

§ 61.42 Price cap baskets and service categories.

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- (e) * * *
- (2) * * *
- (vii) Signalling for tandem switching, as described in § 69.129 of this chapter.

3. Section 61.47 is amended by adding paragraph (g)(5) as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

- * * *
- (g) * * *
- (5) The upper pricing band for the "Signalling for tandem switching" service category shall limit the upward pricing flexibility for this service category, as reflected in its SBI, to two percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year. There shall be no lower pricing band for this service category.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225, unless otherwise noted.

2. Section 64.1401 is amended by adding paragraph (i) to read as follows:

§ 64.1401 Expanded interconnection.

- (i) The local exchange carriers specified in paragraph (a) of this section shall offer signalling for tandem switching, as defined in § 69.2(vv) of this chapter, at central offices that are classified as equal office end offices or serving wire centers, or at signal transfer points if such information is offered via common channel signalling.

PART 69—ACCESS CHARGES

1. The authority citation for Part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.2 is amended by adding paragraph (vv) to read as follows:

§ 69.2 Definitions.

- (vv) *Signalling for tandem switching* means the carrier identification code (CIC) and the OZZ code, or equivalent

information needed to perform tandem switching functions. The CIC identifies the interexchange carrier and the OZZ identifies the interexchange carrier trunk to which traffic should be routed.

3. Section 69.129 is added to read as follows:

§ 69.129 Signalling for tandem switching.

A charge that is expressed in dollars and cents shall be assessed upon the purchasing entity by a local telephone company for provision of signalling for tandem switching.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM-208A, Amdt. No. 107-31]
RIN 2137-AC50

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA); DOT.

ACTION: Final rule.

SUMMARY: In July 1992, RSPA published a final rule establishing a national registration and fee assessment program for persons offering for transportation or transporting certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. The fees collected under the registration program are to fund a grant program to enhance State, Indian tribal, and local hazardous materials emergency preparedness and response activities. This final rule adopts certain changes to the current registration program effective July 1, 1994, the beginning of the next registration year. The changes delay the requirement for foreign offerors to register and require a merchant vessel carrier to maintain the Certificate of Registration on board each vessel carrying hazardous materials subject to the registration requirements or to annotate its registration number on any document readily available to enforcement personnel.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Joseph S. Nalevanko, Office of Hazardous Materials Planning and Analysis, (202) 366-4484, or Beth Romo, Office of Hazardous Materials Standards, (202) 366-4488, RSPA, Department of Transportation, 400

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SUPPLEMENTARY INFORMATION:

1. Background

On July 9, 1992, RSPA published a final rule under Docket HM-208 (57 FR 30620), establishing a national registration program, as mandated by Congress in the 1990 amendments to the Hazardous Materials Transportation Act (HMTA), 49 App. U.S.C. 1801 *et seq.*, for persons engaged in the offering for transportation or transportation of certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons currently subject to the registration program are required to annually file a registration statement with RSPA and pay an annual fee of \$250 to fund a nationwide emergency response training and planning grant program for States, local governments, and Indian tribes, and a \$50 administrative fee to offset DOT processing costs. The fee of \$250 is the minimum amount permitted to be collected for purposes of funding the emergency response preparedness and planning grant program.

Under the authority of the HMTA, RSPA has developed and implemented a reimbursable emergency preparedness grant program. The regulations establishing this program were issued in a final rule entitled "Public Sector Training and Planning Grants" under Docket HM-209 on September 17, 1992 (57 FR 43062). The purpose of the grant program is to provide funds, technical assistance, and support to States, Indian tribes, and political subdivisions to develop, implement, and improve planning and training programs for emergency responders in the public sector. The funding for the grant program comes from the fees received from RSPA's registration program. Approximately 26,000 persons have registered with RSPA for the current registration year, substantially fewer in number than originally anticipated. RSPA is concerned that many persons who are required to register have not. Therefore, on April 1, 1994, RSPA proposed two compliance-related requirements in the NPRM to enhance nationwide compliance.

RSPA proposed that each person who offers or transports a hazardous material for which registration is required may do so only if both the transporter and the offeror (if required) are registered. They would be required, on an annual basis, to obtain each other's registration number or a copy of each other's current Certificate of Registration.

