

instructor certificates and inspection authorizations for renewals from U.S. military and civilian personnel (U.S. personnel) who are assigned outside the United States in support of U.S. Armed Forces operations. SFAR 100–2 also continues to allow FSDOs to accept expired airman written test reports for certain practical tests from U.S. personnel who are assigned outside the United States in support of U.S. Armed Forces operations. This action is necessary to avoid penalizing U.S. personnel who are unable to meet the regulatory time limits of their flight instructor certificate, inspection authorization, or airman written test report because they are serving outside the United States in support of U.S. Armed Forces operations. The effect of this action is to give U.S. personnel who are assigned outside the United States in support of U.S. Armed Forces operations extra time to meet certain eligibility requirements in the current rules.

The FAA received no comments on Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations direct final rule.

#### Availability of Docket

The complete docket for the direct final rule entitled Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations, Docket No. FAA–2009–0923 may be examined at <http://www.regulations.gov> at any time or go to Docket Operations in Room W12–140 of the West Building, Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Conclusion

In consideration that no comments were submitted in response to the direct final rule, the FAA has determined that no further rulemaking action is necessary. SFAR 100–2 remains in effect as adopted.

Issued in Washington, DC, on April 12, 2010.

**Pamela Hamilton-Powell,**  
*Director of Rulemaking, ARM–1.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 279

[Docket ID DOD–2009–OS–0141; RIN 0790–AI59]

#### Retroactive Stop Loss Special Pay Compensation

**AGENCY:** Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Final rule.

**SUMMARY:** This rule provides for Retroactive Stop Loss Special Pay as authorized and appropriated in The Supplemental Appropriations Act, 2009. This program is of short duration, from October 21, 2009, to October 21, 2010. The last day for submission of claims to the Secretaries of the Military Departments for Retroactive Stop Loss Special Pay is October 21, 2010. The Secretaries concerned are not authorized to make payments on claims submitted after October 21, 2010.

**DATES:** This rule is effective October 21, 2009, to comply with section 310 of Public Law 111–32 that calls for the Secretary of Defense to issue a rule not later than 120 days from the date of enactment of the Act. The change of eligibility for Retroactive Stop Loss Special Pay is effective on December 19, 2009, the enactment date of the 2010 Department of Defense Appropriations Act.

**FOR FURTHER INFORMATION CONTACT:** LTC Brigitte Williams, (703) 614–3973.

**SUPPLEMENTARY INFORMATION:** This action provides for Retroactive Stop Loss Special Pay as authorized and appropriated in The Supplemental Appropriations Act, 2009 (Section 310 of Pub. L. 111–32) and as described in this rule.

An interim final rule was published October 23, 2009, with an effective date of October 21, 2009 (74 FR 54751 through 54754). No comments were received on the interim final rule.

However, the Department of Defense Appropriations Act, 2010, Section 8108, contains statutory provisions that modify eligibility for Retroactive Stop Loss Pay and extend payments for Stop Loss Special Pay to active duty Service members serving under the Stop Loss authority through FY2010.

Under these provisions, Service members who voluntarily reenlisted or extended their service or suspended their retirement and received a bonus for such reenlistment or extension of service are not eligible to receive the

Retroactive Stop Loss Special Pay. The change of eligibility for Retroactive Stop Loss Special Pay is effective on December 19, 2009. The Secretaries of the Military Departments and Director, DFAS, shall stop all payments on applications from the newly ineligible applicants regardless of when received or approved. These applications will be returned to the claimant with an explanation of the change in law that made them ineligible. There will be no recoupment of payments made, prior to December 19, 2009. Additionally, DoD has determined that good cause exists for exemption from public comment of these changes and their effective date as they are in direct compliance with the statute.

The amount of special pay remains \$500 per month. If an eligible member dies before the payment is made, the Secretary of the Military Department concerned shall make the payment in accordance with Section 2771 of title 10, United States Code.

A new paragraph (b) has been added to § 279.2 of the final rule to reflect the change in eligibility. A new paragraph (c) has added to § 279.3 of the final rule to reflect the payment rules when an eligible member dies before payment can be made.

#### Executive Order 12866, “Regulatory Planning and Review”

It has been certified that 32 CFR part 279 does:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities. The Supplemental Appropriations Act, 2009 appropriated \$534,400,000 to the Department of Defense, to remain available for obligation until expended: Provided, that such funds shall be available to the Secretaries of the military departments only to make payment of claims specified by this law.

It has been certified that 32 CFR part 279 does not:

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

**Congressional Review Act, 5 U.S.C. 801, et seq.**

It has been certified that this rule is a major rule under the Congressional Review Act. This rule will have an annual effect on the economy of \$100 million or more. Because of the congressionally mandated deadline to begin the program, 5 U.S.C. 801(a)(3) does not apply.

**Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been certified that 32 CFR part 279 does not contain a Federal mandate resulting in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

**Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified 32 CFR part 279 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

**Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that this rule does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These requirements have been approved by the Office of Management and Budget under OMB Control Number 0704-0464.

**Executive Order 13132, "Federalism"**

It has been certified that 32 CFR part 279 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

**List of Subjects in 32 CFR Part 279**

Armed forces, Pay.

■ Accordingly, 32 CFR part 279 is added to read as follows:

**PART 279—RETROACTIVE STOP LOSS SPECIAL PAY COMPENSATION**

- Sec.
- 279.1 Purpose.
  - 279.2 Eligibility.
  - 279.3 Payment.
  - 279.4 Claims process.
  - 279.5 Recordkeeping.
  - 279.6 Reporting.

**Authority:** Sec. 310, Pub. L. 111-32, as amended.

**§ 279.1 Purpose.**

This part provides for Retroactive Stop Loss Special Pay as authorized and appropriated in section 310 of Public Law 111-32 and as described in this part.

**§ 279.2 Eligibility.**

(a) The Secretaries concerned shall employ the Retroactive Stop Loss Special Pay authority and appropriated funding to compensate Service members, including members of the Reserve components, former and retired members under the jurisdiction of the Secretary who, at any time during the period beginning on September 11, 2001, and ending on September 30, 2009, served on active duty while the Service members' enlistment or period of obligated service was extended, or whose eligibility for retirement was suspended pursuant to any provision of law authorizing the President to extend any period of obligated service, or suspend eligibility for retirement, of a Service member in time of war or of national emergency declared by Congress or the President (commonly referred to as a "stop loss authority").

(b) Service members described in paragraph (a) of this section, who voluntarily reenlisted or extended their service or suspended their retirement and received a bonus for such reenlistment or extension of service are not eligible to receive the Retroactive Stop Loss Special Pay.

(c) Service members who were discharged or released from the Armed Forces under other than honorable conditions are not permitted to receive Retroactive Stop Loss Special Pay under section 310 of Public Law 111-32.

**§ 279.3 Payment.**

(a) The amount of compensation shall be \$500 per month for each month or any portion of a month during the period specified above that the member was retained on active duty as a result of application of the Stop Loss Authority. The Military Departments are to determine and certify who is eligible to receive the Retroactive Stop Loss Special Pay and provide this information to the Defense Finance and Accounting Service (DFAS) for payment. Except as noted in this section, retroactive Stop Loss Special Pay is payable to a member under this section in addition to any other amounts payable or paid to the member by law or policy.

(b) Payment rules are:

(1) Service members will not receive a payment under "The Supplemental Appropriations Act, 2009", section 310 of Public Law 111-32 and "Consolidated

Security, Disaster Assistance, and Continuing Appropriations Act, 2009", section 8116 of Public Law 110-329, for the same month or portion of a month during which the member was retained on active duty under Stop Loss Authority as outlined in the Secretary of Defense Memorandum dated March 19, 2009, Subject: Stop Loss Special Pay.

(2) By law, Reserve Component members retained under Stop Loss Authority will receive Retroactive Stop Loss Special Pay only for service on active duty. As such, Reserve Component members may have periods before mobilization and after demobilization while under Stop Loss Authority where no Retroactive Stop Loss Special Pay can be paid.

(3) If an eligible member dies before the payment is made, the Secretary of the Military Department concerned shall make the payment in accordance with section 2771 of title 10, United States Code.

(4) Retroactive Stop Loss Special Pay is subject to all applicable taxes.

**§ 279.4 Claims process.**

(a) The last day for submission of claims to the Secretaries of the Military Departments for Retroactive Stop Loss Special Pay is October 21, 2010. The Secretaries concerned are not authorized to make payments on claims that are submitted after October 21, 2010.

(b) The additional period between the date of Under Secretary of Defense for Personnel and Readiness Memorandum, Subject: Retroactive Stop Loss Special Pay Compensation signed on September 23, 2009 and October 21, 2009 is provided for the Military Departments to:

(1) Identify and formally notify members or former members that official records indicate their potential eligibility for Retroactive Stop Loss Special Pay. This notification should reflect the estimated number of eligible months and the projected special pay amount along with guidance about how to submit a claim. Special care should be taken to work with family members of eligible Service members who are deceased. These family members may not be knowledgeable of the process and will require additional assistance after filing their claim.

