

national broadband plan for our future and published pursuant to 47 CFR 1.429(e). See 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)).

DATES: Oppositions to Petitions must be filed by August 10, 2011. Replies to an opposition must be filed August 22, 2011.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jennifer Prime, Wireline Competition Bureau, 202-418-2403.

SUPPLEMENTARY INFORMATION: This is a summary of Commission's document, Report No. 2931, released June 20, 2011. The full text of this document is available for viewing and copying in Room CY-B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-800-378-3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

Subject: In the Matter of Implementation of Section 224 of the Act (WC Docket No. 07-245); A National Broadband Plan for our Future (GN Docket No. 09-51).

Number of Petitions Filed: 2.

Marlene H. Dortch,
Secretary, Federal Communications Commission.

[FR Doc. 2011-18090 Filed 7-25-11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 107

[Docket Nos. PHMSA-2009-0410 (HM-233B)]

RIN 2137-AE73

Hazardous Materials Transportation: Revisions of Special Permits Procedures; Response to Appeals; Corrections

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

ACTION: Correcting Amendments.

SUMMARY: On January 5, 2011, PHMSA published a final rule under Docket Number PHMSA-2009-0410 (HM-233B) that amended the Hazardous Materials Regulations to revise the

application procedures for special permits. Specifically, the revisions required an applicant to provide additional information about its operation to enable the agency to better evaluate the applicant's ability to demonstrate an equivalent level of safety and the safety impact of operations that would be authorized in the special permit. In response to appeals submitted by entities affected by the January 5 final rule, this final rule amends requirements and provides additional clarification to the January 5 final rule.

DATES: *Effective Date:* The effective date of these amendments is July 26, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Andrews or Mr. T. Glenn Foster, Standards and Rulemaking Division, (202) 366-8553, Pipeline and Hazardous Materials Administration (PHMSA), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, PHH-12, Washington, DC 20590-0001 or Mr. Ryan Paquet, Approvals and Permits Division, (202) 366-4511, PHMSA, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, PHH-30, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

List of Topics

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I. Supplementary Background

On January 5, 2011, PHMSA issued a final rule under Docket Number PHMSA-2009-0410 (HM-233B) (76 FR 454) amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) by amending the Hazardous Materials Regulations to revise the application procedures for special permits. Specifically, the revisions required an applicant to provide additional information about its operation to enable the agency to better evaluate the applicant's ability to

demonstrate an equivalent level of safety and the safety impact of operations that would be authorized in the special permit. In addition, the January 5 final rule made revisions to the procedures for applying for a special permit. Changes made to these procedures include, but are not limited, requiring applicants to provide: All known locations where a special permit is used; the name of the company Chief Executive Officer (CEO) or president; a Dun and Bradstreet Data Universal Numbering System (DUNS) identifier; an estimated quantity of the hazardous material planned for transportation; an estimate of the number of operations expected to be conducted; a statement outlining the reason(s) the hazardous material is being transported by air if other modes are available; and substantiation that the proposed alternative will achieve a level of safety that is at least equal to that required by the regulation from which the special permit is sought.

II. Appeals to the Final Rule

The following organizations and one individual submitted appeals to the January 5 final rule, in accordance with 49 CFR part 107: The Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA); The Institute for Makers of Explosives (IME); and Lawrence Bierlein on behalf of the Association of Hazmat Shippers. The appellants based their appeals on several aspects of the January 5 final rule, most notably objecting to the requirements that applicants provide: A list of all known locations where a special permit will be used; a DUNS number; the name of the CEO or President of the company; and the quantity of hazardous materials to be shipped.

The appeals and issues of the appellants are discussed in detail below.

A. Council on Safe Transportation of Hazardous Articles, Inc.

In its appeal, COSTHA states that it recognizes the importance of requiring applications for a special permit to include relevant and usable information in the special permit application. In support of its appeal, COSTHA requests that PHMSA re-evaluate several of the changes made to the special permits and procedures application process. These changes include requirements to: List all known locations where a special permit will be used; provide estimates of the number of operations expected to be conducted under a special permit; list the name of the CEO or president of the company; and provide a DUNS identifier.

