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 AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–0313 to read as follows:

§ 165.T13–0313 Safety Zone; Unexploded Ordnance Detonation; Naval Base Kitsap; Elwood Point; Bremerton, WA.

(a) *Location.* The following area is designated as a safety zone: all waters within 500-yard radius of the unexploded ordnance detonation, Naval Base Kitsap, Elwood Point (47°35′30.8″ N, 122°41′11.1″ W); Bremerton, WA.

(b) *Regulations.* In accordance with the general regulations in subpart C of this part no person or vessel may enter or remain in the safety zone unless authorized by the Captain of the Port, Puget Sound or a designated representative. To request permission to enter the safety zone, contact the Joint Harbor Operations Center at 206–217–6001, or the on-scene patrol craft, if any, via VHF–FM Channel 16. If permission for entry into the safety zone is granted, vessels or persons must proceed at the minimum speed for safe navigation and in compliance with any other directions given by the Captain of the Port, Puget Sound or a designated representative.

(c) *Effective period.* This section is effective from 8 a.m. on April 19, 2017 to 8 p.m. on April 20, 2017. It will only be enforced during two periods: From 8 a.m. to 8 p.m. on April 19, 2017, and from 8 a.m. to 8 p.m. on April 20, 2017.

Dated: April 13, 2017.

L.A. Sturgis,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2017–07883 Filed 4–18–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107 and 171

[Docket No. PHMSA–2016–0041 (HM–258D)]

RIN 2137–AF23

Hazardous Materials: Revision of Maximum and Minimum Civil Penalties

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

ACTION: Final rule.

SUMMARY: PHMSA is revising the maximum and minimum civil penalties for a knowing violation of the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under that law. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990, required Agencies to update their civil monetary penalties in August 2016 through an interim final rulemaking. PHMSA has elected to do the 2017 update in a final rulemaking. Per this final rule, the maximum civil penalty for a knowing violation is now $78,376, except for violations that result in death, serious illness, or severe injury to any person or substantial destruction of property, for which the maximum civil penalty is $182,877. In addition, the minimum civil penalty amount for a violation relating to training is now $471.

DATES: *Effective Date:* April 19, 2017.

FOR FURTHER INFORMATION CONTACT: Shawn Wolsey, Office of Chief Counsel, (202) 366–4400, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Civil Penalty Amendments

Section 701 of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), Public Law 114–74, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act), Public Law 101–410, required that the Agency make an initial catch-up adjustment with subsequent annual adjustments to the maximum and minimum civil penalties set forth in 49 U.S.C. 5123(a) for a knowing violation of the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under that law. These changes to the maximum and minimum civil penalty amounts apply to violations assessed on or after the effective date of August 1, 2016. The 2015 Act also requires that the Agency make subsequent annual adjustments for inflation beginning in 2017, which are to be published no later than January 15th of each subsequent year.

The Office of Management and Budget's (OMB) ''Memorandum for the Heads of Executive Departments and Agencies, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,'' M–17–11, provides guidance on how to update agencies' civil penalties pursuant to the 2015 Act. In order to complete the 2017 annual adjustment, agencies should multiply each applicable penalty by the multiplier (1.01636) and round to the nearest dollar. The multiplier should be applied to the most recent penalty amount, *i.e.,* the one that includes the catch-up adjustment that the 2015 Act required agencies to issue no later than July 1, 2016.

Accordingly, PHMSA is revising the references to the maximum and minimum civil penalty amounts in 49 CFR 107.329, appendix A to subpart D of 49 CFR part 107, and 49 CFR 171.1 to reflect the changes required by the 2015 Act:

- Revising the maximum civil penalty from $77,114 to $78,376 for a person who knowingly violates the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under that law.
- Revising the maximum civil penalty from $179,933 to $182,877 for a person who knowingly violates the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under that law that results in death, serious

illness, or severe injury to any person or substantial destruction of property.

- Revising the minimum penalty amount from $463 to $471 for a violation related to training.