Secondly, RSPA decided to further enhance the enforcement of the registration program as it applies to foreign or domestic merchant vessel carriers. Accordingly, RSPA proposed to require that each merchant vessel carrier carry a copy of its current Certificate of Registration issued by RSPA or another document bearing the registration number identified as the "U.S. DOT Hazmat Reg. No." on board each merchant vessel carrying a hazardous material subject to the registration requirements.

As discussed in the NPRM, legislation is being considered which would grant DOT the discretionary authority to waive the registration or fee requirement for any person domiciled outside the United States, if that person's country does not impose registration or fee requirements on U.S. persons offering hazardous materials to that country (see, for example, HR 2178 which passed on November 21, 1993). Pending the outcome of these legislative initiatives, RSPA proposed to further extend the delay in application of the registration program to foreign offerors from July 1, 1994 until July 1, 1996.

II. Summary of Comments

Delay in Registering Foreign Offerors

Commenters overwhelmingly supported RSPA's proposed two-year delay in requiring registration of foreign offerors. Many commenters recommended that RSPA not implement foreign offeror registration at all because of the possibility of reciprocal action taken against the United States. A Canadian chemical manufacturers' association noted that shipments to Canada are exempt from Canadian registration requirements and strongly recommended that Canadian offerors be afforded reciprocal treatment when shipping to the U.S. Therefore, RSPA is extending, as proposed, the exemption for foreign offerors from registration and fee requirements until July 1, 1996.

Verification of Registration on Board Vessels

Several commenters questioned the need for the proposed requirement for vessel carriers to have a copy of a valid registration certificate or other document displaying a valid registration number on board each vessel. The International Chamber of Shipping stated that the proposed requirement would add to the paperwork burden on the ship and increase the workload of the ship's command. This commenter further noted that RSPA already has access to a ship's registration numbers at the operator's office or at the office of

the operator's agent. The Steamship Operators Intermodal Committee claimed the total population of vessel owners, operators, and their agents is relatively small and readily identifiable. The U.S. Atlantic and Gulf/Australia New Zealand Conference added that vessels do not present the problems of vast numbers and mobility presented by motor vehicles.

Adoption of this requirement could avert potentially significant and costly delays for vessels entering and clearing U.S. port areas. The marginal cost associated with requiring a transporter's registration number on board a vessel is clearly outweighed by more significant costs resulting from time-consuming inspections by Coast Guard personnel. A readily available copy of the certificate of registration or other document indicating a valid registration number would eliminate any need for communication between the master of the vessel and the vessel owner/lessor (who could be domiciled in a foreign country) and subsequent inquiries to an agent representing the vessel. Therefore, RSPA is adopting the proposed requirement for a merchant vessel carrier to maintain the Certificate of Registration or another document indicating the valid registration number on board each vessel carrying hazardous material subject to the registration requirements readily available to enforcement personnel. However, because of the brief time period between publication of this final rule and its effective date, RSPA is providing a delay until January 1, 1995, to comply with this requirement.

Other Issues Addressed By Commenters

Most commenters opposed RSPA's proposal that offerors and transporters check each other's registration status. Responsibility for enforcing registration requirements, logistical problems, administrative burdens, and increased costs were the predominant reasons offered by commenters opposing this proposal.

Commenters overwhelmingly believed that federal and state agencies should be responsible for enforcing the regulations, not industry. A related concern expressed by commenters is that a person otherwise in compliance with the regulations could be in violation of the registration requirements by unknowingly doing business with a customer who falsely claimed to be registered. Furthermore, commenters feared that persons who are in compliance with the registration requirements and refuse to do business with unregistered customers may lose

their customers and revenue to less scrupulous competitors.

Administrative burdens were identified as the creation of new databases, maintenance of additional files, and preparation of correspondence. Increased costs would involve additional function-specific training of personnel to determine if a shipment is subject to registration, higher clerical expenses for correspondence and recordkeeping, and delays or cancellations caused by a last-minute exchange of registration information.

According to many commenters, a "logistical nightmare" would result from this proposed requirement, especially when intermodal transportation is involved. Other complicated situations cited by commenters involve selection of a transporter by a customer, customer-provided transport vehicles, interlining carriers, and infrequent or irregular shipments.

Finally, numerous commenters requested a delay in the effective date of this requirement, if adopted, beyond the beginning of the 1994-95 registration year on July 1, 1994.