COSTHA also requests clarification on why additional data is needed for the application of a special permit. Specifically, COSTHA notes that PHMSA revised § 107.105(a)(2) to require the name and physical address(es) of all known locations where the special permit would be used. COSTHA indicates that many special permits are utilized through a company's operational and distribution operations, and that this requirement may compel companies to report several hundred locations where the special permit may be used. In its appeal, COSTHA expresses the opinion that by requiring the reporting of all known locations a special permit will be used, PHMSA is suggesting that all locations will be subject to a possible fitness evaluation. COSTHA further states that if PHMSA is requiring all known locations for the purposes of enforcement, PHMSA needs to clarify whether updates must be made to the list after the application for a special permit has been submitted. For clarification, PHMSA's intent is for the applicant to provide a list of the initial locations a special permit is intended to be used at the time of the application. This list will help us track where various special permits are being utilized and assist the special permits division in ensuring that a special permit is being conducted in accordance with its parameters. For additional clarification, PHMSA is not requiring applicants to resubmit an application for those facilities using a special permit after an application has been submitted. Therefore, PHMSA is retaining the requirement for reporting all known locations where the special permit will be used because we believe it is necessary to adequately determine that all facilities conducting business under the special permit are able to demonstrate an equivalent level of safety as required by regulation. In addition, PHMSA is only requiring applicants for special permits to list those facilities where a special permit will be used that are known at the time of an application and updated at the time of renewal.

COSTHA also expresses concern that PHMSA did not adequately address the additional burden to industry when adding the new requirements in the January 5 final rule. We disagree. PHMSA carefully examined the burden that the new requirements would have on special permit applicants and determined that, although we are requiring additional information, much of the data is already readily available to applicants. In addition, we believe

that the additional time required to gather the information is greatly offset by the on-line application process capability provided in the January 5 final rule.

In its appeal, COSTHA asks PHMSA to reconsider the requirement for applicants to provide the name of the CEO or president of the company. COSTHA notes that it is not uncommon for CEOs and presidents to change frequently due to the reorganization of a company or other reasons, and asks whether a special permit holder would be required to amend its application to reflect these changes. We agree. The intent of this requirement is to provide the identification of a senior official in the company who has responsibility for overseeing the overall hazardous materials regulatory compliance of the company, especially the operations under the terms of the special permit. Accordingly, we recognize that other corporate officials may be more appropriately identified. Therefore, PHMSA is revising this requirement to provide for the identification of a senior corporate official with such oversight duties.

COSTHA's appeal asks PHMSA to reconsider the requirement for applicants to obtain and provide a DUNS identifier. COSTHA states that this number is typically used for credit and business transactions. COSTHA also adds that the adopted language does not indicate whether the DUNS identifier is optional. For clarification, the DUNS number is a mandatory requirement. PHMSA chose this identifier as it does not impose a cost on applicants to obtain it. The DUNS identifier will then be used as the identification number for a facility when renewing a special permit or applying for other new special permits. For additional clarification, in the case of companies who have multiple DUNS identifiers, PHMSA is requiring that applicants provide only one DUNS identifier that is most applicable to the location for which the special permit is being utilized.

Lastly, COSTHA asks PHMSA to reconsider the requirements in § 107.105(c)(10) that requires an estimate of the number of operations expected to be conducted or the number of shipments expected to be transported under a special permit. COSTHA states that it will be impossible for companies to accurately prognosticate the number of shipments offered. COSTHA also indicates that it is not satisfied with PHMSA's explanation in the preamble language in the January 5 final rule regarding why it needs applicants to provide an estimate of the number of

shipments based on the best available information. We disagree. Collecting this additional information will help us to better ensure an equivalent level of safety is reached for each special permit application. Applicants must make a reasonable estimate of the amount of shipments that will take place over the duration of the special permit. PHMSA expects applicants to provide an estimate of the number of packages to be shipped for the duration of the special permit, based on the history of previous shipments transported under the terms of a special permit. In addition, if this is the initial application for a special permit, PHMSA believes that a reasonable estimate of the amount of shipments that will take place over the duration of the special permit will be sufficient when applying for a special permit.

