

when the state waives the tentative decision, the Assistant Secretary “shall issue a final decision.” (29 CFR 1902.21(b)).

### Decision on Rejecting the State’s Statute

Pursuant to the procedures set forth in 29 CFR 1953.6(e) and 1902.22–23, the Assistant Secretary has made a final decision to reject the Arizona State Plan’s statute for fall protection in residential construction. Thus, the Assistant Secretary rejects the changes to Arizona’s State Plan prescribed by Title 23, chapter 2, article 13, section 01, Arizona Revised Statutes (A.R.S. 23–492.01) under 29 CFR 1953.6(e) and 1902.22, and now publishes that decision in the **Federal Register** pursuant to 29 CFR 1902.23. This rejection excludes the changes prescribed by A.R.S. 23–492.01 from the Arizona State Plan. The Assistant Secretary is deferring decision on the simultaneously proposed action of reconsidering the State Plan’s final approval. This deferral is pending Arizona’s expected repeal of the rejected statute and subsequent enforcement of a standard at least as effective as OSHA’s standard. The Assistant Secretary’s decision to reject the state statute is based upon the facts determined by OSHA in monitoring the Arizona State Plan and a comparative review of Arizona’s statute and OSHA’s standard, and was reached after opportunity for public comment.

### Effect of the Decision

SB 1307 contains a conditional repeal provision stating that if OSHA does reject the state statute, and publishes that decision in the **Federal Register** pursuant to 29 CFR 1902.23, then A.R.S. 23–492 is repealed by operation of law (SB 1307 Sec. 7). Therefore, the expected effect of the Assistant Secretary’s decision to reject Arizona’s statute covering fall protection in residential construction is that ADOSH will revert to enforcing 29 CFR part 1926, subpart M. The Assistant Secretary will defer the decision on reconsideration to allow the state time to implement and begin enforcement of STD 03–11–002. OSHA will continue to monitor the State Plan, specifically enforcement activities in residential construction, to confirm that ADOSH is implementing and enforcing subpart M, or an at least as effective alternative, in an at least as effective manner. The lack of any such implementation or enforcement would leave a gap in the State’s enforcement program for construction, but if the State Plan retained its final approval, neither the State Plan nor OSHA could cover that

gap. Any such gap in the State Plan’s enforcement program would serve as the basis for the Assistant Secretary’s reconsideration of 18(e) final approval status. At this time, the Assistant Secretary is deferring the decision on reconsideration pending the state’s enforcement of subpart M.

### Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC, authorized the preparation of this document. OSHA is issuing this document under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor’s Order No. 1–2012 (77 FR 3912), and 29 CFR parts 1902 and 1953.

Signed in Washington, DC, on January 30, 2015.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 50

### Interim Guidance Concerning the Terrorism Risk Insurance Program Reauthorization Act of 2015

**AGENCY:** Department of the Treasury, Departmental Offices.

**ACTION:** Notice of interim guidance.

**SUMMARY:** This notice provides interim guidance concerning the Terrorism Risk Insurance Program (Program) under the Terrorism Risk Insurance Act of 2002, as amended (TRIA). In this notice, the Department of the Treasury (Treasury) addresses issues that have arisen under Treasury’s regulations for the Program (Program regulations) due to the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2015 (2015 Reauthorization Act).

**DATES:** February 4, 2015.

**FOR FURTHER INFORMATION CONTACT:** Kevin K. Meehan, Policy Advisor, Federal Insurance Office, 202–622–7009; Thomas E. Scanlon, Senior Counsel, Office of General Counsel (Banking and Finance), 202–622–8170.

**SUPPLEMENTARY INFORMATION:** This notice provides interim guidance addressing the application of certain provisions of TRIA<sup>1</sup> and the Program

regulations<sup>2</sup> following enactment of the 2015 Reauthorization Act.<sup>3</sup>

Treasury expects to issue a proposal to amend the Program regulations; this interim guidance may be relied upon by members of the public until superseded by the Program regulations, as amended, or by subsequent guidance.<sup>4</sup>

### I. Background

TRIA was enacted following the attacks on September 11, 2001, to address disruptions in the market for terrorism risk insurance, to help ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events. Title I of TRIA creates the Program, requires insurers to “make available” terrorism risk insurance for commercial property and casualty losses resulting from certified acts of terrorism (insured losses), and provides for shared public and private compensation for such insured losses. Pursuant to TRIA, the Secretary of the Treasury administers the Program. The Federal Insurance Office assists the Secretary of the Treasury in administering the Program.

The Program was originally scheduled to terminate on December 31, 2005; however, the Terrorism Risk Insurance Extension Act of 2005<sup>5</sup> extended the Program through December 31, 2007, and the Terrorism Risk Insurance Program Reauthorization Act of 2007<sup>6</sup> further extended the Program through December 31, 2014. On January 12, 2015, the President signed into law the 2015 Reauthorization Act; Section 101 of that Act amends the Program’s termination date to December 31, 2020.

### II. Interim Guidance

Treasury considers the Program regulations to be in effect, except to the extent that any provision of the Program regulations is inconsistent with TRIA, as amended by the 2015 Reauthorization Act. In the case of an inconsistency, the provision(s) of TRIA, as amended by the 2015 Reauthorization Act, shall apply. Furthermore, Treasury recognizes that the 2015 Reauthorization Act introduces ambiguities regarding application of certain sections of the Program regulations. This interim guidance is designed to address certain requirements under the Program

<sup>2</sup> 31 CFR part 50.

