

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1500, 1502, 1503, 1510, 1511, 1540, 1542, 1544, 1546, 1548, and 1550

[Docket No. TSA-2003-14702; Amendment Nos. 1500-1, 1502-1, 1503-1, 1510-3, 1511-2, 1540-5, 1542-1, 1544-4, 1546-1, 1548-1, and 1550-1]

RIN 1652-AA20

Transportation Security Administration Transition to Department of Homeland Security; Technical Amendments Reflecting Organizational Changes

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Final rule.

SUMMARY: The Homeland Security Act of 2002 transferred the Transportation Security Administration from the Department of Transportation to the newly created Department of Homeland Security. This rule makes conforming technical changes to various parts of the Transportation Security Regulations, chapter XII of title 49, Transportation, of the Code of Federal Regulations, revising, where appropriate, all references to the titles, abbreviations, and acronyms of the "Department of Transportation" and the "Under Secretary of Transportation for Security." This regulation also makes conforming changes to the general definitions sections and revises TSA's address because of TSA Headquarters' physical move to Arlington, Virginia. Because this rule revises existing regulations to reflect organizational changes, it has no substantive effect on the public.

DATES: Effective August 19, 2003.

FOR FURTHER INFORMATION CONTACT: Marisa Mullen, Office of the Chief Counsel, TSA-2, Transportation Security Administration, West Building, Floor 8, 601 South 12th Street, Arlington, VA 22202-4220; telephone (571) 227-2706; e-mail marisa.mullen@dhs.gov.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>);

(2) Accessing the Government Printing Office's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html; or

(3) Visiting the TSA's Law and Policy web page at <http://www.tsa.dot.gov/public/index.jsp>.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within the TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's web page at http://www.sba.gov/advo/laws/law_lib.html.

Background

The rule makes technical changes to various provisions of chapter XII, title 49 (Transportation) of the Code of Federal Regulations (CFR), mainly in response to enactment of the Homeland Security Act of 2002 (HSA), Public Law 107-296, 116 Stat. 2135 (2002). Pursuant to the HSA, Congress established the Department of Homeland Security (DHS) (section 101 of HSA) and directed the transfer of the Transportation Security Administration (TSA) (section 403 of HSA) from the Department of Transportation (DOT) to DHS. As indicated in the Department of Homeland Security Reorganization Plan submitted on November 25, 2002, by the President to Congress (under section 1502 of the HSA), TSA transferred to DHS on March 1, 2003.

In addition, by March 1, TSA completed the physical move of its headquarters facilities and personnel from Washington, DC, to Arlington, Virginia. This rule revises any references to our location address or mailing address, as necessary.

Justification for Immediate Adoption

This rule relates only to agency organization, procedure, and practice. Therefore, under 5 U.S.C. 553(b)(3)(A), this rule is exempt from notice and comment rulemaking requirements. The changes made by the rule will have no substantive effect on the public; therefore, under 5 U.S.C. 553(d), this rule may become effective less than 30 days after publication in the **Federal Register**.

Provisions of the Final Rule

In 49 CFR, chapter XII, all references to the titles, abbreviations, and acronyms of the "Department of Transportation" and the "Under Secretary of Transportation for Security" are revised, where appropriate, to read "Department of Homeland Security" and "Administrator," respectively. In conjunction with the transfer of TSA to DHS, the head of TSA has adopted the new title of Administrator and has implemented conforming changes to the titles of other senior management officials at TSA. Other organizational changes have been made as well. Consequently, for purposes of the Transportation Security Regulations (TSRs), the official formerly referred to as the Under Secretary of Transportation for Security will be referred to as the Administrator, and the official formerly referred to as the Deputy Administrator/Chief Operating Officer will be referred to as the Deputy Administrator. In addition, officials previously referred to as Associate Under Secretaries will be known as Assistant Administrators and the official previously referred to as the Deputy Chief Counsel for Enforcement will be known as the Deputy Chief Counsel for Civil Enforcement. The final rule makes conforming changes to the TSRs to reflect these changes and adds a new definition of "Administrator" to the general definitions sections.