B. Institute for Makers of Explosives

In support of its appeal, IME requests that PHMSA re-evaluate several of the changes made to the special permits and procedures application process. These changes include the requirements to: list all known locations where a special permit will be used; provide a description of operational controls; and provide a statement outlining the reason(s) the hazardous material is being transported by air. IME also questions whether PHMSA conducted an adequate cost/benefit analysis in support of this final rule.

In its appeal, IME questions why, in light of the exceptional safety record of the commercial explosive industry, PHMSA is imposing additional requirements without any stated foundation in underlying safety concerns, perceived risk, or incident data. Although these requirements apply to the commercial explosives industry, they apply equally to all entities applying for a special permit. These additional requirements will increase overall safety by providing us with a more accurate description of how an applicant has established a level of safety at least equivalent to the requirements of the HMR when transporting its particular commodity.

IME also requests clarification of the phrase "would be used" as it pertains to the requirement in § 107.105(a)(2), that "applicants for a special permit list all known locations where the special permit would be used." Specifically, IME asks whether this language refers to locations where vehicles are based, or to all locations where such a vehicle operates and/or delivers materials. For clarification, PHMSA is not requesting a list of facilities where hazardous materials moving under a special permit

are being delivered. Rather, we are seeking a list of locations where the special permit will initially be used at the time of application. Under the scenario of a truck operating under a special permit, we are only seeking the address of the location at which the truck is based.

IME notes that in the January 5, 2011 final rule, we adopted new provision § 107.105(c)(2) to require a description of all operational controls required for the mode(s) of transportation. IME asserts that this requirement is vague and it is unclear what level of detail is required of industry when reporting a description of these operational controls. For clarification, by requesting that applicants provide a description of operational controls, our intent is for applicants to provide any relevant schematics, diagrams, or description of the means that would be utilized under the conditions of a special permit, and will vary, based on the individual application. If an operational control is not applicable to execute the conditions of the special permit, such reasoning should be stated in the application. For example, an operational control would be to limit transportation to private motor carriers.

IME also states that, in response to comments submitted to the Notice of Proposed Rulemaking (NPRM), PHMSA failed to illuminate the safety rationale for the provision in § 107.105(c)(5) to require applicants who propose to ship via air to provide a statement outlining the reason(s) the hazardous material is being transported by air if other modes are available. IME questions the safety rationale for this requirement and suggests that this requirement could leave open the possibility that a special permit application for air transportation could be refused on non-safety related rationales, including cost and convenience. We disagree. PHMSA stresses that we have no intention of denying a special permit application simply based on the shipment being transported by air. PHMSA will continue to review the applicants' submission and approve those applications, regardless of the particular mode of transportation, that are determined to provide an equivalent level of safety.

IME also questions PHMSA's analysis for the additional cost and time that will be incurred by applicants because of the increased special permit application requirements. IME adds that while it supports a simplified electronic application, the process of researching and assembling the additional information required will exceed PHMSA's estimate to complete the

revised special permit application. We disagree. PHMSA did conduct a review of the information collection burden with respect to this rulemaking, and determined that while we expect some increased burden from the collection of additional information, the overall application process will become less burdensome, and therefore, less time-consuming with the introduction of the online application process.

C. Lawrence Bierlein, esq.

PHMSA also received an appeal to the final rule from Lawrence W. Bierlein on February 2, 2011. In support of his appeal, Mr. Bierlein requests that PHMSA re-evaluate several of the changes made to the special permits and procedures application process. These changes include the requirements to: List all known locations where a special permit will be used; list the CEO or president of the company; provide a DUNS identifier; provide a hazardous materials registration number; provide a statement justifying shipments by air; provide a quantity or number of packages to be shipped; and provide a failure mode and effect analysis to justify a special permit proposal. In addition, Mr. Bierlein also raises questions pertaining to: Increased regulations without a safety benefit; compliance and inspection issues; excessive paperwork; fitness determinations; and the security of on-line applications.

Mr. Bierlein questions whether the January 5 final rule has anything to do with safety in transportation, and states his belief that the goal of this final rule is to ease the burden on compliance inspectors and enforcement programs without regard to cost. He further adds that his clients do not believe any of the additional requirements falls within the ambit of the secretary's authority to regulate transportation under the Hazardous Materials Transportation Act (HMTA). We disagree. PHMSA is confident that the additional requirements in this final rule will help us to better determine if an applicant is meeting an equivalent of safety under a special permit.

In his appeal, Mr. Bierlein adds that the new requirements in this final rule are outrageously excessive and will overburden PHMSA with paperwork. He adds that it will be impossible for PHMSA or its modal administrations to monitor substantially more locations given its already limited field staff. In addition, Mr. Bierlein states that requiring additional information will put a substantial burden on both PHMSA and the regulated community. We disagree. The additional information

requested is vital to accurately assess an equivalent level of safety and the paperwork burden is greatly offset by the on-line application capability. Through the addition of an online application system, PHMSA will be dramatically reducing the amount of time required by applicants to apply for a special permit. In addition, the online application system, through increased automation, will dramatically reduce the amount of time required by PHMSA to review and process special permit application. The overall effect of this rulemaking will be a more efficient and timely special permit application process.

Mr. Bierlein also states that PHMSA is putting too much emphasis on "fitness." He contends that while seriously unfit applicants should not hold a special permit authorization, adding more criteria to the fitness process is not necessary to avoid such a situation. While PHMSA acknowledges this argument, collecting this additional information will help us to better ensure an equivalent level of safety is reached for each special permit application.

In his appeal, Mr. Bierlein also notes that in response to a public meeting held in August, 2010 on fitness, Mr. Bierlein filed a joint written statement declaring that the criteria for which field inspectors will determine safety and fitness are both unspecified and undefined. While PHMSA acknowledges his comment, the fitness criteria Mr. Bierlein describes is not within the scope of this rulemaking.

In Mr. Bierlein's appeal, he notes that the new requirements in §§ 107.105(a)(2), 107.107(b)(3), and 107.109(a)(3) ask for the physical address(es) of all known locations where the applicant will use the special permit, and states that each downstream distribution center, public warehouse, and forwarder is considered a user of the special permit. Mr. Bierlein questions PHMSA's need for such a voluminous amount of information. We disagree. The intent of this requirement is to identify the initial location where an applicant will use the special permit. It is not intended that all downstream entities that make subsequent shipments be identified. For example, for a special permit authorizing the use of a packaging not otherwise authorized under the HMR, the address of the initial entity(ies) that prepares the package under the special permit would be identified. Persons who merely receive and reshipe these packages are not required to be identified in the application or renewal.

Mr. Bierlein's appeal asks us to reconsider the requirement for

applicants to provide the CEO or president of the company. Mr. Bierlein notes that in only the smallest companies would the CEO be aware of the hazardous materials transportation functions executed by that company, and communication should be between PHMSA and the person with the most knowledge about the special permit. We agree, and as previously mentioned, are revising this requirement to provide for the identification of a senior corporate official with such oversight duties.