II. Justification for Final Rule

PHMSA is proceeding directly to a final rule without providing a notice of proposed rulemaking (NPRM) or an opportunity for public comment. This action is permitted, in part, because the 2015 Act directs PHMSA to adjust the civil monetary penalties in accordance with the schedule provided in the 2015 Act, notwithstanding the notice and public comment procedures in the Administrative Procedure Act (APA). However, PHMSA also notes that the APA authorizes agencies to forego providing the opportunity for prior public notice and comment if an agency finds good cause that notice and public comment are ''impracticable, unnecessary, or contrary to the public interest.'' *See* 5 U.S.C 553(b)(3)(B). In this instance, public comment is unnecessary because, in making these technical amendments, PHMSA is not exercising discretion in a way that could be informed by public comment. PHMSA is required under the 2015 Act and directed by the OMB Guidance to publish this rule by January 15, 2017, with the penalty levels stated herein to take effect on that date. Further, PHMSA is mandated by the 2015 Act and directed by the OMB Guidance to adjust the penalty levels pursuant to the specific procedures also stated herein. Any public comments received through notice and comment procedure would therefore not affect PHMSA's obligation to comply with the 2015 Act, nor would they affect the methods used by PHMSA to adjust the penalty levels.

III. Rulemaking Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This final rule is published under the authority of the Federal hazardous materials transportation law. 49 U.S.C. 5101 *et seq.* Section 5123(a) of which provides civil penalties for knowing violations of Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under that law. This rule revises the references in PHMSA's regulations by (1) revising the maximum penalty amount for a knowing violation and a knowing violation resulting in death, serious illness, or severe injury to any person or substantial destruction of property to $78,376 and $182,877, respectively, and (2) revising the minimum penalty amount to $471 for a violation related to training.

B. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing policies and procedures and determined to be non-significant under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011). However, consistent with OMB memorandum M–17–11, this final rule was not reviewed by OMB in order to make a significance determination.

Further, this rule is not a significant regulatory action under DOT Regulatory Policies and Procedures. *See* 44 FR 11034 (Feb. 26, 1979). It is a ministerial act for which the Agency has no discretion. The economic impact of the final rule is minimal to the extent that preparation of a regulatory evaluation is not warranted. Given the low number of penalty actions within the scope of this final rule, the impacts will be very limited.

This final rule is being undertaken to address our statutory requirements and imposes no new costs upon persons conducting hazardous materials operations in compliance with the requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). Those entities not in compliance with the requirements of the HMR may experience an increased cost based on the penalties levied against them for non-compliance; however, this is an avoidable, variable cost and thus is not considered in any evaluation of the significance of this regulatory action. Moreover, as the cost is an inflationary adjustment and the magnitude of the increase is minimal since these penalties were recently enacted, reflected costs are nominal. The amendments in this rule could provide safety benefits (*i.e.,* larger penalties deterring knowing violators). Overall, it is anticipated this rulemaking would have minimal real costs and benefits.

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, ''Federalism.'' *See* 64 FR 43255 (Aug. 10, 1999). This rule does not impose any regulation having 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 government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' *See* 65 FR 67249 (Nov. 9, 2000). Because this final rule does not have adverse tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply and a tribal summary impact statement is not required.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (RFA), 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. The provisions of this rule apply specifically to all businesses transporting hazardous material. Therefore, PHMSA certifies this rule would not have a significant economic impact on a substantial number of small entities.

In addition, PHMSA has determined the RFA does not apply to this rulemaking. The 2015 Act requires PHMSA to publish a final rule and does not require PHMSA to complete notice and comment procedures under the APA. The Small Business Administration's *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act* (2003), provides that:

> If, under the APA or any rule of general applicability governing Federal grants to state and local governments, the agency is required to publish a general notice of proposed rulemaking (NPRM), the RFA must be considered [citing 5 U.S.C. 604(a)]. . . . If an NPRM is not required, the RFA does not apply.

Therefore, because the 2015 Act does not require an NPRM for this rulemaking, the RFA does not apply.

F. Paperwork Reduction Act

There are no new information requirements in this final rule.

G. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. Public Law 104–4. It does not result in costs of $100 million or more,

adjusted for inflation, to any of the following: State, local, or Native American tribal governments, or to the private sector.

