

(i) Not have any default elective contributions made on his or her behalf; or

(ii) Have contributions made in a different amount or percentage of compensation.

(3) *Covered employee.* Covered employee means an employee who is covered under the automatic contribution arrangement, determined under the terms of the plan. A plan must provide whether an employee who makes an affirmative election remains a covered employee. If a plan provides that an employee who makes an affirmative election described in paragraph (e)(2)(i) or (e)(2)(ii) of this section remains a covered employee, then the employee must continue to receive the notice described in paragraph (b)(3) of this section and the plan may be eligible for the excise tax relief with respect to excess amounts distributed within 6 months after the end of the plan year under section 4979(f)(1). Such an employee will also have the default election reapply if the plan provides that the employee's prior affirmative election no longer remains in effect and the employee does not make a new affirmative election.

(4) *Default elective contributions.* Default elective contributions means the contributions that are made at a specified level or amount under an automatic contribution arrangement in the absence of a covered employee's affirmative election that are—

(i) Contributions described in section 402(g)(3); or

(ii) Contributions made to an eligible governmental plan within the meaning of § 1.457-2(f) that would be elective contributions if they were made under a qualified plan.

(f) *Effective/applicability date*—(1) *Statutory effective date.* Section 414(w) applies to plan years beginning on or after January 1, 2008.

(2) *Regulatory effective date.* This section applies to plan years beginning on or after January 1, 2010. For plan years that begin in 2008, a plan must operate in accordance with a good faith interpretation of section 414(w). For this purpose, a plan that operates in accordance with this section will be treated as operating in accordance with a good faith interpretation of section 414(w).

## PART 54—PENSION EXCISE TAXES

■ **Par. 14.** The authority citation for part 54 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 15.** Section 54.4979-1, paragraph (c)(1) is revised to read as follows:

### § 54.4979-1 Excise tax on certain excess contributions and excess aggregate contributions.

\* \* \* \* \*

(c) *No tax when excess distributed within 2½ months after close of year or additional employer contributions made*—(1) *General rule.* No tax is imposed under this section on any excess contribution or excess aggregate contribution, as the case may be, to the extent the contribution (together with any income allocable thereto) is corrected before the close of the first 2½ months of the following plan year (6 months in the case of a plan that includes an eligible automatic contribution arrangement within the meaning of section 414(w)). The extension to 6 months applies to a distribution of excess contributions or excess aggregate contributions for a plan year beginning on or after January 1, 2010, only where all the eligible NHCEs and eligible HCEs (both as defined in § 1.401(k)-6 of this Chapter) are covered employees under an eligible automatic contribution arrangement within the meaning of section 414(w) for the entire plan year (or the portion of the plan year that the eligible NHCEs and eligible HCEs are eligible employees under the plan). Qualified nonelective contributions and qualified matching contributions taken into account under § 1.401(k)-2(a)(6) of this Chapter or qualified nonelective contributions or elective contributions taken into account under § 1.401(m)-2(a)(6) of this Chapter for a plan year may permit a plan to avoid excess contributions or excess aggregate contributions, respectively, even if made after the close of the 2½ month (or 6 month) period for distributing excess contributions or excess aggregate contributions without the excise tax. See § 1.401(k)-2(b)(1)(i) and (5)(i) of this Chapter for methods to avoid excess contributions, and § 1.401(m)-2(b)(1)(i) of the Chapter for methods to avoid excess aggregate contributions.

\* \* \* \* \*

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement,*

Approved: January 16, 2009.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E9-3716 Filed 2-23-09; 8:45 am]

**BILLING CODE 4830-01-P**

## NATIONAL LABOR RELATIONS BOARD

### 29 CFR Part 102

#### Revisions of Regulations Concerning Procedures for Electronic Filing; Correction

**AGENCY:** National Labor Relations Board.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to the Summary and Supplementary Information to the Final Rule that was published in the **Federal Register** on Friday, January 30, 2009 (74 FR 5618) regarding the Board's amendment of regulations concerning the procedures for filing documents with the Agency electronically.