Mr. Bierlein questions the requirement to require the DUNS identifier because it has no value. We disagree. The DUNS identifier provides applicants with a unique number that will link all data for a particular company. This will ensure that all data on a company is identified with that company and prevent companies from being in the system with multiple variations of that company's spelling. For example, company ABCD, Inc. may be entered into these data systems in a number of ways, (*i.e.*, A,B.C.D., Inc.; Alpha, Beta, Charlie, Delta, Inc.; ABCD Company; *etc.*)

Mr. Bierlein also states that PHMSA should not require applicants to report their hazardous materials registration number and notes that there are many applicants for special permits who are not required to have registration numbers. Mr. Bierlein adds that the greatest number of users comes from government agencies such as the Federal Aviation Administration (FAA), the National Aeronautics and Space Administration (NASA), and the Department of Defense (DOD), and requiring the registration numbers is useless and discriminatory against industry. We disagree. A large majority of special permit applications come from industry, not government. We also note that we are requiring only those facilities that already have a registration number to report that registration number as part of the application process. This information is necessary in order to ensure that applicants who are required to register have actually done so. For applicants not required to be registered, we are requiring only a simple statement indicating that registration is not required.

Mr. Bierlein objects to the requirement that a statement be provided outlining the reason(s) the hazardous material is being transported by air if other modes are available. Mr. Bierlein expresses a belief that the implementation of this requirement is intended to restrict or prohibit hazardous materials air shipments being transported under a special permit. Mr. Bierlein also suggests that a more

detailed, transparent, and substantive safety rationale be provided in a new rulemaking before air shipments are banned under a special permit. We disagree. A statement outlining the reason(s) the hazardous material is being transported is necessary to determine that an equivalent level of safety is being met for air transportation. PHMSA will continue to review the applicant's submissions and approve those applications based on a determination that it meets an equivalent level of safety. We stress that we have no intention of denying special permits simply based on the method of transportation.

Mr. Bierlein objects to the requirement for applicants to use a failure mode and effect analysis (FMEA), stating that it is excessive for special permits pertaining to minor variations from the hazardous materials regulations. Mr. Bierlein recommends we revise this requirement by limiting it to a short list of high hazard materials, or materials shipped in innovative packages exceeding 3,000 liters water capacity. We disagree. We maintain our belief that this information, along with the other required information, will help establish whether an applicant has met an equivalent level of safety for the safe transportation of hazardous materials under the guidelines of a special permit. For clarification, applicants are not required to use a FMEA, they are only required to prove with data or test results that they will achieve an equivalent level of safety equal to that required by regulation when seeking a special permit. Additionally, a FMEA was provided in the final rule as an example of how to meet this requirement.

Mr. Bierlein also states there is no credible rationale for the requirement to provide a quantity of material or number of packages to be shipped, and contends that PHMSA's statement in the final rule that this information will enable us to better evaluate an applicant's ability to safely transport hazardous materials is self-serving without factual support. We disagree. We maintain our belief that this information, along with the other required information, will help establish whether an applicant has met an equivalent level of safety for the safe transportation of hazardous materials under the guidelines of a special permit.

Lastly, Mr. Bierlein notes that PHMSA's on-line application process found on the PHMSA website continues to display the warning that it has been penetrated by hackers. For clarification, the statement on PHMSA's website reads, "We have been alerted of a

potential phishing website not associated with PHMSA collecting data for Fireworks (EX) Number Applications. It is highly advised that you do not submit application data on any other web site not sanctioned by PHMSA." This warning only advises applicants to use the official link on the PHMSA website to apply for special permits and not third party links to ensure applicants are submitting their data correctly to PHMSA. PHMSA's on-line application process has not been hacked.

III. Corrections and Amendments

In this final rule, we are making corrections to sections that were amended by the January 5, 2011 final rule by reinserting language that was inadvertently deleted in the final rule and clarifying that a table of contents is only required for paper submissions. None of the corrected sections are new requirements. The corrections are as follows:

Part 107

Section 107.105

This section outlines the procedures for applying for a special permit. We are revising this section to clarify that a table of contents is only required for paper submissions.

