

“Environmental Analysis Check List” is available in the 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–826 to read as follows:

#### § 165.T08–826 Cumberland River, TN-regulated navigation area.

(a) The following is a Regulated Navigation Area (RNA): all waters of the Cumberland River (CMR) from MM 126 CMR to MM 127 CMR.

(b) Within the RNA described in paragraph (a), vessels are restricted to the right descending bank (RDB) of the Cumberland River and tows cannot be wider than 80 feet or longer than 800 feet, excluding the length of the tow boat.

(c) This rule is effective from 4:40 p.m. on March 31, 2007 through 11:30 a.m. August 2, 2007.

Dated: 17 April, 2007.

**J.R. Whitehead,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. E7–7951 Filed 5–2–07; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### 48 CFR Parts 3001, 3002 and 3033

[Docket No. DHS–2007–0001]

RIN 1601–AA42

#### Department of Homeland Security Acquisition Regulation: Board of Contract Appeals Change

**AGENCY:** Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** The Department of Homeland Security (DHS) has adopted as final, without change, an interim rule amending the Homeland Security

Acquisition Regulation (HSAR) to reflect a statutorily-mandated jurisdictional change for the agency Board of Contract Appeals (BCA). Specifically, BCA jurisdiction for DHS has transferred from the U.S. Department of Transportation Board of Contract Appeals to the Civilian Board of Contract Appeals. This rule also adopts as final, without change, several non-substantive amendments to DHS acquisition regulations in order to reflect organizational changes.

**DATES:** This rule is effective May 3, 2007.

**FOR FURTHER INFORMATION CONTACT:** Anne Terry, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy, (202) 447–5253.

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of Public Comments
- III. Regulatory Analyses
  - A. Executive Order 12866 Assessment
  - B. Regulatory Flexibility Act

#### I. Background

DHS published an interim rule at 72 FR 1296 on January 11, 2007, to provide notice of HSAR changes that reflect a statutorily-mandated jurisdictional change for the agency Board of Contract Appeals (BCA). Specifically, BCA jurisdiction for DHS transferred from the U.S. Department of Transportation Board of Contract Appeals to the newly established Civilian Board of Contract Appeals (CBCA). In the National Defense Authorization Act for Fiscal Year 2006, Congress established the CBCA and terminated every agency BCA, except for those within the armed services, the Tennessee Valley Authority, and the U.S. Postal Service. See Public Law 109–163, section 847. Through January 5, 2007, the U.S. Department of Transportation’s BCA handled DHS contract appeals. As of January 6, 2007, the CBCA handles DHS contract appeals. This rule also provides technical amendments to correct organizational information reflected in the HSAR.

#### II. Discussion of Public Comments

DHS received one public comment on the interim rule. The comment, however, did not address matters within the scope of the interim rule. DHS has adopted the interim rule as a final rule without change.

#### III. Regulatory Analyses

##### A. Executive Order 12866 Assessment

DHS has determined that this final rule is neither a major rule under 5 U.S.C. 804 nor a significant regulatory action under Executive Order 12866,

Regulatory Planning and Review. It therefore does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order, and the Office of Management and Budget has not reviewed it.

#### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

#### List of Subjects in 48 CFR Parts 3001, 3002, and 3033

Government procurement.

#### Authority and Issuance

■ Accordingly, for the reasons stated in the preamble, the interim rule amending 48 CFR parts 3001, 3002, and 3033 that was published at 72 FR 1296 on January 11, 2007, is adopted as a final rule without change.

Dated: April 25, 2007.

**Elaine C. Duke,**

*Chief Procurement Officer.*

[FR Doc. E7–8420 Filed 5–2–07; 8:45 am]

**BILLING CODE 4410–10–P**

#### DEPARTMENT OF TRANSPORTATION

#### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 107

[Docket No. PHMSA–2006–25589 (HM–208F)]

RIN 2137–AE11

#### Hazardous Materials Transportation; Miscellaneous Revisions to Registration and Fee Assessment Program

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** PHMSA is amending the statutorily mandated registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of

hazardous materials. In this final rule, we are eliminating the 24-hour, seven-days-per-week telephonic expedited registration option because it is no longer necessary now that there is an internet option. In addition, we are adopting an explicit exception from registration requirements for Indian Tribes. We are not increasing registration fees in this final rule.