H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended, requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. 42 U.S.C. 4321–4375. When developing potential regulatory requirements, PHMSA evaluates those requirements to consider the environmental impact of each amendment. Specifically, PHMSA evaluates the following: Risk of release and resulting environmental impact; risk to human safety, including any risk to first responders; longevity of the packaging; and if the proposed regulation would be carried out in a defined geographic area, the resources, especially any sensitive areas, and how they could be impacted by any proposed regulations. These amendments would be generally applicable and would not be carried out in a defined geographic area. Civil penalties may act as a deterrent to those violating the HMR, and this can have a negligible positive environmental impact as a result of increased compliance. Based on the above discussion, PHMSA concludes there are no significant environmental impacts associated with this final rule.

I. Executive Order 13609 and International Trade Analysis

Under Executive Order 13609, ''Promoting International Regulatory Cooperation,'' agencies must consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally. *See* 77 FR 26413 (May 4, 2012). In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, the Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

PHMSA participates in the establishment of international standards in order to protect the safety of the American public, and we have assessed the effects of this final rule to ensure that it does not cause unnecessary obstacles to foreign trade. Accordingly, this rulemaking is consistent with Executive Order 13609 and PHMSA's obligations.

J. Privacy Act

Anyone is able to search the electronic form of all comments received by any of our dockets using the name of the individual submitting the comments (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 (65 FR 19476), which may be viewed at *http://www.gpo.gov/fdsys/pkg/FR-2000-04-11/pdf/00-8505.pdf.*

K. 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 spring and fall of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 107

Administrative practices and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Definitions, General information, Regulations.

In consideration of the foregoing, 49 CFR chapter I is amended 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; Pub. L. 101–410 section 4; Pub. L. 104–121, sections 212–213; Pub. L. 104–134, section 31001; Pub. L. 114–74 section 4 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97.

■ 2. Revise § 107.329 to read as follows:

§ 107.329 Maximum penalties.

(a) A person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued thereunder, this subchapter, subchapter C of the chapter, or a special permit or approval issued under this subchapter applicable to the transportation of hazardous materials or the causing of them to be transported or shipped is liable for a civil penalty of not more than $78,376 for each violation, except the maximum civil penalty is $182,877 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of $471 for violations relating to training. When the violation is a continuing one, each day of the violation constitutes a separate offense.

(b) A person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued thereunder, this subchapter, subchapter C of the chapter, or a special permit or approval issued under this subchapter applicable to the design, manufacture, fabrication, inspection, marking, maintenance, reconditioning, repair or testing of a package, container, or packaging component which is represented, marked, certified, or sold by that person as qualified for use in the transportation of hazardous materials in commerce is liable for a civil penalty of not more than $78,376 for each violation, except the maximum civil penalty is $182,877 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of $471 for violations relating to training.

3. In appendix A to subpart D of part 107, section II.B. (''Penalty Increases for Multiple Counts''), the first sentence of the second paragraph is revised to read as follows:

Appendix A to Subpart D of Part 107—Guidelines for Civil Penalties

* * * * *

II. * * *

B. * * *

Under the Federal hazmat law, 49 U.S.C. 5123(a), each violation of the HMR and each day of a continuing violation (except for violations relating

to packaging manufacture or qualification) is subject to a civil penalty of up to $78,376 or $182,877 for a violation occurring on or after April 19, 2017. * * *

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 4. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4; Pub. L. 104–134, section 31001; Pub. L. 114–74 section 4 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97.

■ 5. In § 171.1, paragraph (g) is revised to read as follows:

§ 171.1 Applicability of Hazardous Materials Regulations (HMR) to persons and functions.

* * * * *

(g) *Penalties for noncompliance.* Each person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued under Federal hazardous material transportation law, subchapter A of this chapter, or a special permit or approval issued under subchapter A or C of this chapter is liable for a civil penalty of not more than $78,376 for each violation, except the maximum civil penalty is $182,877 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property. There is no minimum civil penalty, except for a minimum civil penalty of $471 for a violation relating to training.

Issued in Washington, DC on April 14, 2017, under authority delegated in 49 CFR part 1.97.

Howard W. McMillan,

Acting Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2017–07908 Filed 4–18–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket Nos. 100120037–1626–02 and 101217620–1788–03]

RIN 0648–XF344

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2017 Accountability Measure-Based Closures for Recreational Species in the U.S. Caribbean off Puerto Rico

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

ACTION: Temporary rule; closures.