**DATES:** This correction is effective upon publication in the **Federal Register**, and is applicable on January 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Lester A. Heltzer, Executive Secretary, 202-273-1067.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Final Rule that is the subject of this document applies to Section 102.114 of the Agency's Rules and Regulations.

##### Need for Correction

As published, the **SUMMARY** and **SUPPLEMENTARY INFORMATION** to the Final Rule contains errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of the Final Rule, which was the subject of FR Doc. E9-1832, is corrected as follows:

1. On page 5619, column 1, in the Summary, the first paragraph of the column, last sentence in the paragraph the language "If electronic service is not possible, the other party shall be notified by telephone of the substance of the transmitted document and a copy of the document shall be served personally, or by registered mail, certified mail, regular mail, or private delivery service, or, with the consent of the other party, by facsimile transmission." is corrected to read "If service by e-mail is not possible, the e-filing party must call the other party to notify them of the substance of the e-filed document and then serve a copy of the document, no later than the next day, by personal service, by overnight delivery service, or, with permission of the party receiving the document, by facsimile transmission."

2. On page 5619, column 2, in the Supplementary Information, second paragraph of the column, fifth to eleventh lines of the paragraph, the language “the Board has now decided to allow parties to serve documents upon each other electronically, using e-mail, and to eliminate the expedited service requirements that have proven to be an unnecessary burden.” is corrected to read “the Board will now require that service of e-filed documents on other parties to a proceeding be effectuated by e-mail whenever possible.”

3. On page 5619, column 2, in the Supplementary Information, second paragraph of the column, third and fourth lines from the bottom of the paragraph, the language “followed by service by traditional means,” is corrected to read “followed by expedited service.”

Dated: February 19, 2009.

**Lester A. Heltzer,**

*Executive Secretary.*

[FR Doc. E9-3892 Filed 2-23-09; 8:45 am]

BILLING CODE 7545-01-P

## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 633

RIN 0702-AA61

[Docket No. USA-2009-0004]

#### Individual Requests for Access or Amendment of CID Reports of Investigation

**AGENCY:** Department of the Army, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Army is amending its rule on Individual Requests for Access or Amendment of CID Reports of Investigation to correct the mailing address. The address for submitting requests for access to, or amendment of, USACIDC investigative reports has changed.

**DATES:** *Effective Date:* This rule is effective February 24, 2009.

**FOR FURTHER INFORMATION CONTACT:** SGM David K. Schumann, 703-806-0272, e-mail: david.schumann@us.army.mil.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In the July 27, 1979, issue of the **Federal Register** (44 FR 44156), the Department of the Army issued a final rule. This final rule corrects the mailing address for USACIDC. The U.S. Army

Crime Records Center moved to Fort Belvoir in May 1995.

##### B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the rule change does 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. 601-612.

##### C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the rule change does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of \$100 million or more.

##### D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the rule change does not have an adverse impact on the environment.

##### E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the rule change does not involve collection of information from the public.

##### F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the rule change does not impair private property rights.

##### G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this rule change is not a significant regulatory action.

##### H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 that Executive Order does not apply.

##### I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 that Executive Order does not apply because

the rule change will not have a substantial 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.

**Phillip J. McGuire,**

*Director, U.S. Army Crime Records Center.*

#### List of Subjects in 32 CFR Part 633

Freedom of information, Investigation, Privacy.

■ For reasons stated in the preamble 32 CFR part 633 is amended as follows:

#### PART 633—INDIVIDUAL REQUESTS FOR ACCESS OR AMENDMENT OF CID REPORTS OF INVESTIGATION

■ 1. The authority citation for part 633 continues to read as follows:

**Authority:** Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

■ 2. Section 633.13 is revised to read as follows:

##### § 633.13 Submission of requests.

Requests for access to, or amendment of, USACIDC investigative reports will be forwarded to the Director, U.S. Army Crime Records Center (CICR-FP), 6010 6th Street, Fort Belvoir, VA 22060-5585.

[FR Doc. E9-3883 Filed 2-23-09; 8:45 am]

BILLING CODE 3710-08-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910091344-9056-02]

RIN 0648-XN42

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is reopening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to fully use the A season allowance of the 2009 total allowable catch (TAC) of pollock specified for Statistical Area 610 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 1, 2009, through