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Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN 3084-AA98

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the “Commission” or “FTC”) is amending its Telemarketing Sales Rule (“TSR”) by updating the fees charged to entities accessing the National Do Not Call Registry (the “Registry”) as required by the Do-Not-Call Registry Fee Extension Act of 2007.

DATES: The revised fees will become effective October 1, 2016.

ADDRESSES: Copies of this document are available on the Internet at the Commission’s Web site: <http://www.ftc.gov>.

FOR FURTHER INFORMATION CONTACT: Ami Joy Dziekan, (202) 326-2648, BCP, Federal Trade Commission, 600 Pennsylvania Avenue NW., Room CC-9225, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To comply with the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. 110-188, 122 Stat. 635) (“Act”), the Commission is amending the TSR by updating the fees entities are charged for accessing the Registry as follows: The revised rule increases the annual fee for access to the Registry for each area code of data from \$60 to \$61 per area code; increases the maximum amount that will be charged to any single entity for accessing area codes of data from \$16,482 to \$16,714; and the fee per area code of data during the second six months of an entity’s annual subscription period remains \$30.

These increases are in accordance with the Act, which specifies that beginning after fiscal year 2009, the dollar amounts charged shall be increased by an amount equal to the amounts specified in the Act, multiplied by the percentage (if any) by which the average of the monthly consumer price index (for all urban consumers published by the Department of Labor) (“CPI”) for the most recently ended 12-month period ending on June 30 exceeds the CPI for the 12-month period ending June 30, 2008. The Act also

states that any increase shall be rounded to the nearest dollar and that there shall be no increase in the dollar amounts if the change in the CPI is less than one percent. For fiscal year 2009, the Act specified that the original annual fee for access to the Registry for each area code of data was \$54 per area code, or \$27 per area code of data during the second six months of an entity’s annual subscription period, and that the maximum amount that would be charged to any single entity for accessing area codes of data would be \$14,850.

The determination whether a fee change is required and the amount of the fee change involves a two-step process. First, to determine whether a fee change is required, we measure the change in the CPI from the time of the previous increase in fees. The last fees increase was for fiscal year 2015. Accordingly, we calculated the change in the CPI since fiscal year 2015, and the increase was 1.41 percent. Because this change is over the one percent threshold, the fees will change for fiscal year 2017.

Second, to determine how much the fees should increase this fiscal year, we use the calculation specified by the Act set forth above, the percentage change in the baseline CPI applied to the original fees for fiscal year 2009. The average value of the CPI for July 1, 2007 to June 30, 2008 was 211.702; the average value for July 1, 2015 to June 30, 2016 was 238.276, an increase of 12.55 percent. Applying the 12.55 percent increase to the base amount from fiscal year 2009, leads to an increase from \$60 to \$61 in the fee from last year for access to a single area code of data for a full year for fiscal year 2017. The actual amount is \$60.78, but when rounded, pursuant to the Act, the amount is \$61. The fee for accessing an additional area code for a half year remains \$30 (rounded from \$30.39). The maximum amount charged increases to \$16,714 (rounded from \$16,713.68).

Administrative Procedure Act; Regulatory Flexibility Act; Paperwork Reduction Act. The revisions to the Fee Rule are technical in nature and merely incorporate statutory changes to the TSR. These statutory changes have been adopted without change or interpretation, making public comment unnecessary. Therefore, the Commission has determined that the notice and comment requirements of the Administrative Procedure Act do not apply. *See* 5 U.S.C. 553(b). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603, 604.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, the Office of Management and Budget (“OMB”) approved the information collection requirements in the Amended TSR and assigned the following existing OMB Control Number: 3084-0097. The amendments outlined in this Final Rule pertain only to the fee provision (§ 310.8) of the Amended TSR and will not establish or alter any record keeping, reporting, or third-party disclosure requirements elsewhere in the Amended TSR.

List of Subjects in 16 CFR Part 310

Advertising, Consumer protection, Reporting and recordkeeping requirements, Telephone, Trade practices.

Accordingly, the Federal Trade Commission amends part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108; 15 U.S.C. 6151–6155.

■ 2. In § 310.8, revise paragraphs (c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is \$61 for each area code of data accessed, up to a maximum of \$16,714; *provided*, however, that there shall be no charge to any person for accessing the first five area codes of data, and *provided further*, that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing area codes of data in the National Do Not Call Registry if the person is permitted to access, but is not required to access, the National Do Not Call Registry under this Rule, 47 CFR 64.1200, or any other Federal regulation or law. No person may participate in any arrangement to share the cost of accessing the National Do Not Call Registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) Each person who pays, either directly or through another person, the annual fee set forth in paragraph (c) of this section, each person excepted under paragraph (c) from paying the

annual fee, and each person excepted from paying an annual fee under § 310.4(b)(1)(iii)(B), will be provided a unique account number that will allow that person to access the registry data for the selected area codes at any time for the twelve month period beginning on the first day of the month in which the person paid the fee (“the annual period”). To obtain access to additional area codes of data during the first six months of the annual period, each person required to pay the fee under paragraph (c) must first pay \$61 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under paragraph (c) must first pay \$30 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the remainder of the annual period.

