zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.935 Safety Zone, Milwaukee Harbor, Milwaukee, WI and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Sector Lake Michigan, will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. If the Captain of the Port, Sector Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF–FM Channel 16.

Dated: July 30, 2010.

L. Barndt

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2010–20124 Filed 8–13–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

Defense Federal Acquisition Regulation Supplement; Excessive Pass-Through Charges (DFARS Case 2006–D057)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule; technical amendment.

SUMMARY: DoD issued a final rule in the **Federal Register** on August 10, 2010, under DFARS Case 2006–D057, Excessive Pass-Through Charges. That final rule incorrectly removed and reserved two CFR sections. DoD is issuing this technical amendment to correct that error in the final rule.

DATES: *Effective Date:* August 16, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Ynette R. Shelkin, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–8384; facsimile 703–602–0350.

SUPPLEMENTARY INFORMATION: DoD issued a final rule in the **Federal Register** on August 10, 2010 (75 FR 48278), under DFARS Case 2006–D057, Excessive Pass-Through Charges. That final rule deleted obsolete DFARS language regarding excessive pass-through charges on contracts and subcontracts that are entered into for or on behalf of DoD. The final rule incorrectly removed and reserved sections 252.217–7003 and 252.217–7004, respectively. DoD is issuing this technical amendment to add these sections back in and correctly remove and reserve sections 252.215–7003 and 252.215–7004, respectively.

List of Subjects in 48 CFR Part 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

■ 2. Section 252.215–7003 is removed and reserved.

252.215–7003 [Removed and Reserved]

■ 3. Section 252.215–7004 is removed and reserved.

252.215–7004 [Removed and Reserved]

■ 4. Add sections 252.217–7003 and 252.217–7004 to read as follows:

252.217–7003 Changes.

As prescribed in 217.7104(a), use the following clause:

CHANGES (DEC 1991)

(a) The Contracting Officer may, at any time and without notice to the sureties, by written change order, make changes within the general scope of any job order issued under the Master Agreement in—

(1) Drawings, designs, plans, and specifications;

(2) Work itemized;

(3) Place of performance of the work;

(4) Time of commencement or completion of the work; and

(5) Any other requirement of the job order.

(b) If a change causes an increase or decrease in the cost of, or time required for, performance of the job order, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the price or date of completion, or both, and shall modify the job order in writing.

(1) Within ten days after the Contractor receives notification of the change, the Contractor shall submit to the Contracting Officer a request for price adjustment, together with a written estimate of the increased cost.

(2) The Contracting Officer may grant an extension of this period if the Contractor requests it within the ten day period.

(3) If the circumstances justify it, the Contracting Officer may accept and grant a request for equitable adjustment at any later time prior to final payment under the job order, except that the Contractor may not receive profit on a payment under a late request.

(c) If the Contractor includes in its claim the cost of property made obsolete or excess as a result of a change, the Contracting Officer shall have the right to prescribe the manner of disposition of that property.

(d) Failure to agree to any adjustment shall be a dispute within the meaning of the Disputes clause.

(e) Nothing in this clause shall excuse the Contractor from proceeding with the job order as changed.

(End of clause)

252.217–7004 Job Orders and Compensation.

As prescribed in 217.7104(a), use the following clause:

JOB ORDERS AND COMPENSATION (MAY 2006)

(a) The Contracting Officer shall solicit bids or proposals and make award of job orders. The issuance of a job order signed by the Contracting Officer constitutes award. The job order shall incorporate the terms and conditions of the Master Agreement.

(b) Whenever the Contracting Officer determines that a vessel, its cargo or stores, would be endangered by delay, or whenever the Contracting Officer determines that military necessity requires that immediate work on a vessel is necessary, the Contracting Officer may issue a written order to perform that work and the Contractor hereby agrees to comply with that order and to perform work on such vessel within its capabilities.

(1) As soon as practicable after the issuance of the order, the Contracting Officer and the Contractor shall negotiate a price for the work and the Contracting Officer shall issue a job order covering the work.

(2) The Contractor shall, upon request, furnish the Contracting Officer with a breakdown of costs incurred by the Contractor and an estimate of costs expected to be incurred in the performance of the work. The Contractor shall maintain, and make available for inspection by the Contracting Officer or the Contracting Officer's representative, records supporting the cost of performing the work.

(3) Failure of the parties to agree upon the price of the work shall constitute a dispute within the meaning of the Disputes clause of the Master Agreement. In the meantime, the Contractor shall diligently proceed to perform the work ordered.

(c)(1) If the nature of any repairs is such that their extent and probable cost cannot be ascertained readily, the Contracting Officer may issue a job order (on a sealed bid or

negotiated basis) to determine the nature and extent of required repairs.

(2) Upon determination by the Contracting Officer of what work is necessary, the Contractor, if requested by the Contracting Officer, shall negotiate prices for performance of that work. The prices agreed upon shall be set forth in a modification of the job order.

(3) Failure of the parties to agree upon the price shall constitute a dispute under the Disputes clause. In the meantime, the Contractor shall diligently proceed to perform the work ordered.

