No. FAA-2011-0117; Airspace Docket No. 09-AGL-31. The FAA does not anticipate any further extension of the comment period for this rulemaking.

## Extension of Comment Period

In accordance with section 11.47(c) of title 14, Code of Federal Regulations, the FAA has reviewed the request submitted by the North Dakota Aviation Council for extension of the comment period to Docket No. FAA-2011-0117; Airspace Docket No. 09-AGL-31. This petitioner has shown a substantive interest in the proposed rule and good cause for the extension. The FAA has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, pursuant to the authority delegated to me, the comment period for Docket No. FAA-2011-0117; Airspace Docket No. 09-AGL-31 published in the **Federal Register** on November 28, 2011 (76 FR 72869), FR Doc. 2011-30495, is extended until February 12, 2012.

Issued in Washington, DC, on January 5, 2012.

**Gary A. Norek,**

*Acting Manager, Airspace, Regulations and ATC Procedures Group.*

[FR Doc. 2012-284 Filed 1-10-12; 8:45 am]

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1260

**RIN 2700-AD79**

### Profit and Fee Under Federal Financial Assistance Awards

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Proposed rule.

**SUMMARY:** NASA is proposing to revise the NASA Grant & Cooperative Agreement Handbook to prohibit the payment of profit or fee on Federal Financial Assistance awards, *i. e.* grants and cooperative agreements. This is an extension of the currently existing prohibition on payment of profit or fee to commercial entities under Federal Financial Assistance awards.

**DATES:** Interested parties should submit comments to NASA at the address identified below on or before March 12, 2012 to be considered in formulation of the final rule.

**ADDRESSES:** Interested parties may submit comments, identified by RIN 2700-AD79, via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to R. Todd Lacks (Room 5J75), NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546. Comments may also be submitted by email to: [todd.lacks@nasa.gov](mailto:todd.lacks@nasa.gov).

**FOR FURTHER INFORMATION CONTACT:** R. Todd Lacks, NASA Headquarters, Office of Procurement, Contract Management Division, Room 5J75; telephone: (202) 358-0799; email: [todd.lacks@nasa.gov](mailto:todd.lacks@nasa.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

Historically, NASA has discouraged the payment of profit or fee under its Federal Financial Assistance awards because payment in excess of costs is inconsistent with the intent of grant and cooperative agreements which provide funding in the form of financial assistance to recipients for their performance of a public purpose. In the case of awards to commercial firms, payment of profit or fee is specifically prohibited. Because the prohibition does not include other recipients such as educational and non-profit organizations, NASA's policy has been misinterpreted and inconsistent application has occurred. A recent review indicates that, in instances where the Agency has accepted such proposals and paid management fees, the payment of those fees has been inappropriate for the grant or cooperative agreement effort. While the payment of fees, historically, has occurred on less than 1 percent of Agency grants and cooperative agreements, this proposed rule which extends the prohibition on payment of profit or fees to all recipients of NASA grants and cooperative agreements, will ensure that the regulation accurately reflects Agency policy.

### II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting

flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

NASA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule does not impose any additional requirements on small entities and currently less than 1 percent of recipients of NASA grants and cooperative agreements receive profit or management fees.

IV. Paperwork Reduction Act

The Paper Reduction Act (Pub. L. 104-13) is not applicable because the prohibition on payment of profit and management fees by NASA does not require the submission of any information by recipients that requires the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 14 CFR Part 1260

Colleges and universities, Business and Industry, Grant programs, Grants administration, Cooperative agreements, State and local governments, Non-profit organizations, Commercial firms, Recipients.

William P. McNally,

Assistant Administrator for Procurement.

Accordingly, 14 CFR Part 1260 is proposed to be amended as follows:

1. The authority citation for 14 CFR 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97-258, 96 Stat. 1003 (31 U.S.C. 6301, et seq.), and OMB Circular A-110.

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

2. In § 1260.4, paragraph (b)(2) is revised to read as follows:

§ 1260.4 Applicability.

