Discussion of Comments

Notice of Proposed Special Conditions no. 25–11–10–SC for the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes was published in the Federal Register on March 28, 2011 (76 FR 17062). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. Should Bombardier Inc. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type-certification basis for Bombardier Model BD–700–1A10 and BD–700–1A11 airplanes.

1. During any phase of flight in which it is to be used, the SVS imagery on the HUD must not degrade flight safety or interfere with the effective use of outside visual references for required pilot tasks.

2. To avoid unacceptable interference with the safe and effective use of the pilot-compartment view, the SVS must meet the following requirements:

a. The SVS design must minimize unacceptable display characteristics or artifacts (e.g., terrain shadowing against a dark background) that obscure the desired image of the scene, impair the pilot's ability to detect and identify visual references, mask flight hazards, distract the pilot, or otherwise degrade task performance or safety.

b. Control of SVS image display brightness must be sufficiently effective in dynamically changing background (ambient) lighting conditions to avoid pilot distraction, impairment of the pilot's ability to detect and identify visual references, masking of flight hazards, or to otherwise degrade task performance or safety. If automatic control for image brightness is not provided, it must be shown that a single, manual setting is satisfactory for the range of lighting conditions encountered during a time-critical, high-workload phase of flight (e.g., low-visibility instrument approach).

c. A readily accessible control must be provided that permits the pilot to immediately deactivate and reactivate display of the SVS image on demand, without having to remove hands from the flight controls and throttles.

d. The SVS image on the HUD must not impair the pilot's use of guidance information, or degrade the presentation and pilot awareness of essential flight information displayed on the HUD, such as alerts, airspeed, attitude, altitude and direction, approach guidance, windshear guidance, TCAS resolution advisories, or unusual-attitude recovery cues.

e. The SVS image and the HUD symbols, which are spatially referenced to the pitch scale, outside view, and image, must be scaled and aligned (i.e., conformal) to the external scene. In addition, the SVS image and the HUD symbols—when considered singly or in combination—must not be misleading, cause pilot confusion, or increase workload. Airplane attitudes or cross-wind conditions may cause certain symbols (e.g., the zero-pitch line or flight-path vector) to reach field-of-view limits, such that they cannot be positioned conformally with the image and external scene. In such cases, these symbols may be displayed but with an altered appearance that makes the pilot aware that they are no longer displayed conformally (for example, ''ghosting''). The combined use of symbology and runway image may not be used for path monitoring when path symbology is no longer conformal.

f. A HUD system used to display SVS images must, if previously certified, continue to meet all of the requirements of the original approval.

3. The safety and performance of the pilot tasks associated with the use of the pilot-compartment view must be not be degraded by the display of the SVS image. These tasks include the following:

a. Detection, accurate identification and maneuvering, as necessary, to avoid traffic, terrain, obstacles, and other flight hazards.

b. Accurate identification and utilization of visual references required for every task relevant to the phase of flight.

4. Appropriate limitations must be stated in the Operating Limitations section of the Airplane Flight Manual to prohibit the use of the SVS for functions that have not been found to be acceptable.

Issued in Renton, Washington, on May 20, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–13341 Filed 5–27–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 58

[Docket No.: EOUST 103]

RIN 1105–AB16

Procedures Governing Administrative Review of a United States Trustee's Decision To Deny a Chapter 12 or Chapter 13 Standing Trustee's Claim of Actual, Necessary Expenses

AGENCY: Executive Office for United States Trustees (''EOUST''), Justice.

ACTION: Final rule.

SUMMARY: This final rule (''rule'') sets forth the procedures for a chapter 12 or chapter 13 standing trustee (''trustee'') to obtain administrative review of a United States Trustee's decision to deny a trustee's claim that certain expenses are actual and necessary for the administration of bankruptcy cases. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (''BAPCPA'') requires that trustees exhaust all administrative remedies pertaining to a denial of a claim of actual, necessary expenses before seeking judicial review, and the Attorney General prescribe procedures for administrative review of such denials. This rule ensures that the process for administratively reviewing a United States Trustee's denial of a trustee's request for expenses is fair and effective.

DATES: *Effective Date:* This rule is effective June 30, 2011.

