

airspace. This regulation is within the scope of that authority as it establishes controlled airspace at the Cherokee VOR/DME navigation aid, Cherokee, WY.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012 is amended as follows:

*Paragraph 6006 En route domestic airspace areas.*

\* \* \* \* \*

#### ANM WY E6 Cherokee, WY [New]

Cherokee VOR/DME, WY

(Lat. 41°45'21" N., long. 107°34'55" W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 39°59'03" N., long. 110°43'27" W.; to lat. 40°21'23" N., long. 109°42'25" W.; to lat. 41°10'22" N., long. 109°42'26" W.; to lat. 42°15'53" N., long. 108°06'44" W.; to lat. 42°52'37" N., long. 107°47'58" W.; to lat. 43°01'57" N., long. 107°06'08" W.; to lat. 42°23'15" N., long. 106°50'11" W.; to lat. 41°49'09" N., long. 105°41'46" W.; to lat. 40°33'32" N., long. 105°37'50" W.; to lat. 40°36'40" N., long. 108°02'31" W.; to lat. 39°26'08" N., long. 110°01'37" W.; to lat. 39°37'44" N., long. 111°07'28" W., thence to the point of beginning.

Issued in Seattle, Washington, on May 12, 2013.

**Clark Desing,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2013–12313 Filed 5–23–13; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF STATE

### 22 CFR Part 42

**RIN 1400–AD39**

**[Public Notice 8332]**

#### Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State amends its regulations to eliminate the use of Form OF–224 as a method of recording an alien's entitlement to an immigrant visa classification. Due to the availability of automated systems at all immigrant visa-issuing posts, this entitlement is now recorded automatically, rendering the use of Form OF–224 unnecessary and obsolete.

**DATES:** This rule is effective May 24, 2013.

#### FOR FURTHER INFORMATION CONTACT:

Taylor W. Beaumont, Legislation and Regulations Division, Legal Affairs, Office of Visa Services, Bureau of Consular Affairs, Department of State, 2401 E Street NW., Room L–603D, Washington, DC 20520–0106, (202) 663–2951, email ([BeaumontTW@state.gov](mailto:BeaumontTW@state.gov)).

**SUPPLEMENTARY INFORMATION:** This rule eliminates the use of Form OF–224, Immigrant Visa Control Card, as a method of recording an alien's entitlement to an immigrant visa classification. Section 203(e)(3) of the Immigration and Nationality Act (INA) requires the Department of State to prescribe regulations to maintain waiting lists of applicants for immigrant visas. In accordance with this provision, 22 CFR 42.52 was amended in 1988 to require consular officers to record that an alien is entitled to an immigrant visa classification, either on Form OF–224 or through the automated system in use at selected posts. As all immigrant-visa issuing posts now use an automated system, consular officers no longer use Form OF–224, making that part of the rule obsolete.

## Regulatory Findings

### A. Administrative Procedure Act

The Department is publishing this rule as a final rule based on its determination that this rulemaking relates to a matter relating to agency management, in that this rulemaking involves non-substantive changes to procedures. The Department does not expect any public comment. Since the rule is exempt from the provisions of 5 U.S.C. 553, it will be effective immediately.

### B. Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department has reviewed this regulation and certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### C. The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

### D. The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121.

### E. Executive Order 12866: Regulatory Planning and Review

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866. Consistent with Executive Order 12866, the Department does not consider the rule to be a significant action as defined by the Executive Order.

#### *F. Executive Order 13563: Improving Regulation and Regulatory Review*

The Department of State has considered this rule in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein.

#### *G. Executive Orders 12372 and 13132: Federalism*

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

#### *H. Executive Order 12988: Civil Justice Reform*

The Department has reviewed the rule in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### *I. Paperwork Reduction Act*

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

#### **List of Subjects in 22 CFR Part 42**

Immigration, Passports and visas.

Accordingly, for the reasons set forth in the preamble, 22 CFR part 42 is amended as follows:

#### **PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED**

■ 1. The authority citation for part 42 continues to read as follows:

**Authority:** 8 U.S.C. 1104 and 1182; Pub. L. 105–277; Pub. L. 108–449; 112 Stat. 2681–795 through 2681–801; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (reg. No. 31922 (1993)); The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954. Pub. L. 106–279.

■ 2. Section 42.52 is amended by revising paragraph (c)(1) to read as follows:

#### **§ 42.52 Post records of visa applications.**

\* \* \* \* \*

(c) \* \* \*

(1) A record that an alien is entitled to an immigrant visa classification shall be made whenever the consular officer

is satisfied—or receives evidence—that the alien is within the criteria set forth in paragraph (b) of this section.

\* \* \* \* \*

Dated: April 11, 2013.

**Janice L. Jacobs,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

[FR Doc. 2013–12453 Filed 5–23–13; 8:45 am]

**BILLING CODE 4710–06–P**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

#### **32 CFR Part 165**

**[Docket ID: DOD–2009–OS–0030]**

**RIN 0790–AI45**

#### **Recoupment of Nonrecurring Costs (NCs) on Sales of U.S. Items**

**AGENCY:** Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD.

**ACTION:** Final rule.

**SUMMARY:** This rule updates policy, responsibilities, and procedures for calculating and assessing NC recoupment charges on sales of items developed for or by the Department of Defense to non-U.S. Government customers. All costs related to the sale of the items are fully reimbursable by the non-U.S. Government.

**DATES:** *Effective Date:* This rule is effective June 24, 2013.

**FOR FURTHER INFORMATION CONTACT:** Claire Nelson, 703–602–0250.

**SUPPLEMENTARY INFORMATION:**

#### **Executive Summary**

##### *I. Purpose of the Regulatory Action*

This rule updates policy, responsibilities, and procedures to conform with sections 2761(e)(1)(B), 2761 (e)(2), and 2767(b) of Title 22, United States Code (U.S.C.) (also known as “sections 21(e)(1)(B), 21(e)(2), and 27(b) of the Arms Export Control Act, as amended”) for calculating and assessing NC recoupment charges on sales of items developed for or by the Department of Defense to non-U.S. Government customers.

##### *II. Summary of the Major Provisions of the Regulatory Action In Question*

This rule provides guidance for reviewing NC waiver requests; clarifies when NC calculations are used; clarifies the types of DoD agreements covered; and provides additional waiver authorities.

### *III. Costs and Benefits*

All costs related to the sale of the items are fully reimbursable by the non-U.S. Government customers. The Department of Defense does not incur cost nor receive profit for the items sold. The non-U.S. Government customers benefit from the sale of the items from the Department of Defense. The NC amount collected in 2010 and 2011 was \$4.8 and \$9.6 million, respectively. On average it is roughly \$7.2 million annually.

#### **Public Comments**

The Department of Defense published a proposed rule on November 4, 2011 (76 FR 68376–68378). No comments were received on the proposed rule.

The Department has made a few additional changes in the final rule. Reference citations were updated. Definitions were updated or added for clarification. This final rule provides guidance for reviewing NC waiver requests; clarifies when NC calculations are used; clarifies the types of DoD agreements covered; and provides additional waiver authorities.

#### **Regulatory Procedures**

*Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563 “Improving Regulation and Regulatory Review”*

It has been certified that 32 CFR part 165 does not:

(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;

(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 these Executive Orders.

*Section 202, Public Law 104–4, “Unfunded Mandates Reform Act”*

It has been certified that 32 CFR part 165 does not contain a Federal mandate that may result in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.