docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0563 to read as follows:

§ 165.T05–0563 Safety Zone; Fireworks Display, Potomac River, Charles County, Newburg, MD.

(a) *Regulated Area.* The following area is a safety zone: All waters of the Potomac River, within a 200 yards radius of a fireworks discharge barge in approximate position latitude 38°23′41″ N, longitude 076°59′30″ W, located at Newburg in Charles County, Maryland (NAD 1983).

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05.0563.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port Baltimore.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at 410–576–2693 or on VHF–FM marine band radio channel 16.

(3) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions. Captain of the Port Baltimore* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced from 8 p.m. through 10:30 p.m. on July 21, 2012 and, if necessary due to inclement weather, from 8 p.m. through 10:30 p.m. on July 22, 2012.

Dated: July 3, 2012.

Mark P. O'Malley,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2012–17410 Filed 7–17–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPPT–2012–0495; FRL–9356–2]

Polychlorinated Biphenyls (PCBs); Disposition of Request Submitted Under TSCA Section 21

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reasons for Agency response.

SUMMARY: This document announces EPA's reasons for denying a request submitted by the Basel Action Network, the Sierra Club, and the Center for Biological Diversity (petitioners), requesting that EPA take certain actions to protect human health and the marine environment from polychlorinated biphenyls (PCBs) that leach from ships sunk through the U.S. Navy's sinking exercises (SINKEX) program. As noted in a letter dated July 10, 2012, EPA denied the request for rules under the Toxic Substances Control Act (TSCA). The reasons for the denial are discussed in this document. EPA will respond separately to the petitioners' request for revisions to the general permit for the transport of target vessels under SINKEX issued by EPA under the Marine Protection, Research, and Sanctuaries Act (MPRSA).

DATES: July 18, 2012.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Peter Gimlin, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–0515; fax number: (202) 566–0473; email address: *gimlin.peter@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to you if you manufacture, process, distribute in commerce, use or dispose of PCBs. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I access information about this action?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2012–0495. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are

processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. Overview

On April 11, 2012, EPA received a request from the Basel Action Network, the Sierra Club, and the Center for Biological Diversity (petitioners). The petitioners requested that EPA take certain actions to protect human health and the marine environment from PCBs that leach from ships sunk through the U.S. Navy's SINKEX program. The petitioners requested that EPA amend the existing general permit issued to the Navy under MPRSA (33 U.S.C. 1401 *et seq.*), or, in the alternative, enact rules under TSCA (15 U.S.C. 2601 *et seq.*). In requesting actions under TSCA, the petitioners have invoked the citizen petition provisions of section 21 of TSCA (15 U.S.C. 2620).

After careful consideration, EPA denied the request for TSCA rules by letter dated July 10, 2012. This document explains EPA's reasons for denying the request to initiate rulemakings under TSCA. EPA will respond separately to the petitioners' requests for revisions to the general permit for the transport of target vessels under SINKEX issued by EPA under MPRSA.

III. What is a TSCA section 21 Petition?

Under TSCA section 21, any person can petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth the facts that are claimed to establish the necessity for the action requested. EPA is required to grant or deny the petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. A petitioner may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking proceeding within 60 days of either a denial or the expiration of the 90-day period.

IV. What is the MPRSA?

In 1972, Congress enacted Title I of MPRSA, also referred to as the Ocean Dumping Act, because unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities. 33 U.S.C. 1401(a). MPRSA section 101(a) prohibits, unless authorized by permit, the (1) transportation from the United States of any material for the purpose of dumping it into ocean waters, and (2) in the case of a vessel or aircraft registered in the United States or flying the United States flag, or in the case of a United States department, agency, or instrumentality, transportation from any location, any material for the purpose of dumping it into ocean waters. 33 U.S.C. 1411(a). MPRSA section 101(b) also prohibits the unpermitted dumping of any material transported from a location outside of the United States into certain ocean waters of the United States. MPRSA section 3(f) defines the term ''dumping'' broadly (to mean ''a disposition of material'') but the term excludes, among other things, ''the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.'' 33 U.S.C. 1402(f).