<sup>3</sup> Public Law 114–1, 129 Stat. 3.

<sup>4</sup> 31 CFR 50.7.

<sup>5</sup> Public Law 109–144, 119 Stat. 2660.

<sup>6</sup> Public Law 110–160, 121 Stat. 1839.

<sup>1</sup> 15 U.S.C. 6701, note.

regulations and TRIA, as amended by the 2015 Reauthorization Act.

#### *Interim Guidance One (Documentation)*

Due to requirements under state law regulating rates and forms, an insurer may need additional time to provide disclosures and offers of coverage for insured losses in compliance with the Program regulations and TRIA, as amended by the 2015 Reauthorization Act. An insurer should provide disclosures and offers that comply with the Program regulations and TRIA, as amended by the 2015 Reauthorization Act, as soon as possible and not later than April 13, 2015.

#### *Interim Guidance Two (Form of Disclosure)*

Section 50.17(c) of the Program regulations provides that an insurer may use NAIC Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2, or other disclosures that meet the requirements of the Program regulations. NAIC Model Disclosure Form No. 1 and NAIC Model Disclosure Form No. 2, as amended in 2015, are consistent with the disclosure requirements of the Program regulations and TRIA, as amended by the 2015 Reauthorization Act.

#### *Interim Guidance Three (Timing of Disclosure)*

As amended by the 2015 Reauthorization Act, TRIA no longer requires an insurer to provide to a policyholder certain disclosures at the time of a policy's "purchase," but still requires the insurer to provide such disclosures at the time of "offer" and "renewal." The timing of an insurer's disclosures may conform with either subpart B of the Program regulations or Section 103(b)(2) of TRIA, as amended by the 2015 Reauthorization Act.

#### *Interim Guidance Four (Content of Disclosure)*

An insurer that offered coverage for insured losses prior to January 12, 2015, using the then-current NAIC Model Disclosure Form No. 1, NAIC Model Disclosure Form No. 2, or other disclosures consistent with the Program regulations, is not required to provide a revised disclosure to the policyholder. Subject to Interim Guidance One, disclosures on or after January 12, 2015 provided in connection with a new or mid-term offer of coverage for insured losses should be based on the requirements of the Program regulations and TRIA, as amended by the 2015 Reauthorization Act.

#### *Interim Guidance Five (New Offers of Coverage)*

(a) Except as described herein, Treasury expects that an insurer will make a new offer of coverage for insured losses with respect to any in-force policy that does not provide coverage for insured losses.

(b) An insurer is not expected to make a new offer of coverage for insured losses if—

(i) the policy incorporates a conditional exclusion or change of terms and conditions relating to coverage for insured losses and, because the Program is in effect, the insurer forbears effective January 1, 2015 (or as of the effective date of the policy, if later) on the exercise of the conditional exclusion or change in terms and conditions. Not later than April 13, 2015, an insurer should provide to the policyholder written notice of the insurer's forbearance or written notice of the insurer's withdrawal of any previous exercise of the conditional exclusion or change in terms and conditions. In the written notice, the insurer should state that the insurer's forbearance or withdrawal, as applicable, is effective January 1, 2015 (or as of the effective date of the policy, if later); or

(ii) the policyholder declined coverage for insured losses, so long as the insurer's offer did not materially differ in price from that which the insurer would have offered following enactment of the 2015 Reauthorization Act.

(c) If a policyholder declined coverage for insured losses but the insurer's offer did materially differ in price from that which the insurer would have offered following enactment of the 2015 Reauthorization Act, then the insurer should consider making a new offer to that policyholder.

#### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act,<sup>7</sup> the information collections contained in this document have been approved by the Office of Management and Budget (OMB) under control number 1505/0197. Any agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

Dated: February 4, 2015.

**Michael T. McRaith,**

*Director, Federal Insurance Office.*

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<sup>7</sup> 44 U.S.C. 3501 *et seq.*

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 117**

[Docket No. USCG-2015-0034]

#### **Drawbridge Operation Regulation; Columbia River, Vancouver, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Burlington Northern Santa Fe (BNSF) Railway Bridge across the Columbia River, mile 105.6, at Vancouver, WA. This deviation is necessary to accommodate maintenance to replace movable rail joints. This deviation allows the bridge to remain in the closed position during maintenance activities.

**DATES:** This deviation is effective from 7 a.m. until 3 p.m. on February 25, 2015, and from 7 a.m. until 3 p.m. on February 26, 2015.

**ADDRESSES:** The docket for this deviation, [USCG-2015-0034] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 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 temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206-220-7282, email [d13-pf-d13bridges@uscg.mil](mailto:d13-pf-d13bridges@uscg.mil). If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** BNSF has requested that the BNSF Swing Bridge across the Columbia River, mile 105.6, remain closed to vessel traffic to facilitate replacement of movable rail joints. During this maintenance period the swing span of the BNSF Railway Bridge across the Columbia River at Vancouver, WA, will be disabled and the bridge will not be able to be open. The BNSF Swing Bridge, mile 105.6, provides 39 feet of vertical clearance