**DATES:** This final rule is effective June 30, 2007.

**FOR FURTHER INFORMATION CONTACT:** Deborah Boothe, Office of Hazardous Materials Standards, (202) 366-8553, or David Donaldson, Office of Hazardous Materials Planning and Analysis, (202) 366-4484, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On August 15, 2006, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice of proposed rulemaking (NPRM) to amend the statutorily mandated registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of hazardous materials. (71 FR 46884) In the NPRM, PHMSA proposed to:

- Increase the fee to \$1,975 (plus a \$25 administrative fee) for registration year 2007–2008 for those registrants not qualifying as a small business or not for profit organizations;
- Increase the fee to \$2,975 (plus a \$25 administrative fee) for registration year 2008–2009 and following for those registrants not qualifying as small businesses or not for profit organizations;
- Eliminate the 24-hour, seven-days-per-week telephonic expedited registration option;
- Incorporate Indian Tribes into the list of entities specifically excepted from the registration requirements; and
- Raise the current \$1,000 baseline penalty assessment for offerors and carriers of hazardous materials (other than small businesses) that fail to register and pay a registration fee.

**II. Registration Fee Increase**

The Hazardous Materials and Emergency Preparedness (HMEP) grants program, as mandated by 49 U.S.C. 5116, provides Federal financial and technical assistance to States and Indian tribes to “develop, improve, and carry out emergency plans” within the National Response System and the Emergency Planning and Community Right-To-Know Act of 1986 (Title III), 42 U.S.C. 11001 *et seq.* The grants are used

to develop, improve, and implement emergency plans; to train public sector hazardous materials emergency response employees to respond to accidents and incidents involving hazardous materials; to determine flow patterns of hazardous materials within a State and between States; and to determine the need within a State for regional hazardous materials emergency response teams. The HMEP grants program is funded by registration fees collected from persons who offer for transportation or transport certain hazardous materials in intrastate, interstate, or foreign commerce.

Congress reauthorized the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) in 2005 through the “Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005” (Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), Public Law 109–59, 119 Stat. 1144, August 10, 2005). The Act made available \$28.3 million for the HMEP grants program and lowered the maximum registration fee from \$5,000 to \$3,000. Consistent with SAFETEA-LU, the Administration’s Fiscal Year 2007 budget proposal to Congress requested \$28,000,000 in support of HMEP activity. The August 2006 NPRM proposed to increase registration fees to meet the Administration’s FY 2007 request for funding the HMEP.

Section 2 of the Continuing Appropriations Resolution, 2007 (Pub. L. 109–289, division B), as amended by Public Laws 109–369 and 109–383, (“Revised Continuing Appropriation Resolution, 2007”), limited obligations for the HMEP grants program to the FY 2006 level of \$14.3 million. Therefore, we are not adopting the proposed fee increase in this final rule. The Administration’s FY 2008 budget requested \$28.3 million to fund the HMEP grants program. Depending on available and appropriated funding for the FY 2008 program, we may initiate a future rulemaking to adjust the registration fee for FY 2008.

**III. Discussion of Comments and Regulatory Changes**

PHMSA received more than 900 written comments to the NPRM from emergency response organizations, state and local emergency planning organizations, industry associations representing a broad spectrum of businesses that offer or transport hazardous materials, and individuals engaged in agricultural retailing, petroleum distribution, and petroleum marketing. Most of these comments

addressed the proposed increase in registration fees. Only one commenter addressed the proposal to raise the baseline penalty assessment. One commenter addressed the proposal in the NPRM to eliminate the expedited registration option; no commenters addressed the proposed exception from registration for Indian tribes.

**A. Baseline Penalty Assessment**

We considered raising the current \$1,000 baseline penalty assessment for offerors and carriers of hazardous materials (other than small businesses) that fail to register and pay a registration fee. We proposed to adjust the baseline penalty assessment to keep it proportional to the increased registration fee. Only one commenter, National Tank Truck Carriers (NTTC), addressed this proposal. NTTC urged the agency not to distinguish among violators on the basis of size.

PHMSA decided to not adjust the civil penalty in this proceeding. We may revisit this issue in a later rulemaking proceeding.