ADDRESSES: Executive Office for United States Trustees (''EOUST''), 20 Massachusetts Ave., NW., 8th Floor, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Ramona D. Elliott, General Counsel, or Larry Wahlquist, Office of General Counsel, at (202) 307–1399 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On August 14, 2009, at 74 FR 41,101, EOUST

published a proposed rule on this topic. Before the comment period closed on October 13, 2009, EOUST received two comments. The comments received and EOUST's responses are discussed below.

Discussion

The administration of all chapter 12 and chapter 13 bankruptcy cases is entrusted to private persons who are case or standing trustees under the supervision and oversight of a regional United States Trustee. As distinguished from case or standing trustees, United States Trustees are employees of the Department of Justice. A standing trustee is appointed by the United States Trustee under 28 U.S.C. 586 and administers more than one chapter 12 or chapter 13 case, as opposed to a case trustee who is appointed under 11 U.S.C. 1202 or 11 U.S.C. 1302 and who administers only the case to which the trustee is appointed. This rule addresses the right, conferred by the BAPCPA, of a standing trustee to obtain administrative review when the trustee's request for projected expenses, referred to as a ''claim of actual, necessary expenses'' in 28 U.S.C. 586(e)(3), is denied by the United States Trustee.

When a debtor files for bankruptcy relief under chapter 12 or chapter 13, the debtor proposes a plan to pay his or her creditors a percentage of the amounts owed to creditors over a specified period of time and obtains court approval of this plan. This process is termed confirming a chapter 12 or chapter 13 plan. Once the bankruptcy court confirms the plan, the trustee will oversee the payment of creditors pursuant to the plan. The debtor pays plan payments to the trustee and the trustee then disburses the appropriate amounts to creditors.

As part of the process of administering debtors' cases, a trustee incurs expenses. A trustee is authorized to collect a specified percentage from debtors' plan payments to pay for these expenses. However, before incurring expenses, a trustee obtains approval from the United States Trustee. As the first step in obtaining United States Trustee approval for expenses, the United States Trustee requires that the trustee submit a budget for the anticipated expenses for the fiscal year. The fiscal year for the chapter 12 standing trustee ends each June 30th; the fiscal year for the chapter 13 standing trustee ends each September 30th. Next, these projected expenses are evaluated by the United States Trustee who will either approve the expenses or require modifications to the proposed budget. Once the United States Trustee approves the trustee's budget, the trustee is notified of this approval, and pursuant to 28 U.S.C. 586(e), the trustee's compensation and a specified percentage fee that the trustee may collect from debtors' plan payments are authorized. This fee is to be used for payment of the approved expenses incurred during the fiscal year as well as for the trustee's compensation.

When a trustee realizes that expenses for the current year might exceed the approved amount, a trustee must submit a request to the United States Trustee, and obtain approval, before incurring expenses above the approved amount. This request must be submitted when the increase to an individual expense line item is greater than both 10% of the budgeted amount and $5,000.00. Expenses for certain items require prior United States Trustee approval regardless of amount. These expenses currently are increases in the amount budgeted for specified employee expenses, increases in office lease obligations, payments to the standing trustee or relative of the standing trustee, and expenses for any item not originally contained in the approved budget. This policy is set forth in the Handbook for Chapter 13 Standing Trustees which is posted on the EOUST's Web site and will be incorporated in the revised Handbook for Chapter 12 Standing Trustees. If any other expenses are added to this list, the United States Trustee will notify trustees via e-mail or regular mail at least 30 days before including the new expenses in a revision to the Handbook.

If a trustee disagrees with the United States Trustee's denial of the trustee's proposed budget or request for additional expenses, the trustee may seek administrative review of the denial under the procedures identified in this rule. The Director of EOUST (''Director'') will conduct a de novo review of the United States Trustee's decision to determine whether the record supports the United States Trustee's decision and whether the decision was an appropriate exercise of the United States Trustee's discretion or contrary to law.

