

2. REGULATIONS

A. Handling Critical Infrastructure Information (DHS)

On April 15, 2002, (68 FR 18523-18529), the U.S. Department of Homeland Security (DHS) promulgated a proposed rule (6 CFR part 29) that would establish for federal agencies the uniform procedures to implement section 214 of the Homeland Security Act of 2002 regarding the receipt, care, and storage of critical infrastructure information (CII) voluntarily submitted to the federal government. The protection of critical infrastructure reduces the vulnerability of the United States to acts of terrorism.

The responsibilities of the DHS include the taking of action to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to acts of terrorism. The reduction of that vulnerability includes the protection of vital physical or computer-based systems and assets, collectively referred to as critical infrastructure, the incapacitation or destruction of which would have a debilitating impact on national security, national economic security, national public health or safety, or any combination of these matters. The DHS recognizes the importance of receiving information from those with direct knowledge on the security of this critical infrastructure in order to reduce the vulnerability of this critical infrastructure from acts of terrorism.

For further information, contact Mr. Frank Nolan, Office of the Associate General Counsel for General Law, U.S. Department of Homeland Security, Washington, DC 20528, (telephone: (202) 282-8495).

B. Natural Disaster Procedures (ACE)

On April 21, 2003, (68 FR 19357-19371), the U.S. Army Corps of Engineers (ACE or Corps), U.S. Department of Defense, promulgated a final rule to revise 33 CFR part 203. Public Law 84-99 authorizes the Corps to undertake preparedness, response, and recovery activities for natural disasters. These revisions are necessary to reflect the current policy, add features required by the Water Resources Development Act of 1996 (WRDA 96), and streamline certain procedures concerning Corps authority addressing disaster preparedness, response, and recovery activities. WRDA 96 additions include the option to provide nonstructural alternatives in lieu of structural repairs to levees damaged by flood events, and the provision of a levee owner's manual. Other significant changes include expansion of investigation ability for potential advance measures work, and a streamlined approach for requests for assistance from Native American tribes and Alaska Native Corporations.

For further information, contact Mr. Jeffrey D. Jensen, Civil Emergency Management Branch (CECW-OE), U.S. Army Corps of Engineers, 441 G Street, NW, Washington, DC 20314, (telephone: (202) 761-4561, electronic mail: jeffrey.d.jensen@usace.army.mil).

C. Fire-Suppression Systems and Voyage Planning for Towing Vessels (CG)

In 1996, as a result of the tugboat SCANDIA's catching fire and causing the spillage of about 850,000 gallons of oil from the barge NORTH CAPE, which the SCANDIA was towing, the U.S. Congress amended section 902 of the Coast Guard Authorization Act (P.L. 104-324) to direct the prescription of rules for fire-suppression equipment on towing vessels.

On April 29, 2003, (68 FR 22604-22614), the Coast Guard (CG), U.S. Department of Homeland Security, promulgated an interim rule (33 CFR part 164 and 46 CFR parts 25 and 27), that modifies and implements both the requirements for the installation of fire-suppression systems in the engine rooms of towing vessels and the requirements for voyage planning proposed on November 8, 2000. As modified, this rule aims at reducing the number of uncontrolled engine-room fires and other mishaps on towing vessels. It should save lives, reduce property damage, and reduce the associated threats to maritime commerce and the environment.

For further information, contact Mr. Randall Eberly, Lifesaving and Fire Safety Division, Office of Design and Engineering Standards (G-MSE), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (telephone: (202) 267-1861, electronic mail: reberly@comdt.uscg.mil).

D. Hazardous Materials Transportation Security (RSPA)

On May 5, 2003, (68 FR 23831-23842), the Research and Special Programs Administration (RSPA), U.S. Department of Transportation, issued an interim final rule (49 CFR parts 107, 171, 176, and 177) that incorporates into the Hazardous Materials Regulations (HMR) a requirement that shippers and transporters of certain hazardous materials comply with federal security regulations that apply to motor carrier and vessel transportation. In addition, this interim final rule revises the procedures for applying for an exemption from the HMR to require applicants to certify compliance with applicable federal transportation security laws and regulations. This interim final rule will assure that shippers and transporters are aware of and comply with their security obligations.

The HMR are designed to achieve two goals: (1) to ensure that hazardous materials are packaged and handled safely during transportation, thus minimizing the possibility of their release should an incident occur, and (2) to effectively communicate to carriers, transportation workers, and emergency responders the hazards of the materials being transported. The HMR specify how to classify and package a hazardous material. Further, the HMR prescribe a system of hazard communication using placards, labels, package markings, and shipping papers. In addition, the HMR prescribe training requirements for persons who prepare hazardous materials for shipment or transport hazardous materials. The HMR also include operational requirements applicable to each mode of transportation.

For further information, contact Ms. Susan Gorsky, Office of Hazardous Materials Standards (DHM-10), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (telephone: (202) 366-8553, electronic mail: susan.gorsky@rspa.dot.gov).

E. Driver's Licenses with Hazardous Materials Endorsements (FMCSA)

On May 5, 2003, (68 FR 23843-23850), the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation, issued an interim final rule (49 CFR parts 383 and 384) that amends the Federal Motor Carrier Safety Regulations to prohibit states from issuing, renewing, transferring, or upgrading a commercial driver's license (CDL) with a hazardous materials endorsement unless the Transportation Security Administration (TSA) has first conducted a background records check of the applicant and determined that the applicant does not pose a security risk warranting denial of the hazardous materials endorsement. This interim final rule implements part of the requirements of section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) and certain provisions of the statutes dealing with explosives.