**B. Expedited Registration Process**

Since the beginning of the registration program in 1992, we have provided a 24-hour, seven-days-a-week expedited telephonic registration option. Persons using this option are provided a temporary registration number and must pay an additional \$50 expedited processing fee. With the addition of the Internet registration option in 2000, the number of registrants using the expedited registration option has steadily decreased. Only 194 persons, out of a total of 35,005 registrants, used the expedited telephonic registration option during calendar year 2006. In the NPRM, we proposed to discontinue the expedited registration option.

PHMSA received one comment on the proposal. The Petroleum Transportation and Storage Association (PTSA) suggested that expedited telephonic registration should be retained as an option in case the on-line capability is unavailable, as has sometimes happened.

The addition of the internet registration option has made the telephonic expedited registration option obsolete. The internet registration option is faster and more efficient. It is no longer cost-effective for PHMSA to continue maintaining a registration option so few persons use. Moreover, the Internet option is more cost-effective for registrants since there is no additional fee for the Internet service. We understand PTSA’s concern about possible system down times and

consequent unavailability of the system to registrants; however, we do not agree that this infrequent occurrence warrants retaining the 24-hour, seven days-per-week expedited telephonic registration option. Further, we have enhanced the internet payment procedures to minimize the difficulties previously encountered in verifying payments. Therefore, we are adopting the proposal to eliminate the expedited telephonic registration option for those required to register and pay a registration fee.

#### C. Indian Tribes Exception

Section 107.606(a) of the Hazardous Materials Regulations (HMR) lists the entities excepted from the registration requirements set out in section 5108 of the Federal hazmat law. SAFETEA-LU amended section 5108(i)(2)(B) to add Indian tribes to the list of entities specifically excepted from the registration requirements. In the NPRM, we proposed to incorporate this specific exception into the HMR. As a matter of policy, PHMSA has not been enforcing the registration requirements against Indian tribes. We did not receive any comments on this proposal; therefore, we are adopting it as proposed.

### IV. Rulemaking Analyses and Notices

#### A. Statutory/Legal Authority for This Rulemaking

This final rule is published under the authority of the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*, as amended by Pub. L. 109-59) and 49 U.S.C. 44701. Section 5108 of the Federal hazmat law authorizes the Secretary of Transportation to establish a registration program to collect fees to fund HMEP grants.

#### B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This final rule is considered non-significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Neither of the provisions adopted in this final rule will result in additional costs to the regulated community.

#### C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria established in Executive Order 13132 ("Federalism"). This final rule does not preempt State, local, and Indian tribe requirements, and it does not have substantial direct effects on the

States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

#### D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria established in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have adverse tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

#### E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601-611) requires each agency to analyze regulations and assess their impact on small businesses and other small entities to determine whether the rule is expected to have a significant impact on a substantial number of small entities. Although the entities affected by this rule are mostly small businesses, neither of the provisions adopted in this final rule will result in additional costs to the regulated community. PHMSA certifies this rule will not have a significant economic impact on a substantial number of small entities.

#### F. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$120.7 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

#### G. Paperwork Reduction Act

Under 49 U.S.C. 5108(i), the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) do not apply to this final rule.

#### H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

#### I. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321-4347), requires Federal agencies to evaluate the consequences of their actions on the environment. PHMSA has concluded there are no significant environmental impacts associated with this final rule. This rule makes only minor revisions to the registration fee and assessment program, with no resulting effects on the human environment.

#### J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

#### List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR part 107 is amended as follows:

#### PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 continues to read as follows:

**Authority:** 49 U.S.C. 5101-5128, 44701; Pub. L. 101-410 Section 4 (28 U.S.C. 2461 note); Pub. L. 104-121 Sections 212-213; Pub. L. 104-134 Section 30001; 49 CFR 1.45, 1.53.

■ 2. In § 107.606, redesignate paragraphs (a)(4), (a)(5), and (a)(6), as (a)(5), (a)(6), and (a)(7) respectively, add new paragraph (a)(4), and revise newly redesignated paragraph (a)(5) to read as follows:

#### § 107.606 Exceptions.

- (a) \* \* \*
- (4) An Indian tribe.
- (5) An employee of any of those entities in paragraphs (a)(1) through (a)(4) of this section with respect to the employee's official duties.

\* \* \* \* \*

#### § 107.616 [Amended]

■ 3. In § 107.616, make the following changes:

■ a. Amend the first sentence in paragraph (a) by removing the phrase "Except as provided in paragraph (d) of this section,".

■ b. Remove paragraph (d).