(End of clause)

[FR Doc. 2010–20168 Filed 8–13–10; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket OST–2010–0026]

RIN 2105–AD95

Procedures for Transportation Workplace Drug and Alcohol Testing Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation (the Department or DOT) is amending certain provisions of its drug testing procedures dealing with laboratory testing of urine specimens. Some of the changes will also affect the training of and procedures used by Medical Review Officers. The changes are intended to create consistency with many, but not all, of the new requirements established by the U.S. Department of Health and Human Services.

DATES: This rule is effective October 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mark Snider, Senior Policy Advisor (S–1), Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone number 202–366–3784 (voice), 202–366–3897 (fax), or mark.snider@dot.gov (e-mail).

SUPPLEMENTARY INFORMATION:

Background and Purpose

On November 25, 2008 (73 FR 7185), the U.S. Department of Health and Human Services (HHS) Substance Abuse and Mental Health Services Administration (SAMHSA) issued a Final Notice of Revisions to the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Mandatory Guidelines) that included changes to the procedures for collection and testing of urine specimens, creation of and requirements for the certification of Instrumented Initial Test Facilities (IITFs), collection site oversight requirements, and changes to the role of and standards for collectors and Medical Review Officers (MROs). The HHS Mandatory Guidelines were to become effective May 1, 2010, but on April 30, 2010 (75 FR 22809), HHS postponed implementation until October 1, 2010.

On February 4, 2010, DOT published a Notice of Proposed Rulemaking (NPRM) (75 FR 5722) seeking comments about changing part 40 to be consistent with certain aspects of the HHS Mandatory Guidelines. The final rule responds to the comments and makes a number of changes to the existing rules governing the Department's drug testing program.

Principal Policy Issues

Requirements of the Omnibus Transportation Employee Testing Act of 1991

Several commenters questioned whether and to what extent the Department must follow the HHS Mandatory Guidelines. Some commenters urged the Department to choose a different approach from the HHS regarding the drugs for which testing occurs, the initial testing of all specimens for 6–Acetylmorphine (6–AM), and the use of IITFs. Although since its passage, the Department has cited the Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. 31300, *et seq.,* 49 U.S.C. 20100, *et seq.,* 49 U.S.C. 5330, *et seq.,* and 49 U.S.C. 45100, *et seq.* (Omnibus Act), as the definitive authority for our reliance on the HHS Mandatory Guidelines for scientific testing issues, several of the commenters have challenged this or otherwise asked the Department to clarify what the Omnibus Act requires.

Even before the Omnibus Act, the Department looked to the HHS Mandatory Guidelines for guidance on scientific matters. In a 1988 Interim Final Rule (IFR) the Department relied upon the HHS for testing methodologies to determine the drugs for which testing would be done and which laboratories to use. Specifically, the Department noted that under "the HHS Guidelines, a Federal agency may test a urine sample *only* for certain specified drugs. The Department's Procedures echo this requirement." (53 FR 47002, Nov. 21, 1988; emphasis in the original) In the same IFR, the Department required regulated transportation employers to use only laboratories certified under the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs. While deciding to utilize many aspects of the HHS Mandatory Guidelines, the Department acknowledged "that the Guidelines, as written by HHS to apply to testing by Federal agencies, do not fit perfectly the circumstances of employers regulated by DOT * * *. Obviously, the circumstances of industries regulated by DOT are very different from those of Federal agencies." (53 FR 47002) Thus, the Department began to lay the foundation for using the technical expertise of the HHS for the scientific aspects of DOT's testing program while relying upon the Department's own authority and that of DOT agencies to tailor many procedural aspects of DOT testing to fit the transportation industries.

In a 1989 final rule, we discussed the applicability of the Fourth Amendment of the United States Constitution to both the Federal agency programs covered by the HHS Mandatory Guidelines and the testing that transportation employers would conduct in response to the Department's requirements. The Department acknowledged that the HHS Mandatory Guidelines had passed Constitutional scrutiny by the Federal courts, all the way up to the Supreme Court of the United States. The Federal courts concluded that HHS had met the Fourth Amendment balancing of the Federal need to ensure safety by drug testing versus individuals' strong interests in their right to privacy. The HHS Mandatory Guidelines had set up a testing system with sound methodology that ensured privacy and accuracy. Given these considerations, the Department decided to rely on HHS for the science of DOT's testing program and for the drugs for which we test, the testing methodologies, and the integrity of the HHS certified laboratories. (54 FR 49854, Dec. 1, 1989)

Congress endorsed the Department's decision by explicitly directing, in the Omnibus Act, the Department to incorporate the HHS scientific and technical guidelines for laboratories and testing procedures for controlled substances. The Omnibus Act specifically requires that we incorporate the HHS scientific and technical guidelines that "establish comprehensive standards for all aspects of laboratory controlled substances testing" in order to ensure full reliability and accuracy in testing. [49 U.S.C. 31306(c)(2)(A), 49 U.S.C. 20140(c)(2)(A), 49 U.S.C. 5331(d)(2)(A) and 49 U.S.C. 45104(2)(A)] The legislative history for the Omnibus Act indicates the following intent: "Incorporating the HHS