With the passage of BAPCPA, Congress directed the Attorney General to prescribe procedures implementing administrative review for trustees when a claim of actual, necessary expenses is denied. The Attorney General delegated this authority to the Director. In response to this congressional mandate, the Director publishes this rule, which establishes such procedures. This rule imposes requirements only upon standing trustees who are supervised by United States Trustees. In addition, this rule addresses only the United States Trustee's denial of a trustee's claim of actual, necessary expenses. This rule does not address the suspension or termination of trustees. EOUST will publish another notice of proposed rulemaking that addresses the suspension or termination of trustees with a RIN number of 1105–AB12.

Summary of Changes in Final Rule

The final rule differs from the proposed rule in the following ways:

- The administrative review process has been expedited by shortening the time for a trustee to request review by the Director from 30 calendar days to 21 calendar days after receiving a notice of denial of expenses from the United States Trustee or after the expenses were deemed denied. Similarly, the United States Trustee's time to respond to the trustee's request for review has been shortened from 30 calendar days to 21 calendar days. These changes are reflected in paragraphs (e) and (h).
- Paragraphs (c)(1), (c)(2), and (k) have been revised to eliminate the reference to ''the deadline'' so that the review process cannot arbitrarily be delayed by setting long deadlines when the United States Trustee or the Director seeks the submission of additional information.
- Paragraph (i) has been revised to include the word ''non-privileged'' before ''information'' in order to make it consistent with paragraph (d) and so that it is clear that the rule does not seek to waive a trustee's right to assert traditional privileges.
- The rule has been revised to reflect differences in chapter 12 and chapter 13 fiscal years.

Discussion of Public Comments

EOUST received two comments on the proposed rule, one of which had several sub-comments within it. EOUST has considered each comment carefully and appreciates the time and effort required to prepare and submit each comment. EOUST's responses to the comments are discussed below.

1. Deadlines—Expediting the Administrative Review Process

Comment: One comment expressed concern that the time limits in the rule allowed too much time to elapse before a final decision by the Director must be issued. The comment suggested shortening the deadlines for various stages during the administrative review process. Specifically, the comment recommended the United States Trustee deny a budget line item no later than October 10, the trustee appeal within 15

days, the United States Trustee respond within 10 days, and the Director issue a decision within 90 days of the trustee's request for review.

Response: EOUST recognizes that the administrative review process can be lengthy at times and has revised the rule to shorten the process as much as possible. However, sufficient time must be granted to the trustee, United States Trustee, and the Director to perform their respective duties to ensure a fair and just resolution is accomplished. In order to balance the competing interests of a quick resolution with that of obtaining the most equitable resolution that is fair to all parties, EOUST has modified some of the deadlines in the rule. Although the comment did not reference the time line for the chapter 12 trustee, the same concern would exist. Specifically, the time for a trustee to request review by the Director is shortened from 30 calendar days to 21 calendar days from the date of the United States Trustee's notice of denial or 21 calendar days from the date on which the trustee's expenses were deemed denied by the United States Trustee. Similarly, the United States Trustee's deadline for responding to the trustee's request for review has been shortened from 30 calendar days to 21 calendar days.

EOUST has not, however, modified the deadline for the United States Trustee to issue a denial of a trustee's requested expenses—July 30 for chapter 12 standing trustee expenses and October 31 for chapter 13 standing trustee expenses. Though trustees are generally required to submit a budget delineating the trustee's expenses by May 1 for chapter 12 trustees and July 1 for chapter 13 trustees, this is not always the case in every region, and many trustees submit budgets after the due date. In addition, it is not an infrequent occurrence for a chapter 12 trustee to submit a budget after June 1 or a chapter 13 trustee to submit a budget after September 1. When this occurs, the United States Trustee must have sufficient time to thoroughly review the trustee's proposed expenses. Thus, in order to ensure the United States Trustee has adequate time to review every trustee's expenses, including those submitted late, EOUST declines to modify the rule to require the United States Trustee to issue a denial by July 10 for chapter 12 trustees and by October 10 for chapter 13 trustees.

2. Deadlines—Eliminating Delays for Submission of Additional Information

Comment: One comment pointed out that the language in the rule could significantly extend the time limits for reaching a resolution. In paragraphs (c)(1), (c)(2), and (k), the rule states that if the United States Trustee or the Director seeks additional information, the time period for resolution or denial is extended to 30 days beyond ''the deadline for submission of the additional information.'' The comment stated this could be read to allow the United States Trustee or the Director to set a long deadline for the submission of additional information, and thereby delay the review process.

Response: EOUST concurs that these paragraphs could be interpreted as the comment indicated, though that was not the intent. Accordingly, EOUST has modified paragraphs (c)(1), (c)(2), and (k) to eliminate the reference to ''the deadline'' so that the review process continues upon the submission of the additional information and cannot arbitrarily be delayed by setting long deadlines for the submission of that additional information.

3. Denying Expenses—Adding ''Good Cause'' Justification

Comment: One comment acknowledged that the rule does not require the United States Trustee to deny a trustee's claim for expenses when a trustee commits one of the reasons for denial as enunciated in paragraphs (b)(1) through (7), and that the United States Trustee possesses discretion to determine whether denial is appropriate. However, the comment advocated that the rule should include a ''good cause'' provision so that the United States Trustee may deny the trustee's claim for expenses only if the trustee's failure is without ''good cause.''

Response: This change is unnecessary and could potentially transfer the burden of proof from the trustee to the United States Trustee when adjudicating a trustee's request for review. As the comment concedes, the rule does not eliminate the United States Trustee's discretion to approve or deny a trustee's claim for expenses.

The rule was intentionally drafted this way to provide the United States Trustee with sufficient flexibility to approve expenses, in appropriate circumstances, even when a trustee engages in one of the enumerated reasons for denial. EOUST agrees that the rule must have sufficient flexibility to account for special circumstances, such as the inability to obtain prior approval of an expense due to a flood or other natural disaster, which is precisely why the rule provides the United States Trustee with discretion. In addition, the rule requires the United States Trustee to communicate with the trustee in an attempt to resolve any dispute before issuing a notice of denial. Thus, the trustee will have ample opportunity to explain any reason or ''good cause'' to the United States Trustee, necessitating the immediate expenditures and which prevented the trustee from obtaining prior approval of such expenses.

As the rule is currently written, the United States Trustee possesses the discretion to deny a trustee's claim for expenses if the trustee engages in one of the delineated reasons for denial (or some similar reason). If an emergency situation caused the trustee to commit one of these failures, then the trustee can explain the emergency to the United States Trustee who may then decide that the claim for expenses may be approved. Or, if the United States Trustee feels the emergency did not warrant the trustee's failure, then the claim for expenses may be denied.

If the United States Trustee denies the claim for expenses, then the trustee may request the Director to review the United States Trustee's decision, and may present the emergency situation to the Director as a justifiable reason or ''good cause.''

The crucial point is that the trustee has the opportunity to explain why an emergency situation caused the trustee's failure and the United States Trustee has the flexibility under the rule to approve or disapprove depending on what is most appropriate in the individual circumstances. Because the rule provides sufficient flexibility for emergency situations as written, there is no need to create a ''good cause'' provision. Moreover, the addition of a ''good cause'' exception may inappropriately require the United States Trustee to prove that the ''good cause'' was insufficient to justify the trustee's failure before denying a claim for expenses, effectively transferring the burden of proving whether a trustee's failure was justified from the trustee to the United States Trustee. EOUST believes the trustee should bear the burden of proof in demonstrating whether a sufficient reason exists for excusing the trustee's failure. Accordingly, EOUST declines to modify the rule as proposed by the comment.

4. Privileged Documents

Comment: One comment pointed out that paragraph (d) requires the United States Trustee to provide ''non-privileged'' documents to the Director while paragraph (i) allows the Director to seek ''additional information from any party.'' The comment expressed concern that the asymmetry between

these two paragraphs could mean that the rule intends to waive the trustee's right to assert traditional privileges.

Response: The asymmetry between the two paragraphs is inadvertent. EOUST is not attempting to waive a trustee's right to assert traditional privileges. Paragraph (i) is revised to include ''non-privileged'' before ''information.''

5. Percentage Fees

Comment: One comment proposed striking the language stating that this rule does not authorize a trustee to seek review of any decision to change the trustee's percentage fee, concluding that the review of expenses without the review of the percentage fee is meaningless.