SUMMARY: NMFS implements accountability measures (AMs) for two species groups in the exclusive economic zone (EEZ) of the U.S. Caribbean off Puerto Rico for the 2017 fishing year through this temporary rule. NMFS has determined that recreational sector annual catch limits (ACLs) in the EEZ off Puerto Rico were exceeded for wrasses and parrotfishes based on average landings during the 2013–2015 fishing years. This temporary rule reduces the lengths of the 2017 fishing seasons for these species groups by the amounts necessary to ensure that landings do not exceed the applicable recreational ACLs in 2017. NMFS closes the recreational sectors for these species groups beginning on the dates specified in the **DATES** section and continuing through the end of the current fishing year, December 31, 2017. These AMs are necessary to protect the Caribbean reef fish resources in the EEZ off Puerto Rico.

DATES: This rule is effective for recreational sector wrasses in the EEZ off Puerto Rico at 12:01 a.m., local time, April 19, 2017, until 12:01 a.m., local time, January 1, 2018. This rule is effective for recreational sector parrotfishes in the EEZ off Puerto Rico May 19, 2017, until 12:01 a.m., local time, January 1, 2018. The AM-based closure for recreational parrotfishes applies at 12:01 a.m., local time, November 4, 2017, until 12:01 a.m., local time, January 1, 2018.

FOR FURTHER INFORMATION CONTACT: María del Mar López, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *maria.lopez@noaa.gov.*

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Caribbean EEZ includes wrasses and parrotfishes, and is managed under the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (Reef Fish FMP). The Reef Fish FMP was prepared by the Caribbean Fishery Management Council (Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The 2010 Caribbean ACL Amendment (Amendment 2 to the FMP for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (Queen Conch FMP) and Amendment 5 to the Reef Fish FMP) and 2011 Caribbean ACL Amendment (Amendment 3 to the Queen Conch FMP, Amendment 6 to the Reef Fish FMP, Amendment 5 to the Spiny Lobster FMP, and Amendment 3 to FMP for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands) revised the Reef Fish FMP (76 FR 82404, December 30, 2011, and 76 FR 82414, December 30, 2011). Among other actions, the 2010 and 2011 Caribbean ACL Amendments and the associated final rules established ACLs and AMs for Caribbean reef fish, including the species groups identified in this temporary rule. The 2010 and 2011 Caribbean ACL Amendments and final rules also allocated ACLs among three Caribbean island management areas, *i.e.,* the Puerto Rico, St. Croix, and St. Thomas/St. John management areas of the EEZ, as specified in Appendix E to part 622. The ACLs for reef fish species and species groups in the Puerto Rico management area were further allocated between the commercial and recreational sectors, and AMs apply to each of these sectors separately. The Puerto Rico management area encompasses the EEZ off Puerto Rico.

The recreational ACLs in the EEZ off Puerto Rico for the species groups covered by this temporary rule are as follows and are given in round weight:

- The recreational ACL for wrasses is 5,050 lb (2,291 kg), as specified in § 622.12(a)(1)(ii)(L).
- The recreational ACL for parrotfishes is 15,263 lb (6,921 kg), as specified in § 622.12(a)(1)(ii)(B).

In accordance with regulations at 50 CFR 622.12(a), if landings from a Caribbean island management area are estimated to have exceeded the applicable ACL, the Assistant Administrator for NOAA Fisheries (AA) will file a notification with the Office of the Federal Register to reduce the length of the fishing season for the applicable species or species group the following fishing year by the amount necessary to ensure landings do not exceed the applicable ACL. NMFS evaluates landings relative to the applicable ACL based on a moving 3-year average of landings, as described in the Reef Fish FMP.

Based on the most recent available landings data, from the 2013–2015 fishing years, NMFS has determined that the recreational ACLs for wrasses and parrotfishes in the EEZ off Puerto Rico have been exceeded. In addition, NMFS has determined that the recreational ACLs for these species groups were exceeded because of increased catches and not as a result of enhanced data collection and monitoring efforts.

This temporary rule implements AMs for both recreational wrasses and