This rule also revises TSA's address because of TSA Headquarters' physical move from Washington, DC, to Arlington, Virginia. Our U.S. mailing address will no longer be routed to TSA through the DOT Headquarters' address at 400 Seventh Street, SW., Washington, DC. The official address for all TSA mail (both U.S. Postal System and all overnight mail) now is: Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202-4220.

Although most references to DOT have been revised to DHS, in some instances, most notably in §§ 1510.19 and 1511.11, references to DOT remain to allow DOT access to books and records related to TSA's Civil Aviation Security Fees in order to facilitate DOT's enforcement of its consumer protection and economic authority.

In addition, the authority citations in 49 CFR parts 1500 through 1511 and 1540 through 1550 were amended to add 49 U.S.C. 114 and 40113, as appropriate. These citations include general agency authorities to conduct rulemaking and issue orders that had inadvertently been left out of previous rulemakings.

Collection of Information

This rule does not impose any new information collection and recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requiring approval by the Office of Management and Budget.

Regulatory Impact Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866, Regulatory Planning and Review, directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Fourth, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation.)

Executive Order 12866 Assessment

In conducting these analyses, TSA has determined this rulemaking is not a “significant regulatory action” as defined in section 3(f) of the Executive Order as this rule involves internal agency practices and procedures and non-substantive changes to rules of procedure and will not impose any costs on the public. Therefore, it does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order, nor does it require a review by the Office of Management and Budget.

Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act (RFA) of 1980 requires that agencies perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. For purposes of the RFA, small entities include small businesses, not-for-profit organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity.

The RFA does not apply to this rule and we are not preparing an analysis for the Act, since under 5 U.S.C. 553, TSA is not required to publish an NPRM for a rule that relates to agency management, procedures, and practice. However, because this rule will not impose any costs on the public, we have determined and certify that this rule does not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The TSA has assessed the potential effect of this rulemaking and has determined that it will have no effect on any trade-sensitive activity and will not constitute a barrier to international trade.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.”

This rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and the TSA has not prepared a statement under the Act.

Executive Order 13132, Federalism

The TSA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Review Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects

49 CFR Part 1500

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1502

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies).

49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties, Transportation.

49 CFR Part 1510

Accounting, Auditing, Air carriers, Air transportation, Enforcement, Federal oversight, Foreign air carriers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1511

Accounting, Auditing, Air carriers, Air transportation, Enforcement, Federal oversight, Foreign air carriers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1540

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1542

Air carriers, Aircraft, Aviation safety, Security measures.

49 CFR Part 1544

Air carriers, Aircraft, Aviation safety, Freight forwarders, Incorporation by reference, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1546

Aircraft, Aviation safety, Foreign air carriers, Incorporation by reference, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1548

Air transportation, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1550

Aircraft, Security measures.

The Amendment

■ In consideration of the foregoing, the Transportation Security Administration amends Chapter XII of Title 49, Code of Federal Regulations, as follows:

■ 1. Revise the heading for chapter XII to read as follows:

**CHAPTER XII—TRANSPORTATION
SECURITY ADMINISTRATION,
DEPARTMENT OF HOMELAND SECURITY**

■ 2. In 49 CFR chapter XII, revise all references to “Under Secretary of Transportation for Security” to read “Administrator”; revise all references to “Under Secretary of Transportation for Security’s” to read “Administrator’s”; revise all references to “Under Secretary” to read “Administrator”; revise all references to “Under Secretary’s” to read “Administrator’s”; and revise all references to “Deputy Under Secretary of Transportation for Security/Chief Operating Officer” to read “Deputy Administrator”.

**SUBCHAPTER A—ADMINISTRATIVE AND
PROCEDURAL RULES**

**PART 1500—APPLICABILITY, TERMS,
AND ABBREVIATIONS**

■ 3. In part 1500, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

■ 4. In § 1500.3, remove the redesignated definition of “Administrator”, and add a new definition of “Administrator” in alphabetical order to read as follows:

**§ 1500.3 Terms and abbreviations used in
this chapter.**

* * * * *

Administrator means the Under Secretary of Transportation for Security identified in 49 U.S.C. 114(b) who serves as the Administrator of the Transportation Security Administration.