Though MPRSA authorizes the U.S. Army Corps of Engineers to issue MPRSA permits (subject to EPA review and concurrence) with respect to dredged material, EPA has permit authority for all other materials. 33 U.S.C. 1412 and 1413.

V. What is SINKEX?

In 1977, EPA issued a general permit to the Navy for the transport of target vessels (SINKEX) under MPRSA section 102 (42 FR 2462, January 11, 1977). The permit authorizes the Navy to transport vessels from the United States or from any other location for the purpose of sinking such vessels in ocean waters in testing ordnance and providing related data subject to four conditions:

1. Such vessels may be sunk at times determined by the appropriate Navy official;
2. Necessary measures shall be taken to insure that the vessel sinks to the bottom rapidly and permanently, and that marine navigation is not otherwise impaired by the sunk vessel;
3. All such vessel sinkings shall be conducted in water at least 1,000 fathoms (6,000 feet) deep and at least 50 nautical miles from land [i.e., that portion of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone, which is in closest proximity to the proposed disposal site]; and
4. Before sinking, appropriate measures shall be taken by qualified personnel at a Navy or other certified facility to remove to the maximum extent practicable all materials which may degrade the marine environment, including without limitation (i) emptying of all fuel tanks and fuel lines to the lowest point practicable, flushing of such tanks and lines with water, and again emptying such tanks and lines to the lowest point practicable so that such tanks and lines are essentially free of petroleum, and (ii) removing from the hulls other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution. 33 CFR 229.2(a).

The Navy also must make an annual report to EPA setting forth the name of each vessel used as a target vessel, its approximate tonnage, and the location and date of sinking. 33 CFR 229.2(b).

In 1989, the Navy identified the potential for viscous PCBs at levels of concern in wool felt used as acoustical damping material (on submarines) and as gasket material (on all vessels). The Navy promptly notified EPA and halted most SINKEXs pending further evaluation. In 1993, the Navy conducted a modeling study that predicted PCBs introduced to the deep benthic environment would have little chance of physical or biological transport to surface waters and that PCB sediment concentrations would pose no notable threat to benthic organisms. Other Navy studies had indicated that most of the PCBs introduced or to be introduced by the Navy through SINKEXs to the deep benthic environment would be solid materials and not readily leachable. In 1996, EPA and the Navy entered into an Agreement regarding the further course of study and continuing conduct of SINKEX activities using a finite number of vessels prepared according to the terms of the Agreement (Ref. 1).

In 1999, EPA signed a letter designed to clarify and specify, with regard to PCBs, the manner in which the Navy would proceed with SINKEX activities under the existing MPRSA general permit. At that time, EPA confirmed its belief that SINKEX operations could continue under the MPRSA general permit and its requirements, including as interpreted to impose specific requirements relating to materials containing PCBs. The terms and conditions of EPA's 1999 interpretation were accepted by the Navy as of August 2, 1999 (Ref. 2).

The 1999 EPA letter required that the Navy conduct specified studies and produce certain information to EPA. For the studies, the Navy was to complete a study involving monitoring the ex-USS *Agerholm,* including sample collection, assessment and analysis. The ex-USS *Agerholm* study included assessment and analyses of sediments, core samples, and fish tissue for PCBs, as well as toxicity and bioaccumulation

studies. The Navy also prepared analysis of the leach rate of PCBs (in the various materials likely to be present on target vessels) into sea water at the temperature and pressure present on a sunken vessel (i.e., representative of conditions authorized under the MPRSA general permit).

The 1999 letter explained EPA's interpretation of the general permit requirements to clarify and specify, with regard to PCBs, the manner in which the Navy could proceed with SINKEX activities (transport for the purposes of disposal into ocean waters) under the MPRSA general permit (40 CFR 229.2)). EPA explained that, under the MPRSA general permit:

> Before engaging in a SINKEX, the Navy must conduct an inventory of each SINKEX vessel to ascertain the presence of PCBs, and that the inventory and list of items removed prior to sinking must be provided to EPA in the annual report required under the general permit. Before sinking a SINKEX vessel, qualified personnel at a Navy or other approved facility must:
>
> a. Remove all transformers containing 3 pounds or more of dielectric fluid and all capacitors containing 3 pounds or more of dielectric fluid;
>
> b. Use all reasonable efforts to remove any capacitors and transformers containing less than 3 pounds of dielectric fluid from the vessel (reasonable efforts include, but are not necessarily limited to, the removal of capacitors from electrical and control panels by using hand tools such as wire or bolt cutters or a screw driver); and
>
> c. Drain and flush hydraulic equipment, heat transfer equipment, high/low pressure systems, cutting power machinery which uses cooling or cutting oil, and containers containing liquid PCBs at ≥50 ppm [parts per million].

EPA also explained its belief that it is often practicable to remove specified materials containing non-liquid PCBs before sinking a vessel. To the extent that removal is practicable, EPA explained that these non-liquid PCBs are required to be removed under the MPRSA general permit. However, when such objects cannot be practicably removed or their removal threatens the structural integrity of the vessels so as to impede the SINKEX, EPA recognized that the Navy could leave such items in place (e.g., felt materials that are bonded in bolted flanges or mounted under heavy equipment, certain paints and adhesives). EPA noted that objects may be considered not capable of practicable removal if equipment must be disassembled or removed for access to the objects, if the objects must be removed by heat, chemical stripping, scraping, abrasive blasting or similar process, or if removal would endanger human safety or health even when conducted with protective equipment and reasonable safety measures.

Shortly after the 1999 letter, EPA made a determination under TSCA section 9(b) that the risks associated with PCBs on target vessels used in SINKEX could be eliminated or reduced to a sufficient extent by actions taken under MPRSA and that such risks should be addressed solely under MPRSA.

VI. Summary of the Request

On April 11, 2012, the Basel Action Network, the Sierra Club, and the Center for Biological Diversity requested that EPA take certain actions to protect human health and the marine environment from PCBs that leach from ships sunk through the U.S. Navy's SINKEX program (Ref. 3). The petitioners requested that EPA amend the existing general permit issued to the Navy under MPRSA or, in the alternative, enact rules under TSCA. Specifically, the submission asks EPA to:

1. Require all PCB-contaminated materials in concentrations of 50 ppm or greater to be removed from SINKEX vessels prior to sinking.
2. Require all PCB-contaminated materials in concentrations of <50 ppm to be removed from SINKEX vessels prior to sinking to the maximum extent practicable.
3. Require additional studies to determine whether PCB-contaminated materials in concentrations of <50 ppm constitute ''trace'' contaminants. The request states that such additional studies should include the most recent data on the toxicity, persistence, and bioaccumulation of PCBs and should include monitoring at multiple recent SINKEX sink sites. The request further states that studies should also assess the releases of other potentially hazardous pollutants into the marine environment from SINKEX ships including heavy metals, asbestos, and radioactive substances.

VII. Disposition of the Request for Rules Under TSCA

A. What was EPA's response?

In a letter dated July 10, 2012, EPA denied the petitioners' request to initiate rulemakings under TSCA (Ref. 4). A copy of the Agency's letter is available in the docket for this action. EPA's reasons for denying the request for TSCA rules are provided in Unit VII.B of this unit.

B. What were EPA's reasons for this denial?

1. *Requests for rules requiring removal of PCB-contaminated materials*—a. *PCBs on SINKEX vessels are regulated solely under the authority of MPRSA.* TSCA is not the appropriate vehicle for the regulation of PCBs on ships used in the Navy's SINKEX program, because the Administrator in 1999 determined under TSCA section 9(b) that such regulation should be under MPRSA, not TSCA. This section 9(b) determination is not subject to TSCA section 21. Section 21 of TSCA allows any person to petition ''to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 2603, 2605, or 2607 of this title or an order under section 5(e) or 6(b)(2) of this title'' (15 U.S.C. 2620(a)), but not a determination under section 2608 (TSCA section 9).

