

(End of clause)

* * * * *

(c) *Disclosure and Consistency of Cost Accounting Practices.* (1) The contracting officer shall insert the clause set forth below, Disclosure and Consistency of Cost Accounting Practices, in negotiated contracts when the contract amount is over the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), but less than \$50 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage (see 9903.201–2, unless the clause prescribed in paragraph (d) of this subsection is used).

(2) * * *

Disclosure and Consistency of Cost Accounting Practices (JUL 2011)

* * * * *

(d) * * *

(2) This requirement shall apply only to negotiated subcontracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)).

* * * * *

(End of clause)

* * * * *

(e) * * *

(2) * * *

Cost Accounting Standards—Education Institutions (JUL 2011)

* * * * *

(d) * * *

(2) This requirement shall apply only to negotiated subcontracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)).

* * * * *

(End of clause)

(f) * * *

(2) * * *

Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns (JUL 2011)

* * * * *

(d) * * *

(2) This requirement shall apply only to negotiated subcontracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)).

* * * * *

(End of clause)

* * * * *

■ 8. Section 9903.202–1 is amended by revising paragraphs (c) introductory text, (f)(2)(i), and (f)(3)(i) through (iii) to read as follows:

§ 9903.202–1 General requirements.

* * * * *

(c) When a Disclosure Statement is required, a separate Disclosure Statement must be submitted for each segment whose costs included in the total price of any CAS-covered contract or subcontract exceed the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)) unless

* * * * *

(f) * * *

(2) * * *

(i) Any business unit of an educational institution that is selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and is part of a college or university location listed in Exhibit A of Office of Management and Budget (OMB) Circular A–21 shall submit a Disclosure Statement before award. A Disclosure Statement is not required; however, if the listed entity can demonstrate that the net amount of Federal contract and financial assistance awards received during its immediately preceding cost accounting period was less than \$25 million.

* * * * *

(3) * * *

(i) For business units that are selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and are part of the first 20 college or university locations (i.e., numbers 1 through 20) listed in Exhibit A of OMB Circular A–21, Disclosure Statements shall be submitted within six months after the date of contract award.

(ii) For business units that are selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and are part of a college or university location that is listed as one of the institutions numbered 21 through 50, in Exhibit A of OMB Circular A–21, Disclosure Statements shall be submitted during the six month period ending twelve months after the date of contract award.

(iii) For business units that are selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and are part of a college or university location that is listed as one of the institutions numbered 51 through 99, in Exhibit A of OMB

Circular A–21, Disclosure Statements shall be submitted during the six month period ending eighteen months after the date of contract award.

* * * * *

[FR Doc. 2011–16846 Filed 7–11–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 190

[Docket No. PHMSA–2011–0161]

Pipeline Safety; Enforcement Proceedings Involving an Informal Hearing

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

ACTION: General policy statement; informal hearing process.

SUMMARY: PHMSA is issuing this document to notify operators of natural gas and hazardous liquid pipeline facilities of the creation of a dedicated “Presiding Official” for informal pipeline enforcement hearings and the process operators can expect when requesting an informal hearing. Hearings in pipeline safety enforcement cases are conducted by a hearing officer in accordance with certain procedures designed to ensure a fair and impartial decision on the merits. This document explains those procedures and includes a description of the dedicated hearing officer’s roles and responsibilities, the process for requesting a hearing, and the manner in which a case will proceed once a hearing has been requested.

FOR FURTHER INFORMATION CONTACT: Sherri Pappas, Deputy Chief Counsel, at 202–366–4400. Information about PHMSA may be found at <http://phmsa.dot.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal safety statute and regulations for natural gas and hazardous liquid pipeline facilities provide a description of the enforcement authority and sanctions exercised by the Associate Administrator for achieving and maintaining pipeline safety. Pursuant to chapter 601 of Title 49, United States Code, after notice and an opportunity for a hearing, the Associate Administrator may order an operator of a pipeline facility to take necessary corrective action, including revisions to

its procedures, and may assess a civil penalty for a violation of a pipeline safety regulation or order (49 U.S.C. 60108(a), 60112, 60117(l), 60118(b), and 60122). The regulations also prescribe the procedures governing the exercise of that authority and the imposition of those sanctions. In general, subpart B of 49 CFR part 190 (190.201–190.239) provides an opportunity for a pipeline operator to submit a written answer and/or request a hearing prior to the issuance of any order that makes a finding of violation, assesses a civil penalty, or requires corrective measures to be taken.

Effective immediately, and to the extent practical, all timely requested hearings will be held before the designated hearing officer or “Presiding Official” within PHMSA.