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By direction of the Commission.

Donald S. Clark,

Secretary.

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TENNESSEE VALLEY AUTHORITY

18 CFR Part 1304

When Obstructions on Certain Tributaries of the Tennessee River Do Not Require a Section 26a Permit from the Tennessee Valley Authority

AGENCY: Tennessee Valley Authority.

ACTION: Interpretive Rule.

SUMMARY: The Tennessee Valley Authority (TVA) is issuing guidance stating that certain structures, while obstructions across, along, or in certain tributaries of the Tennessee River, do not need a Section 26a permit from TVA, because they have an indiscernible effect on navigation, flood control or public lands or reservations.

DATES: Effective August 31, 2016.

FOR FURTHER INFORMATION CONTACT: Rebecca C. Tolene, Vice President, Natural Resources, Tennessee Valley Authority, Knoxville, Tennessee (865–632–4433).

SUPPLEMENTARY INFORMATION:

I. Legal Authority

This interpretive rule is promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831–831ee.

II. Background

Section 26a of the TVA Act requires that TVA’s approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. 16 U.S.C. 831y–1 (2012). TVA’s rules governing such approval are codified at 18 CFR part 1304. The rules include a permitting process whereby applicants may request from TVA a permit for various structures such as boat docks, piers, shoreline stabilization projects, dams, and bridges, all of which qualify as “obstructions” under TVA’s regulations. An obstruction is generally any man-made physical condition that during its continuance after completion impounds, checks, hinders, restricts, retards, diverts, or otherwise interferes with the movement of water or of objects on or in the water. Over the years, TVA has found that certain obstructions because of their location, the nature of their construction, or both have not discernibly interfered with the operation or management of the TVA reservoir system. In particular, this has occurred at locations across, along, or in certain tributary reaches that are upstream of the control or influence of TVA’s reservoir system operations. For the purpose of this rule, these are called upstream tributary reaches. At these locations, certain obstructions have an indiscernible impact on water surface elevations in the reservoir system or the flow or volume of water entering the reservoir system and thereby do not materially interfere with TVA’s flood control or navigation responsibilities. Furthermore, at these locations, TVA does not typically own property and therefore construction does not affect or interfere with the management of TVA’s property. These obstructions include, but are not limited to, stream bank stabilization, bridges and culverts, stream crossings, fences, launching ramps, boat docks, piers, and certain fills and intakes. For these reasons, TVA has determined that certain obstructions do not require approval pursuant to Section 26a of the TVA Act when located across, along, or in an upstream tributary reach of the Tennessee River.

Conversely, based on years of permitting experience, TVA has found that other obstructions across, along, or in upstream tributary reaches do potentially interfere with the management of TVA’s reservoir system. These include, but are not limited to, structures such as dams,

impoundments, interbasin transfers and certain water intakes. TVA will continue to require approval of these and other obstructions not set forth in Section III of this Interpretive Rule, when located across, along, or in an upstream tributary reach.

The Tennessee River has a 41,000-square-mile drainage basin. Thousands of miles of upstream tributary reaches ultimately flow into the Tennessee River, making it impractical to identify each upstream tributary reach in this rule. For the purpose of this rule, upstream tributary reaches do *not* include the following:

- (1) The Tennessee River;
- (2) TVA reservoirs, (TVA reservoirs are listed in Table 1);
- (3) stream reaches within a TVA reservoir, the 500-year floodplain of the Tennessee River, or both;
- (4) stream reaches downstream of a TVA dam (these reaches are listed in Table 2); and
- (5) stream reaches where TVA owns property (whether fee-owned property or other property right, such as a right to flood) in or adjacent to the reach (including property adjacent to a TVA reservoir or downstream of a TVA dam).

TVA *will* continue to review the proposed construction of obstructions located across, along, or in the above-listed five categories of reservoirs and reaches. These reservoirs and stream reaches are controlled or influenced by the operation of TVA’s reservoir system. As discussed in more detail below, individual members of the public are encouraged to contact a TVA representative for help in determining whether their location is across, along, or in a reservoir or stream reach in the above-listed five categories or across, along, or in an upstream tributary reach.

III. Scope of Interpretive Rule

TVA hereby clarifies that, going forward, the construction of the following obstructions across, along, or in an upstream tributary reach of the Tennessee River, does not require a Section 26a permit from TVA:

(a) Stream bank, bed, or channel stabilization structures—Natural or man-made obstructions to stabilize and protect banks, beds, or channels of streams or excavated channels (*e.g.*, vegetation, riprap, gabions, fiber rolls, stacked rock, retaining walls, etc.);

(b) Stream restoration, enhancement, relocation, or treatment structures—Natural or man-made obstructions for relocating a stream or for restoring or improving the stream’s function (*e.g.*, weirs or sills, boulders, wing deflectors, log, brush, rock, trees, fill, etc.);