For further information, contact Ms. Valerie Height, Regulatory Development Division (MC-PRR), Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (telephone: (202) 366-0901, electronic mail: valerie.height@fmcsa.dot.gov)

F. Security Threat Assessment (TSA)

On May 5, 2003, (68 FR 23851-23873), the Transportation Security Administration (TSA), U.S. Department of Homeland Security, issued an interim final rule (49 CFR parts 1570 and 1572) that amends the Transportation Security Regulations to establish security threat assessment standards for determining whether an individual poses a security threat warranting denial of a hazardous materials endorsement for a commercial driver's license (CDL). TSA is also establishing procedures for seeking a waiver from the standards and for appealing a security assessment determination. This interim final rule is issued in coordination with a separate interim final rule issued by the Federal Motor Carrier Safety Administration (FMCSA). See item 3-E above. These interim final rules implement the background records check requirements of section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), and also establish requirements regarding the transportation of explosives in commerce.

For further information, contact Mr. Stephen Sprague, Office of Maritime and Land, Transportation Security Administration, U.S. Department of Homeland Security, West Building, Floor 9, 400 Seventh Street, SW, Washington, DC 20590, (telephone: (571) 227-1500, electronic mail: patriotact@tsa.dot.gov).

G. Air Pollution from Nonroad Diesel Engines and Fuel (EPA)

On May 23, 2003, (68 FR 28327-28603), the U.S. Environmental Protection Agency (EPA) issued a proposed rule (40 CFR parts 69, 80, 89, 1039, 1065, and 1068) that proposes a comprehensive national program to reduce emissions from nonroad diesel engines by integrating

engine and fuel controls as a system to gain the greatest emission reductions. To meet the proposed emission standards, engine manufacturers would produce new engines with advanced emission control technologies. The proposed exhaust emission standards would apply to diesel engines used in most kinds of construction, agricultural, and industrial equipment. (The proposed standards would not apply to diesel engines used in locomotives or marine vessels, since EPA has previously established standards for these categories.) The proposed standards would take effect for new engines starting as early as 2008 and be fully phased in by 2014. The proposed standards are phased in over several years to provide adequate lead time to the engine and equipment manufacturers. The proposed exhaust emission standards would reduce emissions by more than 90 percent, and are similar to the requirements for engines used in highway trucks and buses.

Nonroad diesel engines contribute greatly to air pollution in many of the nation's cities and towns. Over the next several years, nonroad diesel engines will produce an even greater share of overall emissions as other emission control programs take effect for cars and trucks and other nonroad emissions sources. Nonroad engines produced today must meet relatively modest emission requirements and, therefore, continue to emit large amounts of nitrogen oxides (NO_x) and particulate matter (PM), both of which contribute to serious public health problems. Exhaust from diesel engines, which contributes to unhealthy concentrations of ozone and fine particles, is a public health concern.

EPA expects the requirements in this proposal to result in significant reductions in emissions of NO_x and PM, as well as nonmethane hydrocarbons (NMHC), carbon monoxide (CO), sulfur oxides (SO_x), and air toxics. This proposal sets out: (1) new engine exhaust emissions standards; (2) emissions test procedures, including not-to-exceed requirements, for nonroad engines; and (3) sulfur control requirements for nonroad, locomotive, and marine diesel fuel. Under the new proposed emission standards, manufacturers are expected to use high-efficiency control systems to substantially reduce both NO_x and PM emissions. The proposal includes new provisions to help ensure that emission control systems perform as well when operating in actual service conditions as in the laboratory. These procedures would allow for testing an engine's emission levels while the machinery operates in normal service.

Sulfur can contaminate high-efficiency emission control systems used on diesel engines. Nonroad diesel fuel currently has sulfur levels of about 3,400 parts per million (ppm) on average. This proposal would reduce these levels by 99 percent, which is an essential step in achieving the emission reductions anticipated under the proposal. Starting in 2007, fuel sulfur levels in nonroad diesel fuel would be limited to a maximum of 500 ppm, the same as for current highway diesel fuel. This limit also covers fuels used in locomotive and marine applications, though not to the marine residual fuel used by very large engines on ocean-going vessels. Reducing fuel sulfur levels to 500 ppm or lower would provide immediate public health benefits by reducing particulate emissions from engines in the existing fleet of nonroad equipment, with the added benefit of reducing the cost of maintaining engines. The proposal includes a second step of fuel controls to a 15-ppm limit on sulfur content that would apply in 2010. This additional reduction in sulfur levels would further reduce PM emissions from existing engines. More importantly, the ultra-low sulfur levels would make it possible for engine manufacturers to use advanced emission control systems that would achieve dramatic reductions in both PM and NO_x emissions.

EPA estimates PM reductions of 95%, NO_x reductions of 90%, and the virtual elimination of sulfur oxides (SO_x) from nonroad diesel engines meeting the new standards.

For further information, contact Ms. Carol Connell, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105, (telephone: (734) 214-4349, electronic mail: connell.carol@epa.gov) or refer to the following EPA Internet Web Site: <http://www.epa.gov/nonroad>.