II. Hearing Officer

The person within PHMSA who conducts hearings relating to civil penalty assessments, compliance orders, or safety orders is the designated hearing officer. The person is a senior attorney within the Office of Chief Counsel, on the staff of the Deputy Chief Counsel. To ensure the fairness and impartiality of the proceeding, the hearing officer is outside the line of authority of the Associate Administrator as well as any staff involved in the investigation and prosecution of the enforcement case. The dedicated hearing officer is not engaged personally in any investigative or prosecutorial functions with regard to enforcement matters, such as preparation of notices of probable violation relating to civil penalty assessments and compliance orders, and notices relating to corrective action orders and safety orders.

The roles and responsibilities of the hearing officer are consistent with current statutory and regulatory authority. They include scheduling the hearing, holding pre-hearing conferences as necessary, disposing of procedural requests or similar matters, regulating the course of the hearing, ensuring an opportunity for a full and complete record to be established, making a recommended decision in the matter, and taking any other authorized action where appropriate.

III. Separation of Functions

Formerly, hearings were held before several different attorneys from the Office of Chief Counsel and were assigned to an attorney who had no role in the investigation and prosecution of the case being heard. Now, all hearings will be held, to the extent practical, before the designated hearing officer, who will have no role in the

investigation and prosecution of any enforcement cases.

To ensure the impartiality and fairness of the decision-making process, a hearing officer is (and has been) held to certain standards regarding “ex parte” communications. An ex parte communication is any informal communication between a party in a pending case and the hearing officer regarding an issue in that case, occurring outside the presence of the other parties and without notice and opportunity for all parties to provide comment or rebuttal. If an enforcement case is pending before a hearing officer, ex parte communications with the hearing officer are not permitted by the operator, its counsel, or agency staff involved in the investigation and prosecution of the case. This applies to communications regarding information, facts, and arguments regarding an issue in the case, but not routine administrative matters, such as scheduling the hearing or providing clarification about the enforcement process. This restriction also does not apply to communications between the parties themselves.

In addition, an individual engaged in the performance of investigative or prosecuting functions for the agency in a case may not, in that or a factually related case, participate in the attorney’s recommended decision, but may participate at the hearing as a witness or counsel and submit a recommendation pursuant to § 190.213(b)(4).

IV. Requesting a Hearing

Section 190.209 provides that upon receipt of a notice of probable violation, proposed civil penalty, or proposed compliance order, an operator may respond within 30 days by paying the proposed penalty, agreeing to the proposed compliance order, submitting written information in answer to the notice, or requesting a hearing. Sections 190.233 and 190.239 also provide for responding to a notice of proposed corrective action order or notice of proposed safety order, including the option of requesting a hearing.

Pursuant to § 190.211, any request for a hearing must be accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations in the notice, proposed corrective actions, or the proposed civil penalty amount. The request should also indicate whether or not the operator will be represented by counsel at the hearing.

The right to a hearing is waived if not requested within 30 days of receipt of the notice. An operator that submits a

written response without specifically requesting a hearing will be deemed to have waived the right to a hearing, but the written material timely submitted will be fully considered in the rendering of a decision in the matter. An operator that requests only to “reserve its right to a hearing” will be subject to the scheduling of a hearing unless the hearing request is withdrawn.

V. Pre-Hearing Matters

Within a reasonable time after the request for a hearing, the hearing officer will ensure that the respondent has an opportunity to review all materials in the enforcement record pertinent to the issues to be determined. The enforcement record includes the notice and the violation report with exhibits that are comprised of documents gathered during the inspection and any other information included by the inspector that is relevant to the allegations.

The hearing officer will schedule the hearing, provide written confirmation to the parties of the date, time and location, and request a list of anticipated attendees. The hearing officer will also instruct parties that all documents, evidence, or exhibits in support of the case should be exchanged by furnishing a copy to all parties and submitted at least ten days prior to the hearing. Any party intending to introduce documents, evidence, or exhibits during the hearing will also be directed to furnish copies to all parties.

The hearing officer will address all procedural matters, including but not limited to, motions for extensions of time, stipulations in lieu of a hearing on particular issues, or withdrawal of a hearing request. The hearing officer may direct that a request contain sufficient detail, be specific as to the reason(s) for the request, and be served on the appropriate PHMSA regional office.

VI. Hearing

All hearings are held in accordance with § 190.211 and are conducted in an informal manner. The informal nature of the hearing alleviates the need for the parties to strictly comply with formal rules of evidence and rules of procedures. While the hearings are not “formal,” the hearing officer will take appropriate actions to maintain an appropriate level of fairness and efficiency during the proceeding. In addition, and with the assistance of the parties, the hearing officer will ensure the hearing is conducted cordially and that the parties maintain proper decorum at all times.