Response: The setting of the trustee's percentage fee and the allowance or disallowance of expenses, though related, are not inextricably tied together. Though the amount of a trustee's expenses is one factor in determining the trustee's percentage fee, it is not the only factor. A change in the level of expenses may or may not necessitate a change in a trustee's percentage fee. Further, 28 U.S.C. 586(e)(3) specifically requires the Attorney General to develop procedures for a standing trustee to obtain administrative review of the United States Trustee's decision to deny the trustee's claim for actual, necessary expenses. It is important to note that this right to review is expressly limited to the denial of a claim for expenses, not the setting of the trustee's percentage fee. In order to maintain the scope of review mandated by Congress, EOUST declines to modify the rule as requested by the comment.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), The Principles of Regulation. This rule is not a ''significant regulatory action'' as defined by Executive Order 12866 and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

The Department has also assessed both the costs and benefits of this rule as required by section 1(b)(6) and has made a reasoned determination that the benefits of this regulation justify its costs. The costs considered in this regulation include the costs for prosecuting an administrative appeal of the United States Trustee's denial of a trustee's claim of actual, necessary expenses. The anticipated costs are the compiling, photocopying and mailing of the requested records. However, none of these costs are new. This rule simply codifies the current practice for obtaining administrative review of the United States Trustee's decision.

The benefits of this rule include the codification of the process for a trustee to obtain administrative review of the United States Trustee's denial of a trustee's claim of actual, necessary expenses. These benefits justify its costs in complying with Congress' mandate to prescribe procedures to implement 28 U.S.C. 586(e)(3).

Executive Order 13132

This rule will not have a substantial direct effect 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, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

This rule does not contain an information collection under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). If a trustee wishes to appeal the United States Trustee's decision, the trustee submits a request for review to the Director detailing the specific factual circumstances supporting the trustee's argument.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Director has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that this rule does not impose any new costs upon trustees that did not already exist under the current administrative review process. In addition, the costs of compiling, photocopying and mailing records are de minimis.

Unfunded Mandates Reform Act of 1995

This rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. This rule does not include a Federal mandate that may result in the annual expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than the annual threshold established by the Act ($100 million). Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.* This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, and innovation; or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 58

Administrative practice and procedure, Bankruptcy, Credit and debts.

Accordingly, for the reasons set forth in the preamble, Part 58 of chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 58—[AMENDED]

■ 1. The authority citation for Part 58 continues to read as follows:

Authority: 5 U.S.C. 301, 552; 11 U.S.C. 109(h), 111, 521(b), 727(a)(11), 1141(d)(3), 1202; 1302, 1328(g); 28 U.S.C. 509, 510, 586, 589b.

■ 2. Add § 58.11 to read as follows:

§ 58.11 Procedures governing administrative review of a United States Trustee's decision to deny a Chapter 12 or Chapter 13 standing Trustee's claim of actual, necessary expenses.

(a) The following definitions apply to this section. These terms shall have these meanings:

(1) The term *claim of actual, necessary expenses* means the request by a chapter 12 or chapter 13 standing trustee for the United States Trustee's approval of the trustee's projected expenses for each fiscal year budget, or for an amendment to the current budget when an increase in an individual expense line item is greater than both 10% of the budgeted amount and $5,000.00. Expenses for certain items require prior United States Trustee approval regardless of amount;

(2) The term *director* means the person designated or acting as the Director of the Executive Office for United States Trustees;

(3) The term *final decision* means the written determination issued by the Director based upon the review of the United States Trustee's decision to deny all or part of a trustee's claim of actual, necessary expenses;

(4) The term *notice* means the written communication from the United States Trustee to a trustee that the trustee's claim of actual, necessary expenses has been denied in whole or in part;

(5) The term *request for review* means the written communication from a trustee to the Director seeking review of the United States Trustee's decision to deny, in whole or in part, the trustee's claim of actual, necessary expenses;

(6) The term *trustee* means an individual appointed by the United States Trustee under 28 U.S.C. 586(b) to serve as the standing trustee for chapter 12 or chapter 13 cases in a particular region; and

(7) The term *United States Trustee* means, alternatively:

(i) A United States Trustee appointed under 28 U.S.C. 581; or

(ii) A person acting as a United States Trustee under 28 U.S.C. 585.