Issued in Washington, DC on April 25, 2007, under authority delegated in 49 CFR part 1.

**Thomas J. Barrett,**  
Administrator.

[FR Doc. E7-8394 Filed 5-2-07; 8:45 am]

BILLING CODE 4910-60-P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No.070430095-7095-01; I.D. 042707D]

RIN 0648-AV56

#### Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2007 Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; annual management measures for the ocean salmon fishery; request for comments.

**SUMMARY:** NMFS establishes fishery management measures for the 2007 ocean salmon fisheries off Washington, Oregon, and California and the 2008 salmon seasons opening earlier than May 1, 2008. Specific fishery management measures vary by fishery and by area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. exclusive economic zone (EEZ)(3-200 nm) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-treaty commercial, and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement and to provide for inside fisheries (fisheries occurring in state internal waters).

**DATES:** Effective from 0001 hours Pacific Daylight Time, May 1, 2007, until the effective date of the 2008 management measures, as published in the **Federal Register**. Comments must be received by May 18, 2007.

**ADDRESSES:** Comments on the management measures may be sent to D. Robert Lohn, Regional Administrator,

Northwest Region, NMFS, 7600 Sand Point Way N.E., Seattle, WA 98115-0070, fax: 206-526-6376; or to Rod McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, fax: 562-980-4018. Comments can also be submitted via e-mail at the

[2007oceansalmonregs.nwr@noaa.gov](mailto:2007oceansalmonregs.nwr@noaa.gov) address, or through the internet at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments, and include docket number and/or RIN number in the subject line of the message.

Copies of the supplemental Finding of No Significant Impact (FONSI) and its supporting Environmental Assessment and other documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384, and are posted on its website ([www.pcouncil.org](http://www.pcouncil.org)).

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to one of the NMFS addresses listed above and to David Rostker, Office of Management and Budget (OMB), by email at [David-Rostker@omb.eop.gov](mailto:David-Rostker@omb.eop.gov), or by fax at (202)395-7285.

**FOR FURTHER INFORMATION CONTACT:** Sarah McAvinchey at 206-526-4323, or Eric Chavez at 562-980-4064.

#### SUPPLEMENTARY INFORMATION:

##### Background

The ocean salmon fisheries in the EEZ off Washington, Oregon, and California are managed under a "framework" fishery management plan entitled the Pacific Coast Salmon Fishery Management Plan (Salmon FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the Salmon FMP, by notification in the **Federal Register**.

These management measures for the 2007 and pre-May 2008 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 2 to 6, 2007, meeting.

##### Schedule Used to Establish 2007 Management Measures

The Council announced its annual preseason management process for the 2007 ocean salmon fisheries in the **Federal Register** on December 22, 2006

(71 FR 76958) and on their website at ([www.pcouncil.org](http://www.pcouncil.org)). This notice announced the availability of Council documents as well as the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon fishery management measures. The agendas for the March and April Council meetings were published in the **Federal Register** prior to the actual meetings.

In accordance with the Salmon FMP, the Council's Salmon Technical Team (STT) and staff economist prepared a series of reports for the Council, its advisors, and the public. The first of the reports was prepared in February when the scientific information necessary for crafting management measures for the 2007 and pre-May 2008 ocean salmon fishery first became available. The first report, "Review of 2006 Ocean Salmon Fisheries" (REVIEW), summarizes biological and socio-economic data for the 2006 ocean salmon fisheries and assesses how well the Council's 2006 management objectives were met. The second report, "Preseason Report I Stock Abundance Analysis for 2007 Ocean Salmon Fisheries" (PRE I), provides the 2007 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2006 regulations and regulatory procedures were applied to the projected 2007 stock abundances. The completion of PRE I is the initial step in evaluating the full suite of preseason options.

The Council met in Sacramento, CA from March 5 to 9, 2007, to develop 2007 management options for proposal to the public. The Council proposed three options of commercial and recreational fisheries management for analysis and public comment. These options consisted of various combinations of management measures designed to protect weak stocks of coho and Chinook salmon and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and staff economist prepared a third report, "Preseason Report II Analysis of Proposed Regulatory Options for 2007 Ocean Salmon Fisheries," which analyzes the effects of the proposed 2007 management options. This report was made available to the Council, its advisors, and the public.

Public hearings, sponsored by the Council, to receive testimony on the proposed options were held on March