Hearings are currently held either telephonically or in person. They may

also be held by video teleconference in the future. During the hearing, the operator can expect the region issuing the notice to introduce the allegations and provide an explanation as to the evidence gathered in support. The operator will then have the opportunity to present its own information, facts, evidence, explanations, and arguments in response. The operator may submit any material relevant to the issues under consideration, and may call witnesses on its behalf and examine the evidence and witnesses presented by the region. At the close of the operator's presentation, the hearing officer may allow the presentation of any rebuttal information by the region, and respondents may then respond to that information.

The hearing officer ensures that all parties have an ample opportunity to present their position and supporting evidence, and will end discussion on a topic only once it is clear that all the issues have been fully examined. Questions may be asked by the hearing officer during either party's presentations. In addition, the informal nature of the proceeding allows the parties to ask questions of one another, although parameters may be established to ensure the parties have sufficient uninterrupted time to make their presentations. The hearing officer ensures that discussion stays focused on the relevant and determinative matters in the case and avoids allowing tangential issues to become a distraction. The hearing will last as long as necessary to ensure the parties have ample opportunity to present their case, although the hearing officer will attempt to accommodate the parties' schedules to the extent practicable.

Written materials and evidence presented at the hearing will be collected by the hearing officer for insertion into the record. Hearings are not recorded and are not transcribed, but if requested in advance of the hearing, the respondent may make arrangements for the hearing to be transcribed at its own expense, provided that a copy of the final transcript is submitted for the record. The hearing officer may take notes, including electronic notes and recordings during the hearing, but such personal notes are not part of the official record or maintained by the agency.

At the close of the hearing, the respondent may request an opportunity to submit further written material for inclusion in the record. The hearing officer will allow a reasonable time for the submission of the material, but if the material is not submitted within the

time prescribed, the case will proceed to final action without the material.

VII. After the Hearing

If post-hearing documents contain new evidence or new arguments, the hearing officer will provide written notification to all parties and direct the parties to respond within a certain amount of time. The hearing officer may also request that additional documents be submitted after the hearing, if necessary, to fully develop the record.

The hearing officer will ensure that all material submitted before and during the hearing is placed in the record. At this stage, the record will include the notice, violation report, written statements by the parties, evidence submitted, list of hearing attendees, any hearing transcript, and any other pre-hearing or post-hearing documents submitted by the parties.

Upon the close of a hearing and receipt of all post-hearing submissions, the hearing officer will prepare a recommended decision to be issued by the Associate Administrator. The restriction on ex parte communications discussed above is especially applicable at this stage of the proceeding, and the hearing officer will not engage in such discussions or communications regarding the case with anyone involved in the prosecution or defense of the notice. The hearing officer's recommended decision may be reviewed by the Deputy Chief Counsel and staff of the Associate Administrator prior to issuance by the Associate Administrator.

Upon signature of the decision by the Associate Administrator, PHMSA will serve the decision upon the respondent and the applicable region in accordance with § 190.5. Decisions by the Associate Administrator are also made publicly available on the PHMSA Enforcement Transparency Web site.

Issued in Washington, DC, on July 1, 2011.

Bizunesh Scott,
Chief Counsel.

Jeffrey D. Wiese,
Associate Administrator for Pipeline Safety.
[FR Doc. 2011-17231 Filed 7-11-11; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 0906221082-0484-03]

RIN 0648-XQ03

Endangered and Threatened Wildlife and Plants; Endangered Status for the Largetooth Sawfish

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

ACTION: Final rule.

SUMMARY: We, NMFS, issue a final determination to list the largetooth sawfish (*Pristis perotteti*) as endangered under the Endangered Species Act (ESA) of 1973, as amended. We do not intend to propose to designate critical habitat for the species. We have reviewed the status of the species and conservation efforts being made to protect the species, considered public and peer review comments, and we have made our determination that the largetooth sawfish is in danger of extinction throughout its range, and should be listed as an endangered species, based on the best available scientific and commercial data.

DATES: This final rule is effective August 11, 2011.

ADDRESSES: Assistant Regional Administrator for Protected Resources, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701-5505.

FOR FURTHER INFORMATION CONTACT: Shelley Norton, NMFS, Southeast Regional Office (727) 824-5312 or Dwayne Meadows, NMFS, Office of Protected Resources (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1999, the Center for Marine Conservation (currently called Ocean Conservancy) petitioned us to list North American populations of largetooth and smalltooth sawfish as endangered under the ESA. While the smalltooth sawfish underwent a formal status review (56 FR 12959), on March 10, 2000, we determined the petitioner did not present substantial scientific or commercial information indicating that the petitioned action may be warranted for the largetooth sawfish (*Pristis perotteti*). Specifically, there was no evidence that a North American population of largetooth sawfish existed. The largetooth sawfish was,