(b) The United States Trustee may issue a decision to deny a trustee's claim of actual, necessary expenses. Reasons for denial include, but are not limited to, finding that the trustee failed to do any of the following:

(1) Provide to the United States Trustee sufficient justification for the expense;

(2) Demonstrate to the United States Trustee that the expense is a cost effective use of funds;

(3) Demonstrate to the United States Trustee that the expense is reasonably related to the duties of the trustee;

(4) Obtain authorization from the United States Trustee prior to making an expenditure that was not provided for in the current budget;

(5) Provide the United States Trustee with documents, materials, or other information pertaining to the expense;

(6) Timely submit to the United States Trustee accurate budgets or requests for amendment of budgets to cover the additional expense; or

(7) Demonstrate to the United States Trustee that the expense is directly related to office operations.

(c) Before issuing a notice of denial, the United States Trustee shall communicate in writing with the trustee in an attempt to resolve any dispute over a claim of actual, necessary expenses:

(1) For disputes involving the trustee's projected expenses for the upcoming fiscal year budget, the United States Trustee shall either resolve the dispute or issue a notice of denial no later than July 30 of the current calendar year for a chapter 12 standing trustee or October 31 of the current calendar year for a chapter 13 standing trustee, or if the United States Trustee has requested additional information, 30 calendar days from submission of the additional information if such submission is after July 1 for a chapter 12 standing trustee or October 1 for a chapter 13 standing trustee, unless the trustee and United States Trustee agree to a longer period of time. Any projected expenses not specifically disputed shall be approved in the ordinary course and the trustee's fee shall be set on an interim basis;

(2) For disputes over amendments to the current year budget, the United States Trustee shall either resolve the dispute or issue a notice of denial no later than 30 calendar days after the trustee's amendment request, or if the United States Trustee has requested additional information, 30 calendar days from submission of the additional information, unless the trustee and the United States Trustee agree to a longer period of time. Any portion of the amendment not specifically disputed shall be approved in the ordinary course;

(3) If the United States Trustee does not resolve the dispute or issue a notice of denial within the time frames identified in (c)(1) or (2) of this section, the trustee's claim of actual, necessary expenses shall be deemed denied on the next business day following expiration of the time frames identified in (c)(1) or (2) of this section.

(d) The United States Trustee shall notify a trustee in writing of any decision denying a trustee's claim of actual, necessary expenses. The notice shall state the reason(s) for the decision and shall reference any documents or communications relied upon in reaching the decision. The United States Trustee shall provide to the trustee copies of any such non-privileged documents that were not supplied to the United States Trustee by the trustee. The notice shall be sent to the trustee by overnight courier, for delivery the next business day.

(e) The notice shall advise the trustee that the decision is final and unreviewable unless the trustee requests in writing a review by the Director no later than 21 calendar days from the date of the notice to the trustee. If the United States Trustee did not issue a notice of denial, and the expenses were deemed denied under (c)(3) of this section, the trustee shall have 21 calendar days from the date on which the expenses were deemed denied to submit a request for review to the Director.

(f) The decision to deny a trustee's claim of actual, necessary expenses shall take effect upon the expiration of a trustee's time to seek review from the Director or, if the trustee timely seeks such review, upon the issuance of a final decision by the Director.

(g) The trustee's request for review shall be in writing and shall fully describe why the trustee disagrees with the United States Trustee's decision, and shall be accompanied by all documents and materials the trustee wants the Director to consider in reviewing the United States Trustee's decision. The trustee shall send the original and one copy of the request for review, including all accompanying documents and materials, to the Office of the Director by overnight courier, for delivery the next business day. In order to be timely, a request for review shall be received at the Office of the Director no later than 21 calendar days from the date of the notice to the trustee or the date the expenses were deemed denied. The trustee shall also send a copy of the request for review to the United States Trustee by overnight courier, for delivery the next business day.

(h) The United States Trustee shall have 21 calendar days from the date of the trustee's request for review to submit to the Director a written response regarding the matters raised in the trustee's request for review. The United States Trustee shall provide a copy of this response to the trustee by overnight courier, for delivery the next business day.

(i) The Director may seek additional non-privileged information from any party, in the manner and to the extent the Director deems appropriate.

(j) In reviewing the decision to deny a trustee's claim of actual, necessary expenses, the Director shall determine:

(1) Whether the decision is supported by the record; and

(2) Whether the decision constitutes an appropriate exercise of discretion.

(k) The Director shall issue a final decision no later than 90 calendar days from the receipt of the trustee's request for review, or, if the Director has requested additional information, 30 calendar days from submission of the additional information, unless the trustee agrees to a longer period of time. The Director's final decision on the trustee's request for review shall constitute final agency action.

(l) In reaching a final decision the Director may specify a person to act as a reviewing official. The reviewing official may not be under the supervision of the United States Trustee who denied the trustee's claim of actual, necessary expenses. The reviewing official's duties shall be specified by the Director on a case-by-case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director

with written recommendations, and such other duties as the Director shall prescribe in a particular case.

(m) This rule does not authorize a trustee to seek review of any decision to change maximum annual compensation, to decrease or increase appointments of trustees in a region or district, to change the trustee's percentage fee, or to suspend, terminate, or remove a trustee.

(n) A trustee must exhaust all administrative remedies before seeking redress in any court of competent jurisdiction.

Dated: May 12, 2011.

Clifford J. White III,

Director, Executive Office for United States Trustees.

[FR Doc. 2011–12187 Filed 5–27–11; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 161

[Docket No. USCG–1998–4399]

RIN 1625–AA58

Vessel Traffic Service Lower Mississippi River; Correction

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The United States Coast Guard published a final rule in the **Federal Register** on October 28, 2010 (75 FR 66309) establishing a mandatory participation Vessel Traffic Service (VTS) on the Lower Mississippi River and transferring certain vessel traffic management provisions of the Mississippi River, Louisiana—Regulated Navigation Area to the VTS. That document inadvertently transposed the coordinates for two of the reporting points for the Algiers Point Special Area.

DATES: Effective on May 31, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this correcting amendment or the corresponding rule, call or e-mail Lieutenant Commander Jim Larson, Office of Shore Forces (CG–7413), Coast Guard; telephone 202–372–1554, e-mail *James.W.Larson@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: This amendment corrects a previously printed error in the final rule that mistakenly transposed geographic coordinates for the Algiers Canal Forebay and Huey P Long Bridge reporting points in Table 161.65(f), VTS Lower Mississippi River Reporting Points.

List of Subjects in 33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, 33 CFR part 161 is corrected by making the following correcting amendment:

PART 161—VESSEL TRAFFIC MANAGEMENT

■ 1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70119; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 161.65, revise Table 161.65(f) to read as follows:

§ 161.65 Vessel Traffic Service Lower Mississippi River.

* * * * *

(f) * * *

TABLE 161.65(f)—VTS LOWER MISSISSIPPI RIVER REPORTING POINTS

Designator	Geographic name	Geographic description	Latitude/longitude/mile marker	Notes
A	Algiers Canal Forebay	88.0 AHP	29°55.40′ N; 89°57.7′ W	Upbound transiting Algiers Point Special Area.
B	Industrial Canal	92.7 AHP	29°57.2′ N; 90°01.68′ W	Upbound transiting Algiers Point Special Area.
C	Crescent Towing Smith Fleet.	93.5 AHP	29°57.50′ N; 90°02.62′ W	Upbound Towing vessels transiting Algiers Point Special Area.
D	Marlex Terminal (Naval Ships).	99.0 AHP	29°54.65′ N; 90°05.87′ W	Downbound transiting Algiers Point Special Area.
E	Huey P Long Bridge	106.1 AHP	29°56.6′ N; 90°10.1′ W	Downbound transiting Algiers Point Special Area.

Dated: May 24, 2011.

Kathryn A. Sinniger,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0375]

RIN 1625–AA00

Safety Zone; M.I.T.'s 150th Birthday Celebration Fireworks, Charles River, Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Sector Boston Captain of the Port (COTP) Zone for the M.I.T.'s 150th Birthday Celebration Fireworks display. This safety zone is necessary to provide for the safety of life on navigable waters during the fireworks event. Entering into, transiting through, mooring or anchoring within this zone is prohibited unless authorized by the COTP or the designated on-scene representative.

DATES: This rule is effective and will be enforced from 9 p.m. to 10 p.m. on June 4, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0375 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0375 in the ''Keyword''