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**PART 1502—ORGANIZATION,
FUNCTIONS, AND PROCEDURES**

■ 5. In part 1502, revise the authority citation to read as follows:

Authority: 5 U.S.C. 3345, 49 U.S.C. 114, 40113, 44901–44907, 44913–44914, 44916–44920, 44935–44936, 44942, 46101–46105, 45107, 46110.

**PART 1503—INVESTIGATIVE AND
ENFORCEMENT PROCEDURES**

■ 6. In part 1503, revise the authority citation to read as follows:

Authority: 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 40113–40114, 44901–44907, 46101–46107, 46109–46110, 46301, 46305, 46311, 46313–46314.

■ 7. In part 1503, revise all references to “Deputy Chief Counsel for Enforcement” to read “Deputy Chief Counsel for Civil Enforcement”.

§ 1503.3 [Amended]

■ 8. In § 1503.3(b), remove the word “Associate” from wherever it appears in the paragraph, and add in its place, the word “Assistant”.

**§§ 1503.5, 1503.16, 1503.209, 1503.210,
1503.230, and 1503.233 [Amended]**

■ 9. In §§ 1503.5(b)(2), 1503.16(f), 1503.209(b), 1503.210(a), and 1503.233(a), remove the words “Department of Transportation” and add in their place, the words “Department of Homeland Security”.

■ 10. In §§ 1503.5(k), 1503.5(k)(2)(C)(ii), 1503.209(b), 1503.210(a), and 1503.230(b)(2)(C)(ii), remove the words “GSA Building, Room 5008, 301 Seventh Street SW., Washington, DC 20407”, and add in their place, the words “TSA Headquarters, Visitor Center, 701 South 12th Street, Arlington, Virginia 22202”.

■ 11. In §§ 1503.209(b), and 1503.233(a), remove the question mark symbol “?”, from wherever it appears in the paragraph.

**PART 1510—PASSENGER CIVIL
AVIATION SECURITY SERVICE FEES**

■ 12. In part 1510, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 40113, and 44940.

■ 13. In § 1510.3, remove the redesignated definition of “Administrator”, and add a new definition of “Administrator” in alphabetical order to read as follows:

§ 1510.3 Definitions.

* * * * *

Administrator means the Administrator of the Transportation

Security Administration or the Administrator’s designee.

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■ 14. In § 1510.19, revise the text to read as follows:

§ 1510.19 Federal oversight.

Direct air carriers and foreign air carriers must allow any authorized representative of the Administrator, the Secretary of Transportation, the Secretary of Homeland Security, the Inspector General of the Department of Transportation, the Inspector General of the Department of Homeland Security, or the Comptroller General of the United States to audit or review any of its books and records and provide any other information necessary to verify that the security service fees were properly collected and remitted consistent with this part.

**PART 1511—AVIATION SECURITY
INFRASTRUCTURE FEE**

■ 15. In part 1511, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 40113, 44901, and 44940.

■ 16. In § 1511.3, remove the redesignated definition of “Administrator”, and add a new definition of “Administrator” in alphabetical order to read as follows:

§ 1511.3 Definitions.

* * * * *

Administrator means the Administrator of the Transportation Security Administration or the Administrator’s designee.

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■ 17. In § 1511.11, revise paragraph (a) introductory text to read as follows:

§ 1511.11 Federal oversight.

(a) Upon request, air carriers and foreign air carriers must allow any authorized representative of the Administrator, the Secretary of Transportation, the Secretary of Homeland Security, the Inspector General of the Department of Transportation, the Inspector General of the Department of Homeland Security, or the Comptroller General of the United States to audit or review any of the books and records and provide any other information necessary to verify that:

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**SUBCHAPTER C—CIVIL AVIATION
SECURITY****PART 1540—CIVIL AVIATION
SECURITY: GENERAL RULES**

- 18. In part 1540, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

- 19. In § 1540.115(b), remove the redesignated definition of “Administrator”, and add a new definition of “Administrator” in alphabetical order to read as follows:

§ 1540.115 Threat assessments regarding citizens of the United States holding or applying for FAA certificates, ratings, or authorizations.