Moreover, the petitioners have provided no basis to cause EPA to reconsider this determination. Section 9(b) of TSCA provides:

> The Administrator shall coordinate actions taken under [TSCA] with actions taken under other Federal laws administered by the Administrator. If the Administrator determines that a risk to health or the environment associated with a chemical substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, the Administrator shall use such authorities to protect against such risk unless the Administrator determines, in the Administrator's discretion, that it is in the public interest to protect against such risk by actions taken under [TSCA].

15 U.S.C. 2610(b)

In 1999, the Administrator determined under TSCA section 9(b) that ''the risk to health or the environment attributable to the transportation and disposal of PCBs associated with SINKEX could be eliminated or reduced to a sufficient extent by actions taken under the authority of MPRSA.'' (Ref. 5). The Administrator further stated: ''I have not identified a public interest in the regulation under TSCA of the transportation and disposal of PCBs associated with SINKEX.'' (Ref. 5). Consequently, the Administrator determined that ''PCBs on SINKEX vessels should be regulated solely under [MPRSA], rather than under both MPRSA and TSCA.'' (Ref. 5).

The petitioners do not present any new information that would cause EPA to reconsider this determination. Although the petitioners present information that they believe calls into question the sufficiency of the current MPRSA general permit, they present no information indicating that any risks that may not be adequately addressed by the current permit could not be reduced to a sufficient extent by action taken

under the authority of MPRSA, or that the public interest would be served by regulation of SINKEX under TSCA in addition to regulation under MPRSA. The petitioners implicitly suggest that any such risk could be reduced to a sufficient extent under MPRSA by seeking amendment of the MPRSA general permit to impose precisely the conditions they ask EPA to impose under TSCA. In addition, given the existence of the MPRSA general permit and the history of regulation of SINKEX under MPRSA, EPA believes it is more efficient to continue to regulate SINKEX under the authorities of MPRSA, and not to also regulate SINKEX under TSCA.

EPA is evaluating the request to revise the MPRSA general permit and will respond shortly. As the Agency stated in issuing the TSCA section 9(b) determination, EPA ''is prepared to revise the Navy permit, or revoke it, in the event that the results of further studies demonstrate an unexpected unacceptable risk to human health or the environment from SINKEX.'' (Ref. 5).

b. *Petitioners have not shown that the requested PCB removal rules would be necessary.* The petitioners have not shown that a rule to require removal of PCB-contaminated materials in concentrations of ≥50 ppm would be necessary if EPA were to withdraw the TSCA section 9(b) determination, given that the export of ships under the SINKEX program containing PCBs in concentrations ≥50 ppm would be prohibited by existing TSCA regulations, absent rulemaking under TSCA section 6(e)(3) allowing the export. 40 CFR 761.97. The petitioners have not shown that a rule to require removal of PCB-contaminated materials in concentrations <50 ppm to the maximum extent practicable would be necessary, since the MPRSA general permit already does require removal of PCB-contaminated materials to the maximum extent practicable. 40 CFR 229.2(a)(4). In addition, the petitioners do not provide an assessment of risks specifically associated with PCBs in concentrations <50 ppm.

2. *Requests for rules requiring studies.* The petitioners request that the Agency issue a TSCA rule to require studies at multiple recent SINKEX sink sites to determine whether PCB-contaminated materials in concentrations of <50 ppm constitute ''trace'' contaminants, ''such that their dumping will not cause undesirable effects including the possibility of bioaccumulation.'' The petitioners' request is not entirely clear, but EPA interprets it as a request for monitoring of PCB concentrations in the vicinity of sunken SINKEX vessels to determine, based on the most recent data on the toxicity, persistence, and bioaccumulation of PCBs, whether materials on vessels with PCB concentrations of <50 ppm would constitute trace contaminants.

The petitioners do not attempt to conform their request to TSCA; they do not address the applicable TSCA section 4 findings.

For the Agency to issue a TSCA section 4 test rule to require testing on a chemical substance, the Agency must find the following:

- The chemical substance may present unreasonable risk of injury to health or the environment.
- There are insufficient data or experience upon which the effects of the chemical substance can reasonably be determined or predicted.
- Testing of the chemical substance is necessary to provide the missing data.

An alternative set of findings could support a section 4 rule as well:

- The chemical substance is or will be produced in substantial quantities and it enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure.
- There are insufficient data or experience upon which the effects of the chemical substance can reasonably be determined or predicted.
- Testing of the chemical substance is necessary to provide the missing data.

The petitioners do not address these required statutory findings. Nor does the request provide a basis for EPA to make the findings. For example, the petitioners do not provide sufficient information to demonstrate that there are insufficient data or experience upon which the effects of the PCBs in question can reasonably be determined or predicted, or that the requested monitoring would be necessary to develop any such missing data. Among other things, the petitioners do not demonstrate that the monitoring they request would be an effective way to determine whether PCB-contaminated materials at concentration <50 ppm constitute trace contaminants. The petitioners offer no explanation of how PCBs detected in the vicinity of a sunken vessel could be correlated with PCB-contaminated materials on the ship at concentrations <50 ppm as opposed to materials on the ship with PCBs at concentrations >50 ppm. EPA is not prepared, based on the information provided in the request, to initiate a rulemaking under TSCA to require the requested monitoring.

Furthermore, testing requirements under TSCA section 4 can be imposed only upon manufacturers and processors of chemical substances. Manufacturing and processing of PCBs were, for the most part, banned by TSCA section 6(e) more than 30 years ago. Although some incidental manufacturing and processing of PCBs continues, EPA believes it makes more sense that monitoring for PCBs in connection with SINKEX, if any is necessary, fall under the authority of MPRSA rather than TSCA, particularly given the connection between the ocean dumping activity authorized under the MPRSA general permit for SINKEX and the PCB monitoring requested. This approach is reinforced by the TSCA section 9(b) determination and is consistent with the TSCA section 9(b) provision requiring the Administrator to ''coordinate actions taken under [TSCA] with actions taken under other Federal laws administered in whole or in part by the Administrator.''

The petitioners' request regarding studies relating to ''other potentially hazardous pollutants'' such as heavy metals, asbestos, and radioactive substances is similarly unsupported in the submission. The petitioners do not attempt to conform the request to TSCA section 4. In addition, the petitioners do not even identify (other than asbestos) the chemical substances or mixtures that they would like tested.

For these reasons, EPA denied the request for TSCA rules.

VIII. References

The following is a list of the documents that are specifically referenced in this document and placed in the docket that was established under docket ID number EPA–HQ–OPPT–2012–0495. For information on accessing the docket, refer to Unit I.B. of this document.

1. ''Agreement between the Department of the Navy and the United States Environmental Protection Agency, Washington, DC'', August 19, 1996.
2. August 2, 1999, letter from EPA Office of Wetlands, Oceans, and Watersheds Director Robert Wayland to Deputy Assistant Secretary of the Navy Elsie Munsell.
3. Basel Action Network, Sierra Club, and the Center for Biological Diversity. ''U.S. Navy Ocean Dumping Program; Petition to EPA to Protect Human Health and the Environment from Unreasonable Risks Associated with the Navy's Sinking Exercise Program (SINKEX),'' (April 2012).
4. July 10, 2012, letter from EPA Office of Chemical Safety and Pollution Prevention's Acting Assistant Administrator Jim Jones to the Basel

Action Network, the Sierra Club, and the Center for Biological Diversity.

5. September 13, 1999, letter from EPA Administrator Carol M. Browner to the Honorable Richard Danzig, and enclosure (Decision Memorandum—EPA regulation of PCBs on Vessels Used for Navy Sinking Exercise).

List of Subjects

Environmental protection, Polychlorinated biphenyls, SINKEX.