Section 107.107

This section outlines the procedures for applying for party status to a special permit. We are revising this section to reinsert language that was inadvertently removed in the January 5, 2011 final rule.

Part 109

Section 109

This section outlines the procedures for applying for a renewal of a special permit. We are revising this section to reinsert language that was inadvertently removed in the January 5, 2011 final rule.

IV. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This final rule is published under the authority of 49 U.S.C. 5103(b), which authorizes the Secretary to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. 49 U.S.C. 5117(a) authorizes the Secretary of Transportation to issue a special permit from a regulation prescribed in §§ 5103(b), 5104, 5110, or 5112 of the Federal hazardous materials transportation law to a person

transporting, or causing to be transported, hazardous material in a way that achieves a safety level at least equal to the safety level required under the law, or consistent with the public interest, if a required safety level does not exist. The final rule amends the regulations to revise the special permit application requirements and provide an on-line capability for applications.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget (OMB). This final rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

Executive Orders 12866 and 13563 require agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society. As discussed in this rulemaking, PHMSA is revising the special permits application procedures by requiring additional, more detailed information to enable the agency to strengthen its oversight of the special permits program. PHMSA recognizes there may be additional costs related to the proposals to require additional information in the special permits application procedures. However, we believe these costs are minimized by the proposals to allow for electronic means for all special permits and approvals actions, and the proposals to authorize electronic means as an alternative to written means of communication. Taken together, the provisions of this final rule will promote the continued safe transportation of hazardous materials while reducing paperwork burden on applicants and administrative costs for the agency.

C. Executive Order 13132

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). This final rule would preempt state, local and Indian tribe requirements but does not contain any regulation that has 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 governments. Therefore, the consultation and funding requirements

of Executive Order 13132 do not apply. Federal hazardous material transportation law, 49 U.S.C. 5101–5128, contains an express preemption provision (49 U.S.C. 5125(b)) preempting state, local and Indian tribe requirements on certain covered subjects.

D. Executive Order 13175

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”). Because this final rule does not have tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, 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. This final rule proposes revisions to current special permit application requirements that may increase the time that would be required to complete such an application. Although many of the applicants may be small businesses or other small entities, PHMSA believes that the addition of an on-line application option will significantly reduce the burden imposed by the application requirements. Therefore, PHMSA certifies that the provisions of this final rule would 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 \$141.3 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

This final rule imposes no new information collection and recordkeeping requirements.

H. 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

comment (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.

In consideration of the foregoing, we are amending 49 CFR part 107 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; Public Law 101–410 section 4 (28 U.S.C. 2461 note); Public Law 104–121 sections 212–213; Public Law 104–134 section 31001; 49 CFR 1.45, 1.53.

■ 2. In § 107.105, paragraphs (a)(1)(ii) and (iii) are revised, and paragraph (a)(1)(iv) is added, to read as follows:

§ 107.105 Application for special permit.

(a) * * *

(1) * * *

(ii) Be submitted with any attached supporting documentation by facsimile (fax) to: (202) 366–3753 or (202) 366–3308;

(iii) Be submitted electronically by e-mail to: Specialpermits@dot.gov; or

(iv) Be submitted using PHMSA’s online system (table of contents omitted) at: <http://www.phmsa.dot.gov/hazmat/regs/sp-a>.

* * * * *

■ 3. In § 107.107, paragraph (b)(3) is revised to read as follows:

§ 107.107 Application of party status.

* * * * *

(b) * * *

(3) The application must state the name, mailing address, physical address(es) of all known locations where the special permit would be used, e-mail address (if available), and telephone number of the applicant. If the applicant is not an individual, the application must state the company name, mailing address, physical address(es) of all known locations where the special permit would be used, e-mail address (if available), and telephone number of an individual designated as the point of contact for the applicant for all purposes related to the application, the name of the company Chief Executive Officer (CEO), president, or ranking executive officer

and the Dun and Bradstreet Data Universal Numbering System (D-U-N-S) identifier. In addition, each applicant must state why party status to the special permit is needed and must submit a certification of understanding of the provisions of the special permit to which party status is being requested.