RSPA believes that more time is needed to explore thoroughly the issues and concerns raised by commenters to this proposal; therefore, the proposal to require verification of registration by a transporter or offeror is not adopted in this final rule. RSPA anticipates providing a more detailed evaluation of comments and alternatives to this proposed requirement, clarifying various provisions of the registration program and responding to other miscellaneous suggestions provided by commenters in a rulemaking action in the near future.

III. Summary of Regulatory Changes by Section

Part 107

Section 107.601 Paragraph (e) is revised as proposed to clarify the term "shipment" as it pertains to the scope of the registration program.

Section 107.606 This section provides exceptions from the registration requirements. In paragraph (f), foreign offerors, including foreign subsidiaries of U.S. corporations, are excepted from all registration requirements until July 1, 1996.

Section 107.608 Paragraph (a) is amended as proposed to remove outdated provisions referring to the first registration year's compliance dates.

Section 107.620 Paragraph (c) is redesignated as paragraph (d). A new paragraph (c) is added to require a

merchant vessel carrier to maintain the Certificate of Registration on board each vessel carrying hazardous materials subject to the registration requirements or to annotate its registration number on any document readily available to enforcement personnel. RSPA is providing a delay in compliance with this requirement until January 1, 1995.

IV. Rulemaking Analyses and Notices

A. 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. The rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). A regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). This registration regulation has no preemptive effect. It does not impair the ability of States, local governments or Indian tribes to impose their own fees or registration or permit requirements on intrastate, interstate or foreign offerors or carriers of hazardous materials.

C. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule maintains the minimum fee requirement for all shippers and carriers of hazardous materials who are subject to the registration requirement.

D. Paperwork Reduction Act

Under 49 App. U.S.C. 1805, the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) do not apply to this final rule.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials

transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 107 is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 App. U.S.C. 1421(c), 1653(d), 1655, 1802, 1804, 1805, 1806, 1808-1811, 1815; 49 CFR 1.45 and 1.53 and App. A of 49 CFR part 1.

2. In § 107.601, the last sentence in paragraph (e) is revised to read as follows:

§ 107.601 Applicability.

* * * * *

(e) * * * For applicability of this subpart, the term "shipment" means the offering or loading of a hazardous material at one loading facility using one transport vehicle, or the transport of that transport vehicle.

§ 107.606 [Amended]

3. In § 107.606, in paragraph (f), at the beginning of the first sentence, the wording "Until July 1, 1994," is revised to read "Until July 1, 1996,".

4. In § 107.608, paragraph (a) is revised to read as follows:

§ 107.608 General registration requirements.

(a) Except as provided in § 107.616(d), each person subject to this subpart must submit a complete and accurate registration statement on DOT Form F 5800.2 not later than June 30 for each registration year, or in time to comply with paragraph (b) of this section, whichever is later.

* * * * *

5. Section 107.620 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 107.620 Recordkeeping requirements.

* * * * *

(c) In addition to the requirements of paragraph (a) of this section, after January 1, 1995, each person who transports by vessel a hazardous material subject to the requirements of this subpart must carry on board the vessel a copy of its current Certificate of Registration or another document bearing the current registration number identified as the "U.S. DOT Hazmat Reg. No."

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Issued in Washington, D.C. on June 21, 1994, under the authority delegated in 49 CFR part 1.

Ana Sol Gutiérrez,

Acting Administrator, Research and Special Programs Administration.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB88

Endangered and Threatened Wildlife and Plants; Endangered Status for Three Plants From the Waianae Mountains, Island of Oahu, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for three plants: *Cyanea grimesiana* ssp. *obatae* (haha), *Diellia unisora* (no common name (NCN)), and *Gouania vitifolia* (NCN). These taxa are known primarily from the Waianae Mountain Range, located on the island of Oahu, Hawaii. The three plant taxa and their habitats have been adversely threatened to varying degrees by one or more of the following—habitat degradation and competition for space, light, water, and nutrients by naturalized, alien vegetation; and habitat degradation and potential predation by feral animals. Because of the low number of extant individuals and severely restricted distributions, populations of these taxa are subject to an increased likelihood of extinction and/or reduced reproductive vigor from stochastic events. This final rule implements the Federal protection and recovery provisions provided by the Act.

EFFECTIVE DATE: This rule becomes effective July 27, 1994.

ADDRESSES: The complete file for this final rule is available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, at the above address (808/541-2749).