\* \* \* \* \*

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

(2) NASA does not pay profit or fee under grants or cooperative agreements.

\* \* \* \* \*

3. In § 1260.10, paragraph (b)(1)(iv) is added to read as follows:

§ 1260.10 Proposals.

\* \* \* \* \*

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

(iv) NASA does not pay profit or fee under its grants or cooperative agreements.

\* \* \* \* \*

4. In § 1260.14, paragraph (e) is added to read as follows:

§ 1260.14 Limitations.

\* \* \* \* \*

(e) NASA does not pay profit or fee under its grants or cooperative agreements.

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FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 11-09]

RIN 3072-AC46

Adjustment of the Amount for the Optional Rider for Proof of NVOCC Financial Responsibility for Trade With the People's Republic of China

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its rules regarding the amount of bond coverage required in its optional China Bond Rider for Non-Vessel-Operating Common Carriers (NVOCCs). The proposed rule is intended to provide NVOCCs with the ability to post a bond with the Commission that satisfies the equivalent of 800,000 Chinese Renminbi, for which the equivalent dollar amount has fluctuated since the regulation was first adopted by the Commission.

DATES: Comments or suggestions are due on or before March 12, 2012.

ADDRESSES: Address all comments concerning this proposed rule to: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001, Phone: (202) 523-5725.

SUPPLEMENTARY INFORMATION: Submit Comments: Submit an original and five (5) copies in paper form, and if possible, send a PDF of the document by email to secretary@fmc.gov. Include in the subject line: Docket No. 11-09, Comments on Proposed Adjustment of the Amount for the FMC Optional China Bond Rider.

Background

Under a Memorandum of Consultations pursuant to the 2003 bilateral Maritime Agreement between the United States and the People's

Republic of China (China or the PRC), the PRC does not require U.S. Non-Vessel-Operating Common Carriers (NVOCCs) to make a cash deposit in a Chinese bank as would otherwise be required by Chinese regulations, so long as the NVOCC:

- (1) Is a legal person registered by U.S. authorities;
(2) Obtains an FMC license as an NVOCC; and
(3) Provides evidence of financial responsibility in the total amount of Chinese Renminbi (RMB) 800,000 or U.S. \$96,000.

An FMC-licensed NVOCC that voluntarily provides an additional surety bond in the amount of \$21,000 (denominated in USD or RMB), which by its conditions is available for potential claims of the MOT (as well as other Chinese agencies) for violations of the Chinese Regulations on International Maritime Transportation, may register in the PRC without paying the cash deposit otherwise required by Chinese law and regulation.

In 2004, the Commission issued a Notice of Proposed Rulemaking (NPR) to explore mechanisms for NVOCCs to file proof of such additional financial responsibility. See 69 FR 4271 (January 29, 2004). On April 1, 2004, the Commission issued a final rule that amended its regulations governing proof of financial responsibility for ocean transportation intermediaries to allow an optional rider to be filed with a licensed NVOCC's proof of financial responsibility to provide additional proof of financial responsibility for such carriers serving the U.S. oceanborne trade with the PRC. Docket No. 04-02, Optional Rider for Proof of Additional NVOCC Financial Responsibility, 30 S.R.R. 179 (FMC 2004).

On April 15, 2011, the Commission received a communication from the Maritime Administration, U.S. Department of Transportation, transmitting a request from the Ministry of Transport (MOT) of the PRC to revise the Commission's regulations at Appendix E to Subpart C of Part 515—Optional Rider for Additional NVOCC Financial Responsibility (Optional Rider to Form FMC 48) [Form 48A] (China Bond Rider). MOT requested that the Commission review its financial responsibility regulations set forth in 46 CFR part 515. MOT asserts that the exchange rate between the USD and the RMB has risen from 1:8.276 in 2003 to 1:6.536 at present, an increase of approximately 21.02%. Consequently, MOT asserts, the amount of 96,000 USD is inadequate to meet 800,000 RMB at the current exchange rate. Specifically, MOT requests that the regulation be