Dated: July 10, 2012.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2012–17381 Filed 7–17–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 02–60; FCC 12–74]

Rural Health Care Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (the Bureau) maintains support on a limited, interim, fiscally responsible basis for specific Rural Health Care Pilot Program participants that have exhausted their funding this year or will exhaust such funding during funding year 2012 to ensure that they can continue to benefit from access to these Pilot Program-funded broadband networks, while the Commission considers potential reforms to transition recipients of Pilot funding to a longer-term mechanism for supporting broadband services delivered to rural HCPs. This interim support will preserve transitioning Pilot Program participants' connectivity and the resulting health care benefits that patients receive from those investments made by the Commission in health care broadband networks.

DATES: Effective July 18, 2012.

FOR FURTHER INFORMATION CONTACT: Linda Oliver, Wireline Competition Bureau at (202) 418–1732 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order in WC Docket No. 02–60; FCC 12–74, adopted July 5, 2012 and released July 6, 2012. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.*

I. Introduction

1. In this order, we maintain support on a limited, interim, fiscally responsible basis for specific Rural Health Care Pilot Program (Pilot Program) participants that have exhausted their funding this year or will exhaust such funding during funding year 2012. We will provide continued support for the recurring costs of broadband services provided to those health care provider (HCP) sites to ensure that they can continue to benefit from access to these Pilot Program-funded broadband networks, while we consider potential reforms to transition recipients of Pilot funding to a longer-term mechanism for supporting broadband services delivered to rural HCPs. This interim support will preserve transitioning Pilot Program participants' connectivity and the resulting health care benefits that patients receive from those investments made by the Commission in health care broadband networks. Today's action stays within the budget of the Pilot Program and will therefore not impact overall demand for the universal service fund (USF or Fund).

II. Discussion

2. The USF Rural Health Care support mechanism consists of the ''Primary'' program and the ''Pilot'' program. The Commission created the Pilot Program in 2006 in an effort to examine ways to use the RHC support mechanism to enhance public and non-profit HCPs' access to advanced telecommunications and information services. Participants in the Pilot Program are eligible to receive universal service funding to support up to 85 percent of the cost of construction of state or regional broadband health care networks and of the cost of advanced telecommunications and information services provided over those networks. Through the Pilot Program, projects have created health broadband networks that consist of multiple interconnected HCPs, often in a hub-and-spoke configuration, that typically connect rural HCPs to larger, more urban medical centers. The networks created by these projects enable rural HCPs to access medical specialists, technical expertise, and other resources that are usually found only within the larger HCPs on the network.

3. Approximately 13 out of the 50 active projects have some individual HCPs that have spent all of the money allocated to them, or are scheduled to do so during funding year 2012. According to the Universal Service Administrative Company (USAC), some HCPs may exhaust their funding in the last few months of Funding Year 2011, and an estimated 484 HCPs (or 22.5 percent of individual HCP sites participating in the Rural Health Care Pilot projects) are expected to exhaust their allocated funding before or during funding year 2012.

4. Through this order, we provide funds to support ongoing connectivity to Pilot Program HCPs that will exhaust funding allocated to them before or during funding year 2012. Such funding is necessary to ''bridge'' their participation in the Pilot Program and their participation in any reformed Rural Health Care programs under consideration. Accordingly, as discussed below, we direct USAC to provide continued support to Pilot projects for up to 85 percent of eligible recurring costs for those individual HCP sites on their networks that will exhaust their funding on or before June 30, 2013, including those that will have exhausted their funding before the effective date of this order. Bridge funding will maintain support for this limited number of HCPs and in doing so help ensure that they will remain connected to the broadband networks developed with Pilot Program funding, while providing the Commission additional time to consider how best to transition Pilot Program participants to permanent Rural Health Care funding programs. Thus, this support will help maintain the *status quo* for the many patients and communities that benefit from the telemedicine and other telehealth applications made available by the Pilot projects during this transition period. Consistent with this objective, the support is limited in time and scope and does not provide new funds for Pilot projects to expand their networks.

5. This bridge funding will not increase the demand on the Fund relative to what was already designated for Pilot Program projects. Accordingly, we direct USAC to use up to $15 million of the Pilot Program funds that were previously set aside for projects that either withdrew from the Program or otherwise failed to meet program deadlines to provide bridge funding to transitioning Pilot project participants. These funds were designated for Funding Year 2009 and have already