* * * * *

■ 4. In § 107.109, paragraph (a)(3) is revised to read as follows:

§ 107.109 Application for renewal.

(a) * * *

(3) The application must state the name, mailing address, physical address(es) of all known new locations not previously identified in the application where the special permit would be used and all locations not previously identified where the special permit was used, e-mail address (if available), and telephone number of the applicant. If the applicant is not an individual, the application must state the name, mailing address, physical address(es) of all known new locations not previously identified in the application where the special permit would be used and all locations not previously identified where the special permit was used, e-mail address (if available), and telephone number of an individual designated as the point of contact for the applicant for all purposes related to the application, the name of the company Chief Executive Officer (CEO), president, or ranking executive officer, and the Dun and Bradstreet Data Universal Numbering System (D-U-N-S) identifier. In addition, each applicant for renewal of party status must state why party status to the special permit is needed and must submit a certification of understanding of the provisions of the special permit to which party status is being requested.

* * * * *

Issued in Washington, DC on July 18, 2011 under authority delegated in 49 CFR part 1.

Cynthia Quarterman,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2011-18664 Filed 7-25-11; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 100622276-0569-02]

RIN 0648-XA580

Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Non-Sandbar Large Coastal Shark Research Fishery

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

ACTION: Notification of fishery closure.

SUMMARY: NMFS is closing the commercial shark research fishery for non-sandbar large coastal sharks (LCS). This action is necessary because landings for the 2011 fishing season have reached at least 80 percent of the available quota.

DATES: The commercial shark research fishery for non-sandbar LCS is closed effective 11:30 p.m. local time July 26, 2011 until, and if, NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Peter Cooper, 301-427-8503; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), shark dealers are required to report to NMFS all sharks landed every two weeks. Dealer reports for fish received between the 1st and 15th of any month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a species group have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species group that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS

announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for that species group is closed, even across fishing years.

On December 8, 2010 (75 FR 76302), NMFS announced that the shark research fishery for the 2011 fishing year was open and the available non-sandbar LCS research fishery quota was 37.5 metric tons (mt) dressed weight (dw) (82,673 lb dw). Dealer and observer reports received through the July 14, 2011, indicate that 31.3 mt dw or 83 percent of the available shark research fishery quota for non-sandbar LCS has been landed. Dealer reports received to date indicate that 5 percent of the quota was landed from the opening of the fishery on January 1, 2011, through January 31, 2011; 21 percent of the quota was landed in February; 15 percent of the quota was landed in March; 10 percent of the quota was landed in April; 19 percent of the quota was landed in May; and 13 percent of the quota was landed in June. The fishery has reached 83 percent of the quota, which exceeds the 80-percent limit specified in the regulations. Accordingly, NMFS is closing the commercial non-sandbar LSC research fishery as of 11:30 p.m. local time July 26, 2011. This closure does not affect any other shark fishery.

During the closure, persons engaged in a shark research fishery trip aboard vessels issued a shark research permit under 50 CFR 635.32(f) with a NMFS-approved observer onboard, may not retain non-sandbar LCS. Vessels issued a shark research permit that are engaged in a commercial shark fishing trip outside of the shark research fishery may retain non-sandbar LCS caught in the Atlantic region, as long as the Atlantic region remains open for commercial harvest of non-sandbar LCS by Atlantic shark limited access permit holders. A shark dealer issued a permit pursuant to § 635.4 may not purchase or receive non-sandbar LCS from a vessel issued a shark research permit returning from a shark research fishery trip with a NMFS-approved observer on board. Permitted shark dealers or processors may possess non-sandbar LCS that were harvested during a shark research fishery trip, as long as the non-sandbar LCS were off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing for prior notice and public comment for this action is impracticable and contrary