* * * * *

(b) * * *

Administrator means the Administrator of the Transportation Security Administration.

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PART 1542—AIRPORT SECURITY

- 20. In part 1542, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44913–44914, 44916–44917, 44935–44936, 44942, 46105.

**PART 1544—AIRCRAFT OPERATOR
SECURITY: AIR CARRIERS AND
COMMERCIAL OPERATORS**

- 21. In part 1544, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

**PART 1546—FOREIGN AIR CARRIER
SECURITY**

- 22. In part 1546, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44914, 44916–44917, 44935–44936, 44942, 46105.

**PART 1548—INDIRECT AIR CARRIER
SECURITY**

- 23. In part 1548, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44913–44914, 44916–44917, 44932, 44935–44936, 46105.

**PART 1550—AIRCRAFT SECURITY
UNDER GENERAL AVIATION
OPERATING AND FLIGHT RULES**

- 24. In part 1550, revise the authority citation to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

Issued in Arlington, Virginia, on August 11, 2003.

James M. Loy,
Administrator.

[FR Doc. 03–20927 Filed 8–18–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric
Administration****50 CFR Part 660**

[Docket No. 020430101–2101–01; I.D.
080503B]

**Fisheries Off West Coast States and in
the Western Pacific; West Coast
Salmon Fisheries; Inseason Action #2
- Adjustment of the Recreational
Fishery from the Queets River to Cape
Falcon, Oregon**

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

ACTION: Adjustment; request for comments.

SUMMARY: NMFS announces that the recreational fishery in the area from the Queets River to Cape Falcon, Oregon, was modified to open 7 days per week effective on Friday, July 26, 2003. On July 18, 2003, the Northwest Regional Administrator, NMFS (Regional Administrator), determined that available catch and effort data indicated that increasing the days open was warranted. This action was necessary to conform to the 2003 management goals.

DATES: Adjustment in the area from the Queets River to Cape Falcon, Oregon, effective 0001 hours local time (l.t.), July 26, 2003 through September 30, 2003. Comments will be accepted through September 3, 2003.

ADDRESSES: Comments on this action must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376; or Rod McLinn, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; or faxed to 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the

Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The Regional Administrator modified the season for the recreational fishery in the area from the Queets River to Cape Falcon to be open 7 days per week effective Friday, July 26, 2003. On July 18 the Regional Administrator determined that available catch and effort data indicated that increasing the days open was warranted. Modification of recreational fishing days per calendar week are authorized by regulations at 50 CFR 660.409(b)(1)(iii).

In the 2003 annual management measures for ocean salmon fisheries (68 FR 23913, May 6, 2003), NMFS announced the recreational fishery in the area from the Queets River to Leadbetter Point, WA (Westport Area) would open June 22 through the earlier of September 14 or a 83,250 coho subarea quota with a subarea guideline of 40,600 chinook, and the area from Leadbetter Point, WA to Cape Falcon (Columbia River Area) would open June 29 through the earlier of September 30 or a 112,500 coho subarea quota with a subarea guideline of 12,700 chinook. Both the Westport and Columbia subareas were scheduled to open Sunday through Thursday during each calendar week.

On July 18, 2003, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the chinook and coho catch rate, and effort data indicated that it was unlikely that the coho quotas or the overall recreational chinook quota north of Cape Falcon would be met. As a result, the states recommended, and the Regional Administrator concurred, that both the Westport and Columbia recreational fishery subareas, which include the area from the Queets River to Cape Falcon, be modified to be open 7 days per week effective Friday, July 26, 2003. All other restrictions that apply to this fishery remain in effect as announced in the 2003 annual management measures.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal