

Department of Labor, Bureau of Labor Statistics.

*Director, NPFC* means the head of the U.S. Coast Guard, National Pollution Funds Center (NPFC).

*Single-hull* means the hull of a tank vessel that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, that is not a double hull as defined in 33 CFR part 157. *Single-hull* includes the hull of any such tank vessel that is fitted with double sides only or a double bottom only.

#### **§ 138.230 Limits of liability.**

(a) Vessels. The OPA 90 limits of liability for vessels are—

(1) For a single-hull tank vessel greater than 3,000 gross tons, the greater of \$3,200 per gross ton or \$23,496,000;

(2) For a tank vessel greater than 3,000 gross tons, other than a single-hull tank vessel, the greater of \$2,000 per gross ton or \$17,088,000.

(3) For a single-hull tank vessel less than or equal to 3,000 gross tons, the greater of \$3,200 per gross ton or \$6,408,000.

(4) For a tank vessel less than or equal to 3,000 gross tons, other than a single-hull tank vessel, the greater of \$2,000 per gross ton or \$4,272,000.

(5) For any other vessel, the greater of \$1,000 per gross ton or \$854,400.

(b) Deepwater ports. The OPA 90 limits of liability for deepwater ports are—

(1) For any deepwater port other than a deepwater port with a limit of liability established by regulation under Section 1004(d)(2) of OPA 90 (33 U.S.C. 2704(d)(2)) and set forth in paragraph (b)(2) of this section, \$373,800,000;

(2) For deepwater ports with limits of liability established by regulation under Section 1004(d)(2) of OPA 90 (33 U.S.C. 2704(d)(2)):

(i) For the Louisiana Offshore Oil Port (LOOP), \$87,606,000; and

(ii) [Reserved].

(c) [Reserved].

#### **§ 138.240 Procedure for calculating limit of liability adjustments for inflation.**

(a) *Formula for calculating a cumulative percent change in the Annual CPI-U.* The Director, NPFC, calculates the cumulative percent change in the Annual CPI-U from the year the limit of liability was established, or last adjusted by statute or regulation, whichever is later (*i.e.*, the Previous Period), to the most recently published Annual CPI-U (*i.e.*, the Current Period), using the following escalation formula:

Percent change in the Annual CPI-U =  

$$\frac{[(\text{Annual CPI-U for Current Period} - \text{Annual CPI-U for Previous$$

Period) ÷ Annual CPI-U for Previous Period] × 100.

This cumulative percent change value is rounded to one decimal place.

(b) *Significance threshold.* Not later than every three years from the year the limits of liability were last adjusted for inflation, the Director, NPFC, will evaluate whether the cumulative percent change in the Annual CPI-U since that date has reached a significance threshold of 3 percent or greater. For any three-year period in which the cumulative percent change in the Annual CPI-U is less than 3 percent, the Director, NPFC, will publish a notice of no inflation adjustment to the limits of liability in the **Federal Register**. If this occurs, the Director, NPFC, will recalculate the cumulative percent change in the Annual CPI-U since the year in which the limits of liability were last adjusted for inflation each year thereafter until the cumulative percent change equals or exceeds the threshold amount of 3 percent. Once the 3-percent threshold is reached, the Director, NPFC, will increase the limits of liability, by regulation, for all source categories (including any new limit of liability established by statute or regulation since the last time the limits of liability were adjusted for inflation) by an amount equal to the cumulative percent change in the Annual CPI-U from the year each limit was established, or last adjusted by statute or regulation, whichever is later. Nothing in this paragraph shall prevent the Director, NPFC, in the Director's sole discretion, from adjusting the limits of liability for inflation by regulation issued more frequently than every three years.

(c) *Formula for calculating inflation adjustments.* The Director, NPFC, calculates adjustments to the limits of liability in § 138.230 of this part for inflation using the following formula:

New limit of liability = Previous limit of liability + (Previous limit of liability × percent change in the Annual CPI-U calculated under paragraph (a) of this section), then rounded to the closest \$100.

(d) [Reserved].

Dated: June 25, 2009.

**William R. Grawe,**

*Acting Director, National Pollution Funds Center, United States Coast Guard.*

[FR Doc. E9-15563 Filed 6-30-09; 8:45 am]

**BILLING CODE 4910-15-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG-2009-0489]

RIN 1625-AA11

#### **Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary regulated navigation area (RNA) on the waters of Oregon Inlet, North Carolina (NC). The RNA is needed to protect maritime infrastructure and the maritime public during fender repair work on the Herbert C. Bonner Bridge.

**DATES:** This rule is effective from 8 p.m. on June 22, 2009, through 8 p.m. on July 31, 2009.

**ADDRESSES:** Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0489 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0489 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and at Coast Guard Sector North Carolina, 2301 E Fort Macon Rd, Atlantic Beach, NC, 28512, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247-4525, e-mail [Stephen.W.Lyons2@uscg.mil](mailto:Stephen.W.Lyons2@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

## Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to protect bridge repair workers and the maritime public from the hazards associated with this maintenance project. Fendering system repair workers will be on scaffolding in the navigation channel underneath the bridge. Vessels transiting the channel could knock the workers off the scaffolding and into the water. Likewise vessels could sustain damage by striking the scaffolding. It is imperative an RNA is established to complete and finalize the fender repair work on the bridge. Delaying fendering repair work on the bridge to complete an NPRM is impractical, unnecessary, and contrary to the public interest. For the safety concerns noted, it is in the public interest to have this regulation in place during the construction. In addition, the necessary information to determine the impact of this construction on the maritime public was not provided with sufficient time to publish an NPRM. The Coast Guard received notice from the contractor performing construction on the bridge that the fender repair work will not be completed by June 5, 2009, as originally planned, due to unforeseen circumstances.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to public interest, since immediate action is needed to ensure the public's safety. It is imperative an RNA is established immediately during the fender repair work on the bridge.

## Background and Purpose

The State of North Carolina Department of Transportation awarded a contract to Marine Technologies Inc. of Baltimore, MD to perform repair work on the Herbert C. Bonner Bridge located in Oregon Inlet, NC. The contract is for the repair of the existing fender system

that protects the bridge piers located on either side of the navigation channel from vessel allision. The fender repairs began on April 16, 2009 and were initially scheduled to continue through June 5, 2009. However, the repairs were not completed by June 5, 2009. The fender repair work will continue from June 5, 2009, through July 2009. The contractor will utilize scaffolding hanging from the fender system to perform and complete the repair work. During periods of work, the scaffolding will reduce the available horizontal clearance of the main navigational channel to 124'. Because of this construction, vessels over a certain size will be limited in their ability to transit the regulated area as described below.

## Discussion of Rule

The RNA will encompass the area of the main navigational channel directly under the Herbert C. Bonner Bridge. All vessels of 100 gross tons and greater are not permitted to transit the waterway unless the vessel asks the District Commander or his representative for permission to transit. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number 252-47-4570.

Any vessel transiting the regulated area must do so at a no-wake speed during the effective period. Nothing in this proposed rule negates the requirement to operate at a safe speed as provided in the Navigational Rules and Regulations.

## Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

## Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The regulated navigation area will be in effect for a limited duration of time, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) vessels of 100 gross tons or greater may be granted permission to transit the area by the

District Commander or his representative.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. Although the regulated area will apply to the waters of the Oregon Inlet, the area will not have significant impact on small entities because the area will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust their plans accordingly.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

## Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

## Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of

compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of

energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B, Figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves establishing, disestablishing, or changing a regulated navigation area. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3307; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0489 to read as follows:

#### § 165.T05–0489 Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, NC.

(a) Definitions. For the purposes of this section:

*District Commander* means the Commander, Fifth Coast Guard District.

*Designated Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Commander, Fifth U.S. Coast Guard District to act as a designated representative on his behalf.

(b) Location. The following area is a regulated navigation area: All waters of Oregon Inlet, between the fendered spans of the Herbert C. Bonner Bridge.

(c) Regulations. (1) The general regulations governing regulated navigation areas found in § 165.13 of this part apply to the regulated navigation area described in paragraph (b) of this section.

(2) All vessels of 100 gross tons and greater are not permitted to transit the regulated area without permission from the District Commander or his representative. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number (252) 247–4570.

(3) Any vessel transiting the regulated area must do so at a no-wake speed during the effective period. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the District Commander or his representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) Enforcement period. This section will be enforced from 8 p.m. on June 22, 2009, through 8 p.m. on July 31, 2009, unless cancelled earlier by the District Commander or designated representative.

Dated: June 19, 2009.

**P.B. Trapp,**

*Captain, U.S. Coast Guard Acting  
Commander, Fifth Coast Guard District.*

[FR Doc. E9-15577 Filed 6-30-09; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO-P-2009-0025]

RIN 0651-AC34

#### July 2009 Revision of Patent Cooperation Treaty Procedures

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is revising the rules of practice in title 37 of the Code of Federal Regulations (CFR) to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that take effect on July 1, 2009. These amendments result in a change to the procedure under the PCT whereby applicants may make amendments to the claims in an international application.

**DATES:** *Effective Date:* The changes to 37 CFR 1.485 are effective on July 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Richard R. Cole, Senior Legal Examiner, Office of PCT Legal Administration (OPCTLA) directly by telephone at (571) 272-3281, or by facsimile at (571) 273-0459.

**SUPPLEMENTARY INFORMATION:** During the September 2008 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted various amendments to the Regulations under the PCT that enter into force on July 1, 2009. The amended PCT Regulations were published in the PCT Gazette of December 11, 2008 (38/2008), at pages 166-167. The amendments include provisions which modify the procedures for making amendments to the claims in an international application.

The Patent Cooperation Treaty (PCT) enables an applicant to file one application, "an international application" or a "PCT application," in a standardized format in a PCT Receiving Office and have that application acknowledged as a regular

national or regional filing in as many Contracting States to the PCT as the applicant desires. The requirements for PCT applications are specified in the PCT Treaty Articles and the Regulations issued under the PCT Treaty (the PCT Regulations). Certain requirements of the PCT Treaty and PCT Regulations are reiterated in the USPTO's rules of practice in 37 CFR for the convenience of patent applicants. Changes to the PCT Regulations (PCT Rules 46.5 and 66.8) that govern the manner of making amendments to the claims in international applications will become effective on July 1, 2009. Under the current PCT Regulations, applicants are required to submit replacement pages for only those pages which contain changes, where under the revised PCT Regulations applicants will be required to submit a complete set of the claims when amending any of the claims. The USPTO's rules of practice in 37 CFR (37 CFR 1.485) set forth the current practice for amending claims and must be changed to be consistent with the changes to the PCT Regulations.

The changes to 37 CFR 1.485 are effective on July 1, 2009, and apply to any amendment filed in an international application on or after that date regardless of the filing date of the international application.

#### Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, part 1, is amended as follows:

*Section 1.485:* Section 1.485 is amended to require that amendments to the claims in a PCT international application must be made in accordance with PCT Rule 66.8.

#### Rulemaking Considerations

*A. Administrative Procedure Act:* The change in this final rule merely revises the USPTO's rules of practice to conform to the requirements of the PCT Regulations that become effective on July 1, 2009. 35 U.S.C. 364(a) provides that international applications shall be processed by the USPTO in accordance with the applicable provisions of the PCT, the Regulations under the PCT and Title 35 of the United States Code. Therefore, these rule changes involve interpretive rules or rules of agency practice and procedure under 5 U.S.C. 553(b)(A). Accordingly, the changes in this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d). *See Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336-37, 87 U.S.P.Q.2d 1705, 1710 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35

U.S.C. 2(b)(2)(B), does not require notice and comment on rulemaking for "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." (quoting 5 U.S.C. 553(b)(A))).

*B. Regulatory Flexibility Act:* As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

*C. Executive Order 13132 (Federalism):* This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

*D. Executive Order 12866 (Regulatory Planning and Review):* This rulemaking has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

*E. Executive Order 13175 (Tribal Consultation):* This rulemaking will not: (1) Have substantial direct effects on one or more Indian Tribes; (2) impose substantial direct compliance costs on Indian Tribal governments; or (3) preempt Tribal law. Therefore, a Tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

*F. Executive Order 13211 (Energy Effects):* This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

*G. Executive Order 12988 (Civil Justice Reform):* This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

*H. Executive Order 13045 (Protection of Children):* This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

*I. Executive Order 12630 (Taking of Private Property):* This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

*J. Congressional Review Act:* Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of