(2) Make a public announcement of the Retroactive Stop Loss Special Pay Authority highlighting the scope of the program, who qualifies for the benefits, and how to submit a claim to a Service point of contact. The Service contact information will be provided in all public releases by the Office of Secretary of Defense (OSD) Public

Affairs Office, as well as by each of the Services Public Affairs Offices.

(3) Establish and publish evidentiary requirements beyond those listed in this paragraph to support an unrecorded extension under Stop Loss Authority. Official documents may include but are not limited to:

(i) DD 214 Form, Certificate of Release or Discharge from Active Duty and/or DD 215, Correction to DD 214.

(ii) Personnel record or enlistment or reenlistment document recording original expiration of service date.

(iii) Approved retirement memorandum or orders establishing retirement prior to actual date of retirement as stipulated in DD Form 214 or DD Form 215.

(iv) Approved resignation memorandum or transition orders establishing a separation date prior to actual date of separation as stipulated in DD Form 214 or DD Form 215.

(v) Signed documentation or affidavit from knowledgeable officials from the individual's chain of command.

(4) Establish claim and appellate procedures, websites, points of contact for assistance or other outreach mechanisms to inform and expedite claims. Publish information on use of Board for Correction of Military/Naval Records.

(5) Claim is submitted and adjudicated by the Service, then sent forward to the Defense Finance and Accounting Service (DFAS) for payment. Upon arrival DFAS will route claim to Debt Claims Management who will process the claim. Payments are then routed through Dispersing and then to Standards and Compliance. Then Dispersing will make payment to the former Service member or estate. Standards and Compliance will build and route reports for OSD and personnel centers.

#### **§ 279.5 Recordkeeping.**

The Military Departments will maintain a by-name accounting of claims that will allow aggregate summaries to depict:

(a) The number of claims filed.

(b) The number of claims approved.

(c) The number of claims denied and the reasons why (especially with regard to subparagraph (h) of section 310 of Pub. L. 111-32).

(d) The number of appeals.

(e) The number of claims pending and the reasons why.

(f) The amount of funding that has been obligated, to include mean and median payments provided per claimant, the number of claims and payments made in accordance with section 2771 of title 10, United States Code for deceased claimants.

(g) The mean and median processing times from receipt of claim to payment.

#### **§ 279.6 Reporting.**

The Department of Defense shall provide a consolidated report to the congressional defense committees on the implementation of section 310 of Public Law 111-32. As such, the Under Secretary of Defense for Personnel and Readiness, in coordination with the Under Secretary of Defense (Comptroller), will establish data formats and narrative requirements for a cumulative quarterly report beginning January 21, 2010, to monitor the program and the remaining balance of funding appropriated for this purpose.

Dated: April 12, 2010.

**Mitchell S. Bryman,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2010-8739 Filed 4-15-10; 8:45 am]

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 147**

**[Docket No. USCG-2009-0571]**

**RIN 1625-AA00**

#### **Safety Zone; BW PIONEER at Walker Ridge 249, Outer Continental Shelf FPSO, Gulf of Mexico**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone around the BW PIONEER, a Floating Production, Storage and Offloading (FPSO) system, at Walker Ridge 249 in the Outer Continental Shelf. The purpose of the safety zone is to protect the FPSO from vessels operating outside the normal shipping channels and fairways. Placing a safety zone around the FPSO significantly reduces the threat of allisions, oil spills, and releases of natural gas, and thereby protects the safety of life, property, and the environment.

**DATES:** This rule is effective May 17, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0571 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0571 in the "Keyword" box, and

then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Dr. Madeleine McNamara, U.S. Coast Guard, District Eight Waterways Management Coordinator; telephone 504-671-2103, [madeleine.w.mcnamara@uscg.mil](mailto:madeleine.w.mcnamara@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On August 24, 2009, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; BW PIONEER at Walker Ridge 249, Outer Continental Shelf FPSO, Gulf of Mexico in the **Federal Register** (74 FR 42612). We received no comments on the proposed rule. No public meeting was requested and none was held.

##### **Basis and Purpose**

The Coast Guard is establishing a safety zone of 500 meters around the stern of the FPSO when it is moored to the turret buoy. If the FPSO detaches from the turret buoy, the safety zone of 500 meters is measured from the center point at 26°41'46.25" N and 090°30'30.16" W. This action is based on a thorough and comprehensive examination of the criteria established by the Eighth District, IMO guidelines, and existing regulations. The FPSO can swing in a 360 degree arc around the center point. The safety zone will reduce significantly the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico by prohibiting entry into the zone unless specifically authorized by the Commander, Eighth Coast Guard District.

The safety zone established by this regulation is in the deepwater area of the Gulf of Mexico in Walker Ridge 249 with a center point at 26°41'46.25" N and 090°30'30.16" W. For the purpose of this regulation, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles