the provisions of 40 CFR 145.31(c), the public hearing was cancelled because of lack of sufficient public interest. After careful review of this application, which includes the Memorandum of Agreement (MOA) and written comments from the public, I have determined that the Mississippi UIC program submitted by the MDNR to regulate Classes I, III, IV, and V injection wells meets the requirements of Section 1422 of the SDWA, and hereby approve it.

List of Subjects in 40 CFR Part 145

Indians—lands, Water supply, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Mississippi Department of Natural Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated August 18, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-23309 Filed 8-24-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 303

Requests To Use the Federal Parent Locator Service in Parental Kidnapping and Child Custody Cases

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: Section 9 of Pub. L. 96-611, the Parental Kidnapping Prevention Act of 1980, provides that a State may enter into an agreement with the Office of Child Support Enforcement (OCSE) to obtain Federal Parent Locator Service (PLS) information for use in parental kidnapping and child custody cases. To implement section 9, we published a Final Rule with Comment Period on these provisions on November 3, 1981 (46 FR 54554). The comments received in response to that publication, our responses to them and changes made to the final rule are discussed below. The purpose of the regulations is to expand the use of the Federal Parent Locator Service to include requests for information in parental kidnapping and child custody cases.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Judith Hagopian, (301) 443-5350, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland, 20852.

SUPPLEMENTARY INFORMATION: A notice informing the public of a new routine use of information was published in the **Federal Register** on September 4, 1981, as required by the Privacy Act.

Statutory Provisions

Before enactment of section 9 of Pub. L. 96-611, the Social Security Act (the Act) allowed States to obtain information from the Federal PLS to locate absent parents only for the purposes of establishing paternity or establishing and enforcing child support obligations. Various Federal statutes and OCSE regulations expressly prohibited States from acquiring the information for any other purpose. Section 9 of Pub. L. 96-611, effective July 1, 1981, amended the Act by amending sections 454 and 455 and adding a new section 463. The new section 463 provides that States may enter into an agreement with the Secretary of Health and Human Services to obtain information from the Federal PLS for use in locating a parent or child for the purposes of making or enforcing a child custody determination or in cases of parental kidnapping.

The new law amends section 454 of the Act by requiring that States amend their State IV-D plans to indicate whether or not they wish to perform this new function. Section 455 as amended precludes the payment of Federal matching funds for the costs of carrying out agreements under the new section 463.

Provisions of Final Regulations Published November 3, 1981

Because OCSE already has regulations that govern State IV-D agency use of the Federal PLS, we implemented many of the new statutory requirements simply by adding language to the following regulations to extend use of the Federal PLS to parental kidnapping and child custody cases. 45 CFR 302.35 now specifies those persons authorized to request Federal PLS information through the State PLS in connection with parental kidnapping and child custody cases. 45 CFR 303.70 (formerly § 302.70) now allows access to Federal PLS information in parental kidnapping and child custody cases. Section 303.70(e)(1) requires States to collect or pay fees to offset Federal costs of processing Federal PLS requests in connection with parental kidnapping and child custody cases. 45 CFR 304.20(b) and 304.23(h) prohibit Federal funding of any expenditures incurred in providing Federal PLS information in connection with parental kidnapping and child custody cases.

45 CFR 303.15, added to implement section 463 of the Act, sets forth the requirements for an agreement which the State must enter into with OCSE if it wishes to use the Federal PLS to obtain information for enforcing any State of Federal law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody determination. In addition, § 303.15(c)(1) specifies the type of information that OCSE will make available to the State under the agreement and sets forth the conditions that the State must meet in requesting data and ensuring that the data are safeguarded. To date, 18 States have entered into agreements to use the Federal PLS in parental kidnapping and child custody cases.

Section 303.15(c)(5) also requires that the State agree to distinguish parental kidnapping and child custody requests from child support enforcement requests. Because no Federal financial participation (FFP) is available under the statute, § 303.15(c)(7) provides that the State must agree to impose, collect and account for fees to offset OCSE processing costs and must agree to transmit the Federal portion of the fees in the amount and in the manner prescribed by OCSE in instructions.

Finally, under § 303.15(c)(8), the State must agree to restrict access to the data, store it securely, and otherwise ensure its confidentiality. Under this requirement, the State must agree to send the information directly to the requestor, make no other use of the information, and destroy any records related to the request that are confidential in nature.

In order to assist States in deciding whether to enter into an agreement to use the Federal PLS to obtain information in parental kidnapping and child custody cases, we attached the necessary agreement as an appendix to § 303.15.

45 CFR 303.69, added to provide procedures for requests for Federal PLS information by agents or attorneys of the United States, specified that, if a case involves a State with an agreement in effect under the new §303.15, the Ferderal agent or attorney must request information through the State parent locator service. Section 303.69 further specified that the Federal agent or attorney may request information directly from the Federal PLS only if no States involved in the case have agreements. We have provided instructions to the Federal Bureau of Investigation and to the Executive Office for United States Attorneys regarding procedures for U.S. attorneys and agents to follow when making such request.

Changes to Final Regulations

This document makes certain changes to the final regulations as a result of comments received in response to the regulations published in the Federal Register on November 3, 1981.

Section 303.70(e)(1) stated that the IV-D agency shall collect *or* pay the fees required under sections 453(e)(2) and 454(17) of the Act to be charged to individuals making requests to the Federal PLS. In response to a comment received, we revised § 303.70(e)(1) to require the IV-D agency to "pay the fees required under sections 453(e)(2) and 454(17) of the Act." In addition, we added a new § 303.70(e)(2) and redesignated the old paragraph (e)(2) as (e)(5). The new § 303.70(e)(2) clarifies that the fee required under section 453(e)(2) of the Act (related to requests made for child support purposes) must be charged to the resident parent, legal guardian, attorney or agent of a child who is not receiving aid under title IV-A of the Act.

While section 453(e)(2) of the Act specifies from whom a State must collect a fee for a Federal PLS request, section 454(17) (related to requests made in parental kidnapping and child custody cases) requires only that the State "impose and collect (in accordance with regulations of the Secretary) a fee," without specifying from whom it must be collected. We added a new § 303.70(e)(3) and redesignated the old paragraph (e)(3) as (e)(6) in order to permit States either to charge an individual requesting information or to absorb, without charging the individual requesting information, the fee required under section 454(17) of the Act. This will enable States which want to absorb the fees required under section 454(17) to do so. It does not relieve a State which absorbs the fees from paying the Federal government for its portion of the costs.

We added a new § 303.70(e)(4) which requires fees under sections 453(e)(2) and 454(17) to be reasonable so as not to discourage use of Federal PLS services by authorized persons. Paragraph (e)(4) was added in response to requests from States that we issue guidelines for States to follow in establishing their fees. Although we are not mandating what fees States should charge to cover State costs, States must establish fees which are reasonable and as close to actual costs as possible so as not to discourage use of Federal PLS services by authorized persons.

Section 303.69(a)(2) required the Federal agent or attorney to make the request through the State PLS if a case involved one or more States that had an agreement under § 303.15. Section 303.69(a)(3) permitted the agent or attorney to request the information directly from the Federal PLS only if the case involved States that did not have agreements. In response to a comment received, we revised § 303.69 by removing paragraphs (a) (2) and (3), redesignating paragraph (a)(1) as paragraph (a), and revising the text to allow Federal agents and attorneys to request information directly from the Federal PLS in all cases. Direct access by Federal agents and attorneys would ensure stringent security of confidential information and would eliminate the additional time and effort of submitting requests through the State. We also revised § 303.69(e) to provide that a fee *may* (as opposed to "will") be charged for requests made directly to the Federal PLS by Federal agents and attorneys in cases involving the unlawful taking or restraint of a child. We believe that waiving the Federal fee in processing requests from Federal agents and attorneys is both reasonable and cost-effective because of the likelihood that we will receive few requests of this type.

Response to Comments

We received comments on the final rule from five State agencies and one private organization. A summary of the substantive comments and our responses follows.

1. *Comment:* Three commenters stated that the definition of person authorized to request Federal PLS information in parental kidnapping and child custody cases at § 303.15 needed clarification. Section 303.15(a)(1) defines an authorized persons as any agent or attorney of any State having an agreement who has the duty or authority under State law to enforce a child custody determination, any court having jurisdiction to make or enforce a child custody determination, or any agent of the court, and any agent or attorney of the United States, or of a State having an agreement, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child. One commenter asked if private attorneys were included as authorized persons in the definition. Another commenter asked if the definition included court requests for Federal PLS information in connection with child custody determinations in adoption and parental rights termination cases.

Response: We believe the definition, which is taken from the statute, is sufficient since it provides States some flexibility to establish who qualifies as an authorized person under State law. Because States are in the best position to determine who is qualified under State law, and because we believe it is important to continue to provide this flexibility, we have not changed the regulation.

However, in response to the question of whether private attorneys are considered authorized persons, we offer the following information. Section 463(d)(2)(A) of the Act applies to those agents and attorneys who are empowered to act on behalf of the State to enforce a child custody determination. Examples of such agents are officers employed by the State, such as social workers and law enforcement officials, including a State's attorney empowered to act on behalf of the State to prosecute a parental kidnapping or child custody case. It does not include a private attorney. In addition, we do not consider private attorneys to be agents of the court for purposes of section 463(d)(2)(B) since they do not have the authority to make or enforce a child custody determination. Consequently, neither parents nor their private legal representatives may apply directly to the State PLS for Federal PLS information in parental kidnapping and child custody cases. Parents or their legal representatives may, however, petition a court to request location information from the Federal PLS concerning the absconding parent and missing child. Similarly, a parent can request the appropriate State officials who are authorized persons to make a location request, provided that the State has a law covering the wrongful taking or restraint of a child.

In response to the comment regarding court requests for Federal PLS information in connection with child custody determinations in adoption and parental rights termination cases, section 463 of the Act allows the release of Federal PLS information for enforcing any State or Federal law with respect to a child custody determination. Thus, it is reasonable and appropriate for a court to request Federal PLS information in a child custody case involving the above circumstances.

2. *Comment:* Three commenters stated that FFP should be made available to States which enter into agreements with OCSE to use the Federal PLS in parental kidnapping and child custody cases.

Response: Because section 9 of Pub. L. 96-611 prohibits FFP for any expenditures made to carry out an agreement under section 463 of the Act, OCSE has no discretion with respect to providing reimbursement for these expenditures.

3. *Comment:* Two commenters stated that, if broadly interpreted, 45 CFR 303.15(c)(8)(vi) could mean that in addition to destroying confidential records, even the requests for information must be destroyed. The commenters were concerned that such an interpretation would reduce a State's ability to keep track of requests for billing, accounting and audit purposes.

Response: 45 CFR 303.15(c)(8)(vi) provides that the State must agree to destroy any confidential records and information related to the requests after the information has been sent to the requestor. This means that confidential records and information in the form of data obtained from the Federal PLS must be destroyed, not the request itself or information obtained from the requestor. Therefore, States are not precluded from maintaining information such as names and addresses of the requestors and the names of persons being sought for billing, accounting and audit purposes. We believe the regulation is sufficiently clear on this point.

4. *Comment:* Two commenters requested that guidelines be issued to States for establishing State fees and billing procedures.

Response: Because we have no way of determining State costs, we have not mandated what fees States must charge to cover such costs. However, we agree that some guidelines should be provided. Therefore, we have added § 303.70(e)(4) to require that fees be reasonable and as close to actual costs as possible so as not to discourage the use of Federal PLS services by authorized persons. (See discussion under "Changes to Final Regulations.")

5. *Comment:* One commenter stated that § 303.70(e)(1) should say that "the IV-D agency shall collect and pay the fees required under sections 453(e)(2) and 454(17) of the Act," instead of "collect or pay the fees * * *" to be consistent with section 454(17) of the Act and § 303.15(c)(6).

Response: To clarify the requirements for paying fees under sections 453(e)(2) and 454(17) of the Act, we revised § 303.70(e)(1) to require the IV-D agency to "pay the fees" required under those two sections of the Act. In addition, we added a new § 303.70(e)(2) to clarify from whom the IV-D agency must collect a fee required under section 453(e)(2) of the Act for requests involving child support. We believe States have discretion to collect or absorb the fees required under section 454(17) of the Act and § 303.15(c)(6) for requests involving parental kidnapping and child custody. Therefore, we added a new § 303.70(e)(3) to allow States either to charge the authorized person requesting information, or to absorb the fee required under section 454(17). (See discussion under "Changes to Final Regulations.")

6. *Comment:* One State commented that it would like to absorb the fee required under section 454(17) of the Act and to reimburse the Federal government from State funds. Because the State receives so few requests for Federal PLS information in connection with parental kidnapping and child custody cases, setting up a billing and accounting system for the collection of fees would not be cost effective.

Response: We believe that the purpose of the fee provision is to ensure both that the Federal government is reimbursed for its costs and that no State costs are charged to the Federal government. Because section 454(17) of the Act does not specify from whom the fee must be collected, a State could absorb the costs if it believes that doing so would be more cost efficient. It is still necessary, however, for OCSE to be able to distinguish child support enforcement requests from parental kidnapping and child custody requests since the cost of the latter is not eligible for FFP. Therefore, a State must still maintain a system, containing nonconfidential information, which separates child support enforcement requests from parental kidnapping and child custody requests. (See discussion under "Changes to Final Regulations.")

7. *Comment:* We received three substantive comments on § 303.69, Requests by agents or attorneys of the United States for information from the Federal PLS. One commenter supported allowing direct access to the Federal PLS by Federal agents and attorneys in States without agreements. Another commenter stated it would be more efficacious if all Federal agents and attorneys had direct access to the Federal PLS and States were not required to honor requests from them. A third commenter requested that OCSE not charge fees for requests made to the Federal PLS Federal agents and attorneys who have the duty or authority to investigate, enforce or bring a prosecution with respect to the unlawful taking or restraint of a child.

Response: We agree that it would be simpler for Federal agents and attorneys to request information directly from the Federal PLS. This would eliminate the additional step of going through the State. We believe such a policy is feasible and would not place an undue burden on the Federal PLS staff since we anticipate the volume of requests from Federal agents and attorneys to be low. Therefore, we revised § 303.69 by removing paragraphs (a)(2) and (3), redesignating paragraph (a)(1) as paragraph (a), and revising the text to allow direct access to the Federal PLS by Federal agents and attorneys in all cases involving the unlawful taking or restraint of a child. (See discussion under "Changes to Final Regulations.") This does not preclude Federal agents and attorneys from going through the State PLS if they so choose, and the State PLS must process these requests. We have also amended § 303.69(e) to provide that a fee may (instead of "will") be charged for requests made directly to the Federal PLS by Federal agents and attorneys in such cases. As long as the volume of such requests remains low, setting up of a billing and accounting system for the collection of such fees would not be cost effective.

8. *Comment:* Two commenters requested changes be made to the signatory page of the agreement. One commenter stated that requesting the Governor to sign the agreement and the Attorney General to certify it was too time consuming. Another commenter requested that the agreement be revised to clarify that the Governor *or* the Governor's designee may sign the agreement.

Response: In response to both commenters we believe revision of the agreement is unnecessary. Section 303.15(d)(1) clearly states that an agreement must be signed either by the Governor of the State or by the Governor's designee. We also believe that the Attorney General's signature is necessary whenever the Federal government and the State enter into an agreement under section 463 of the Act to certify the authority of the signing State official to commit the State to the agreement and to ensure the legality of the agreement under State law. In addition, OCSE requires the consent of the Governor or his/her designee and the Attorney General to the execution of the agreement to ensure that the highest State authorities are aware of the consequences of any misuse of Federal PLS information.

9. *Comment:* One commenter referred to Article V of the agreement which states that the Director, OCSE, will not be liable for any financial loss incurred by the State through use of any data furnished pursuant to the agreement. The commenter questioned whether this Article is intended to place liability solely on the State, whether the State in turn can disclaim liability for any losses incurred through the use of data supplied, and whether this Article is negotiable and may be modified on a State by State basis.

Response: Article V limits the Director's liability only and may not be modified. OCSE is not in a position to determine if a State can, through means other than the agreement, disclaim its liability for any losses incurred through the use of data furnished pursuant to the agreement. That is a matter of State law. However, since the State acts as a conduit of information between the authorized person and the Federal PLS, the State is responsible for adopting policies and procedures for safeguarding and releasing such information according to Article IV of the agreement.

10. *Comment:* Several States were confused regarding the role of the State PLS in parental kidnapping and child custody cases.

Response: Pub. L. 96-611 authorizes the use of the Federal PLS in parental kidnapping and child custody cases contingent upon a signed agreement between the State and the Director of OCSE on behalf of the Secretary of HHS. The IV-D agency and its components (including the State PLS) are not authorized to perform activities in connection with parental kidnapping or child custody cases, as evidenced by the lack of Federal funding for such activities under the law. A State choosing to implement the service covered by these regulations acts only as a conduit of information between the authorized person making the request and the Federal information source, the Federal PLS.

States may wish to develop their own systems, outside the IV-D agency, for using public information to locate missing children and parents within the State. As long as Federal funds are not used for these purposes, there would be no violation of either IV-D regulations or Pub. L. 96-611.

Regulatory Impact Analysis

This rule makes minor revisions to an existing rule that allows States to request use of the Federal PLS in parental kidnapping and child custody cases. The major change in the rule is to allow Federal agents and attorneys to make direct requests from the PLS. While the Federal government will absorb the cost of this provision, the cost will be insignificant since there should be few direct requests. Therefore, we have determined that the rule is not major under the criteria of Executive Order 12291 and a Regulatory Impact Analysis is not required. For the reason cited above, the Secretary certifies that this rule will not have a significant economic impact on a substantial number of small entities; a Regulatory Flexibility Analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) is, therefore, not required.

OMB Clearance

The reporting requirements in these regulations have been cleared by the Office of Management and Budget under number 0960-0258.

List of Subjects in 45 CFR Part 303

Child welfare, Grant programs/social programs.

PART 303—[AMENDED]

The final rules with comment period published in the **Federal Register** on November 3, 1981 (46 FR 54554) are adopted as final rules with the following changes:

1. 45 CFR 303.70(e) is amended by revising paragraph (e)(1), redesignating paragraphs (e) (2) and (3) as paragraphs (e) (5) and (6) and adding new paragraphs (e) (2), (3) and (4) to read as follows:

§ 303.70 Requests by the State parent locator service for information from the Federal Parent Locator Service (PLS).

* * * * *

(e)(1) The IV-D agency shall pay the fees required under sections 453(e)(2) and 454(17) of the Act.

(2) The IV-D agency shall charge the resident parent, attorney or agent of a child who is not receiving aid under title IV-A of the Act the fee required under section 453(e)(2) of the Act.

(3) The IV-D agency may charge an individual requesting information or pay without charging the individual the fee required under section 454(17) of the Act.

(4) The fees required under sections 453(e)(2) and 454(17) of the Act shall be reasonable and as close to actual costs as possible so as not to discourage use of Federal PLS services by authorized individuals.

(5) For processing requests on behalf of the resident parent, legal guardian, attorney or agent of the child who is not receiving aid under title IV-A of the Act (see 45 CFR 302.35(c)(3)), the Office will collect the fees from the IV-D agency by an offset of the State's quarterly grant award.

(6)(i) For costs of processing requests on behalf of persons authorized to receive information in parental kidnapping and child custody cases, the Federal government will bill the IV-D agency periodically. A separate fee will be charged to cover costs of searching for a social security number before processing a request for location information.

(ii) The IV-D agency shall transmit payment to the Federal government upon receipt of a bill. If a State fails to pay the appropriate fees charged by the Office, this will result in termination of the services provided under section 463 of the Act.

(iii) Fees shall be transmitted in the amount and manner prescribed by the Office in instructions.

2. 45 CFR 303.69 is revised by removing paragraphs (a) (2) and (3), redesignating paragraph (a)(1) as paragraph (a), and changing the text to read as follows:

§ 303.69 Requests by agents or attorneys of the United States for information from the Federal Parent Locator Service (PLS).

(a) Agents or attorneys of the United States may request information directly from the Federal PLS in connection with a parental kidnapping or child custody case. (See § 303.15(a) of this part for a definition of persons authorized to request the information.)

(b) All requests under this section shall be made in the manner and form prescribed by the Office.

(c) All requests under this section shall contain the information specified in § 303.70(c) of this part.

(d) All requests under this section shall be accompanied by a statement, signed by the agent or attorney of the United States, attesting to the following:

(1) The request is being made solely to locate an individual in connection with a parental kidnapping or child custody case.

(2) Any information obtained through the Federal PLS shall be treated as confidential, shall be used solely for the purpose for which it was obtained and shall be safeguarded.

(e) A fee may be charged to cover the costs of processing requests for information. A separate fee may be charged to cover costs of searching for a social security number before processing a request for location information.

(Section 1102 of the Social Security Act (42 U.S.C. 1302) and sections 454(17), 455(a), and 463 of the Social Security Act (42 U.S.C. 654(17), 655(a), and 663))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: May 9, 1983.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: July 29, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-23292 Filed 8-24-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 42

[CGD 79-153]

Freeboards; Load Line Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations clarify the freeboard requirements of the load line regulations. The clarifications are based on internationally accepted interpretations of the International Convention on Load Lines of 1966.

EFFECTIVE DATE: September 26, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Perrini, Office of Merchant Marine Safety (G-MTH-5/13), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-2606.

SUPPLEMENTARY INFORMATION: On February 4, 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (47 FR 5266). Interested persons were given until April 5, 1982 to submit comments. Seven comments were received from three commentors. Drafting Information: The principal persons involved in drafting this final rule are Mr. Frank Perrini, Naval Architect, Office of Merchant Marine Safety, and LT Walter J. Brudzinski, Project Attorney, Office of Chief Counsel.

Discussion of Comments

Three comments addressed the damaged stability assumptions for B-100 vessels; three comments addressed free surface calculations; and one comment questioned the wording in the residual stability requirements.

One comment, in addressing proposed § 42.20-8(b)(1), notes that, for B-100 vessels not greater than 225 meters (738 feet) in length, flooding in the machinery space was not excluded as is done in both the existing rule and the Resolution. The existing rules in § 42.20-10(f) require flooding to "any two adjacent fore and aft compartments, neither of which is the machinery space." This section also refers to paragraph (c)(4) which gives general flooding requirements and permeability assumptions for Type B freeboard reductions ". . . excluding the machinery space. . . ." Part (10)(a)(ii) of the Resolution also implies exclusion of the machinery space for vessels not greater than 225 meters by reference to Part (8)(d).

Two comments note that proposed § 42.20-8(b)(2) did not exclude damage to the machinery bulkhead for vessels over 225 meters as in the existing rules and the Resolution. The existing rules include ". . . flooding of the machinery space, taken alone . . .", implying no damage to machinery bulkheads. Exclusion of damage to machinery bulkheads is stated in Part (10)(a)(iii) and implied in Part (10)(b) of the Resolution.

These comments state that the proposed rules, considering these variations, appeared to be more severe than the existing rules for B-100 vessels, both above and below 225 meters in length. The comments add that this would have a significant effect on large hold bulk carriers and ore/bulk/oil vessels, if these types of vessels were allowed a B-100 load line.

The Coast Guard agrees that the wording of the proposed § 42.20-8(b)(1) did not clearly exclude flooding of the machinery space. Therefore that paragraph has been modified and renumbered under § 42.20-8(a)(1) to read, "If the vessel is 225 meters (738 feet) or less in length, it must be able to withstand the flooding of any two adjacent fore and aft compartments, excluding the machinery space."

The Coast Guard also agrees that the wording of proposed § 42.20-8(b)(2) did not clearly exclude damage to machinery space bulkheads. Accordingly, that paragraph has been modified and renumbered under § 42.20-8(a)(2) to read, "If the vessel is over 225 meters (738 feet) in length, the flooding standard of [vessels less than 738 feet] must be applied, treating the machinery space, taken alone, as a floodable compartment."

Three comments note a substantive difference in the free surface assumptions for cargo liquids required in proposed § 42.20-10(a)(2) as compared to the existing rules and the Resolution. The existing rules in § 42.20-3(f)(4) require only those compartments existing in the full load condition to be considered for free surface. The existing rules are silent on the percentage of fullness, but full homogeneous loading is implied in § 42.20-3(f)(1). Sections (11)(b)(ii) and (iii) of the Resolution require that cargo tanks be fully loaded (98 percent) or completely empty and Section (11)(b)(v) requires that the free surface be calculated in that condition. In the proposed rules, cargo tanks were considered to be either 98 percent full or completely empty for the initial conditions in § 42.20-9 (c) and (d). The proposed rules, however, would have required in § 42.20-10(a)(2) that "the maximum free surface of each compartment must be included, assuming the compartment to be 70% full. . . ." One comment states that this significantly increases the free surface requirements over both the existing rule and the Resolution. Another comment notes that the proposed section represented a major substantive change which results in the loss of cargo carrying capacity. The Coast Guard agrees and has modified the proposed section on free surface requirements to parallel those of the Resolution. Section § 42.20-10(2) has been modified and renumbered under § 42.20-10(b) to read as follows:

"For cargo liquids, unless the compartment is assumed to be empty as required by § 42.20-9(b)(3), the free surface of those compartments containing liquids is calculated at an angle of heel of not more than 5 degrees."

One comment, in addressing § 42.20-12(e) of the proposed rules regarding residual stability, objects to the use of the sentence, "The Commandant gives consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability." This comment states that this requirement would impose undue structural stresses on parts of the hull and deckhouse when they are subjected to the associated increased head pressure and wave action, and that lifeboats would be submerged. The Coast Guard agrees that in actual practice these conditions could occur. However, the intent of the residual stability criteria is to prolong the buoyancy and stability of the hull after it has incurred major flooding and structural damage. This would afford additional time for rescue of persons and possible salvage of the vessel. It is not the intent of these regulations to guarantee indefinite structural integrity under these conditions. With regard to lifeboats, assuming this degree of damage, they should have already been launched. All of paragraph (e) including this sentence has been reworded and restructured to conform to the standard format on residual stability which will be used in future Coast Guard regulations on subdivision and stability. The proposed sentence has been simplified as § 42.20–12(e)(4) to read as follows:

"Each submerged opening must be weathertight (e.g. a vent fitted with a ball check valve)."

Evaluation

The Coast Guard has evaluated this final rule under Executive Order 12291 and finds that it is not a major regulation. The Coast Guard has reviewed this final rule under DOT Order 2100.5 of May 22, 1980, "Policies and Procedures for Simplification, Analysis and Review of Regulations" and has determined that it is nonsignificant. The impact of this final rule would be minimal since no substantive changes are being made to the regulations; therefore, no economic evaluation has been prepared. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant impact on a substantial number of small entities since no substantive changes are being made to the regulations.

Paperwork Reduction Act

This final rule does not contain any recordkeeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.)*.

List of Subjects in 46 CFR Part 42

Vessels, Penalties.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

In consideration of the foregoing, Part 42 of Title 46, Code of Federal Regulations is amended to read as follows:

1. The authority citation for Part 42 reads as follows:

Authority: Pub. L. 93–115, 87 Stat. 418 (46 U.S.C. 86); Pub. L. 87–620, 76 Stat. 416 (46 U.S.C. 86a); Pub. L. 89–670, 80 Stat. 938 (49 U.S.C. 1655(b)); 49 CFR 1.46(b).

2. By revising § 42.09–5 to read as follows:

§ 42.09–5 All vessels—division into types.

(a) For the purposes of this part, each vessel to which this part applies is either a Type "A" or a Type "B" vessel.

(b) A Type "A" vessel is a vessel that—

(1) Is designed to carry only liquid cargoes in bulk;

(2) Has a high degree of watertight and structural integrity of the deck exposed to the weather, with only small openings to cargo compartments that are closed by watertight gasketed covers of steel or other material considered equivalent by the Commandant; and

(3) Has a low permeability of loaded cargo compartments.

(c) A Type "B" vessel is any vessel that is not a Type "A" vessel.

(d) Requirements governing the assignment of freeboards for Types "A" and "B" vessels are in Subparts 42.20 and 42.25 of this part.

3. By revising paragraph (a)(2) of § 42.09–10 to read as follows:

§ 42.09–10 Stability, subdivision, and strength.

(a) * * *

(2) Additional stability, subdivision, and strength requirements are in §§ 42.09–1, 42.13–1, 42.13–5, and 42.15–1. The applicable flooded stability requirements are in §§ 42.20–3 through 42.20–13.

* * * * *

4. By revising paragraph (a) of § 42.15–80 to read as follows:

§ 42.15–80 Special conditions of assignment for Type "A" vessels.

(a) *Machinery casings.* Machinery casings on Type "A" vessels as defined in § 42.09–5(b) must be protected by an enclosed poop or bridge of at least standard height, or by a deckhouse of equal height and equivalent strength, except that machinery casings may be exposed if there are no openings giving direct access from the freeboard deck to the machinery space. A door complying with the requirements of § 42.15–10 is permitted in the machinery casing if it leads to a space or passageway which is as strongly constructed as the casing and is separated from the stairway to the engine room by a second weathertight door of steel or equivalent material.

* * * * *

§§ 42.20–1 through 42.40–10—[Removed]

5. By removing existing §§ 42.20–1 through 42.20–10 and adding new §§ 42.20–3 and 42.20–5 through 42.20–13 to read as follows:

§ 42.20–3 Freeboard assignment: Type "A" vessels.

(a) A Type "A" vessel is assigned a freeboard not less than that based on Table 42.20–15(a)(1) provided that the vessel meets the flooding standard in § 42.20–6.

(b) A vessel that meets the requirements in 33 CFR 157.21, or 46 CFR 153.20, 153.21, 153.22 or 154.210 is considered by the Coast Guard as meeting the flooding standard referenced in paragraph (a) of this section.

§ 42.20–5 Freeboard assignment: Type "B" vessels.

(a) Each Type "B" vessel is assigned a freeboard from Table 42.20–15(b)(1) that is increased or decreased by the provisions of this section.

(b) Each Type "B" vessel that has a hatchway in position 1, must have the freeboard assigned in accordance with paragraph (a) of this section increased by the amount given in Table 42.20–5(b) unless the hatch cover complies with:

(1) Section 42.15–25(d); or

(2) Section 42.15–30.

TABLE 42.20-5(b).—FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" VESSELS WITH HATCH COVERS NOT COMPLYING WITH § 42.15-25(d) OR § 42.15-30.

[Metric]

Length of ship (meters)	Freeboard increase [1] (millimeters)
*108	50
109	52
110	55
111	57
112	59
113	62
114	64
115	68
116	70
117	73
118	76
119	80
120	84
121	87
122	91
123	95
124	99
125	103
126	108
127	112
128	116
129	121
130	126
131	131
132	136
133	142
134	147
135	153
136	159
137	164
138	170
139	175
140	181
141	186
142	191
143	196
144	201
145	206
146	210
147	215
148	219
149	224
150	228

TABLE 42.20-5(b).—FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" VESSELS WITH HATCH COVERS NOT COMPLYING WITH § 42.15-25(d) OR § 42.15-30.—Continued

[Metric]

Length of ship (meters)	Freeboard increase [1] (millimeters)
151	232
152	236
153	240
154	244
155	247
156	251
157	254
158	258
159	261
160	264
161	267
162	270
163	273
164	275
165	278
166	280
167	283
168	285
169	287
170	290
171	292
172	294
173	297
174	299
175	301
176	304
177	306
178	308
179	311
180	313
181	315
182	318
183	320
184	322
185	325
186	327
187	329
188	332
189	334
190	336
191	339
192	341
193	343
194	346
195	348
196	350
197	353
198	355
199	357
[3]200	358

[1] Freeboards at intermediate lengths of ship shall be obtained by linear interpolation.
[2] 108 and below.
[3] Ships above 200 meters in length are subject to individual determination by the Commandant.

[English]

Length of ship (feet)	Freeboard increase [1] (inches)
[2]350	2.0
360	2.3
370	2.8
380	2.9
390	3.3
400	3.7
410	4.2
420	4.7
430	5.2
440	5.8
450	6.4
460	7.0
470	7.6
480	8.2
490	8.7
500	9.2
510	9.6
520	10.0
530	10.4
540	10.7
550	11.0
560	11.4
570	11.8
580	12.1
590	12.5
600	12.8
610	13.1
620	13.4
630	13.6
640	13.9
650	14.1
[3]660	14.3

[1] Freeboards at intermediate lengths of ship be obtained by linear interpolation.
[2] 350 and below.
[3] Ships above 660 feet in length are subject to individual determination by the Commandant.

(c) A Type "B" vessel that is greater than 100 meters (328 feet) in length may have its freeboard reduced from that required in paragraph (a) of this section under the provisions of paragraphs (d) and (e) of this section provided that—

(1) The measures provided for the protection of the crew are adequate;

(2) The freeing arrangements are adequate; and

(3) The hatchway covers in positions 1 and 2 comply with the provisions of § 42.15-30 and have adequate strength, special care being given to their sealing and securing arrangements.

(d) The freeboards for a Type "B" vessel which comply with paragraph (c) of this section may be reduced up to 60 percent of the total difference between the freeboards in Table 42.20-15(b)(1) and Table 42.20-15(a)(1) provided that the vessel meets the flooding standard in § 42.20-7.

(e) The freeboards for a Type "B" vessel which complies with paragraph (c) of this section may be reduced up to the total difference between the freeboard tables referenced in paragraph (d) of this section provided that the vessel meets the flooding standard in § 42.20-8 and the provisions of § 42.15-80 (a), (b) and (d) as if it were a Type "A" vessel.

§ 42.20-6 Flooding standard; Type "A" vessels.

(a) Design calculations must be submitted that demonstrate that the vessel will remain afloat in the conditions of equilibrium specified in § 42.20-12 assuming the damage specified in § 42.20-11 as applied to the following flooding standards:

(1) If the vessel is over 150 meters (492 feet) in length it must be able to withstand the flooding of any one compartment, except the machinery space.

(2) If the vessel is over 225 meters (738 feet) in length, it must be able to withstand the flooding of any one compartment, treating the machinery space as a floodable compartment.

(b) When doing the calculations required in paragraph (a) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except the machinery space.

(2) 0.85 in the machinery space.

§ 42.20-7 Flooding standard: Type "B" vessel, 60 percent reduction.

(a) Design calculations must be submitted that demonstrate that the vessel will remain afloat in the conditions of equilibrium specified in § 42.20-12 assuming the damage specified in § 42.20-11 as applied to the following flooding standards:

(1) If the vessel is 225 meters (738 feet) or less in length, it must be able to withstand the flooding of any one compartment, except the machinery space.

(2) If the vessel is over 225 meters (738 feet) in length, it must be able to withstand the flooding of any one compartment, treating the machinery space as a floodable compartment.

(b) When doing the calculations required in paragraph (a) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except the emachinery space.

(2) 0.85 in the machinery space.

§ 42.20-8 Flooding standard: Type "B" vessel, 100 percent reduction.

(a) Design calculations must be submitted that demonstrate that the vessel will remain afloat in the conditions of equilibrium specified in § 42.20-12 assuming the damage specified in § 42.20-11 as applied to the following flooding standards:

(1) If the vessel is 225 meters (738 feet) or less in length, it must be able to withstand the flooding of any two adjacent fore and after compartments excluding the machinery space;

(2) If the vessel is over 225 meters (738 feet) in length, the flooding standard of paragraph (a)(1) of this section must be applied, treating the machinery space, taken alone, as a floodable compartment.

(b) When doing the calculations required in paragraph (a) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except the machinery space.

(2) 0.85 in the machinery space.

§ 42.20-9 Initial conditions of loading.

When doing the calculations required in § 42.20-6(a), § 42.20-7(a) and § 42.20-8(a), the initial condition of loading before flooding must be assumed to be as specified in this section:

(a) The vessel is assumed to be loaded to its summer load waterline with no trim.

(b) When calculating the vertical center of gravity, the following assumptions apply:

(1) The cargo is assumed to be homogeneous.

(2) Except as specified in paragraph (b)(3) of this section, all cargo compartments are assumed to be fully loaded. This includes compartments intended to be only partially filled. In the case of liquid cargoes, fully loaded means 98 percent full.

(3) If the vessel is intended to operate at its summer load waterline with empty compartments, these empty compartments are assumed to be empty rather than fully loaded if the resulting height of the vertical center of gravity is not less than the height determined in accordance with paragraph (b)(2) of this section.

(4) Fifty percent of the total capacity of all tanks and spaces fitted to contain consumable liquids or stores must be assumed to be distributed to accomplish the following:

(i) Each tank and space fitted to contain consumable liquids or stores must be assumed either completely empty or completely filled.

(ii) The consumables must be distributed so as to produce the greatest possible height above the keel for the center of gravity.

(5) Weights are calculated using the following values for specific gravities:

Salt water—1.025
Fresh water—1.000
Oil fuel—0.950
Diesel oil—0.900
Lube oil—0.900

§ 42.20-10 Free surface.

When doing the calculations required in § 42.20-6(a), § 42.20-7(a) and § 42.20-8(a), the effect of free surface of the following liquids must be included:

(a) For each type of consumable liquid, the maximum free surface of at least one transverse pair of tanks or a single centerline tank must be included. The tank or combination of tanks must be that resulting in the greatest free surface effect.

(b) For cargo liquids, unless the compartment is assumed to be empty as required by § 42.20-9(b)(3), the free surface of those compartments containing liquids is calculated at an angle of heel of not more than 5 degrees.

§ 42.20-11 Extent of damage.

When doing the calculations required by § 42.20-6(a), § 42.20-7(a) and § 42.20-8(a), the following must be assumed:

(a) The vertical extent of damage in all cases must be assumed to be from the baseline upward without limit.

(b) The transverse extent of damage is assumed to be equal to B/5 or 11.5 meters (37.7 feet), whichever is less. The transverse extent is measured inboard from the side of the ship perpendicularly to the center line at the level of the summer load waterline.

(c) If damage of a lesser extent than that specified in paragraph (a) or (b) of this section results in a more severe condition, the lesser extent must be assumed.

(d) The following assumptions apply to the transverse damage specified in paragraph (b) of this section for a stepped or recessed bulkhead:

(1) A transverse watertight bulkhead that has a step or recess located within the transverse extent of assumed damage may be considered intact if the step or recess is not more than 3.05 meters (10 feet) in length.

(2) If a transverse watertight bulkhead has a step or recess of more than 3.05 meters (10 feet) in length, within the transverse extent of assumed damage, the two compartments adjacent to this bulkhead must be considered as flooded.

(3) If within the transverse extent of damage, a transverse bulkhead has a step or recess more than 3.05 meters (10 feet) in length that coincides with the double bottom tank top or the inner boundary of a wing tank, respectively, all adjacent compartments within the transverse extent of assumed damage must be considered to be flooded simultaneously.

(e) If a wing tank has openings into adjacent compartments, the wing tank and adjacent compartments must be considered as one compartment. This provision applies even where these openings are fitted with closing appliances except:

(1) Valves fitted in bulkheads between tanks which are controlled from above the bulkhead deck.

(2) Secured manhole covers fitted with closely spaced bolts.

(f) Only transverse watertight bulkheads that are spaced apart at least $\frac{1}{3}(L)^{2/3}$ or 14.5 meters ($0.495(L)^{2/3}$ or 47.6 feet), whichever is less, may be considered effective. If transverse bulkheads are closer together, then one or more of these bulkheads must be assumed to be non-existent in order to achieve the minimum spacing between bulkheads.

§ 42.20-12 Conditions of equilibrium.

The following conditions of quilibrium are regarded as satisfactory:

(a) *Downflooding.* The final waterline after flooding, taking into account sinkage, heel, and trim, is below the lower edge of any opening through which progressive flooding can take place. Such openings include air pipes, ventilators, and openings which are closed by means of weathertight doors (even if they comply with § 42.15-10) or covers (even if they comply with § 42.15-30 or § 42.15-45(d)) but may exclude those openings closed by means of:

(1) Manhole covers and flush scuttles which comply with § 42.15-40;

(2) Cargo hatch covers which comply with § 42.09-5(b);

(3) Hinged watertight doors in an approved position which are secured closed while at sea and so logged; and

(4) Remotely operated sliding watertight door, and side scuttles of the non-opening type which comply with § 42.15-65.

(b) *Progressive flooding.* If pipes, ducts, or tunnels are situated within the assumed extent of damage penetration as defined in § 42.20-11 (a) and (b), progressive flooding cannot extend to compartments other than those assumed to be floodable in the calculation for each case of damage.

(c) *Final angle of heel.* The angle of heel due to unsymmetrical flooding does not exceed 15 degrees. If no part of the deck is immersed, an angle of heel of up to 17 degrees may be accepted.

(d) *Metacentric height.* The metacentric height of the damaged vessel, in the upright condition, is positive.

(e) *Residual stability.* Through an angle of 20 degrees beyond its position of equilibrium, the vessel must meet the following conditions:

(1) The righting arm must be positive.

(2) The maximum righting arm must be at least 0.1 meter (4 inches).

(3) The area under the righting arm curve within the 20 degree range must not be less than 0.0175 meter-radians (0.689 inch-radians).

(4) Each submerged opening must be weathertight (e.g. a vent fitted with a ball check valve).

(f) *Intermediate stages of flooding.* The Commandant is satisfied that the stability is sufficient during intermediate stages of flooding.

§ 42.20-13 Vessels without means of propulsion.

(a) A lighter, barge, or other vessel without independent means of propulsion is assigned a freeboard in accordance with the provisions of this subpart as modified by paragraphs (b), (c), and (d) of this section.

(b) A barge that meets the requirements of § 42.09–5(b) may be assigned Type "A" freeboard if the barge does not carry deck cargo.

(c) An unmanned barge is not required to comply with § 42.15–75, § 42.15–80(b), or § 42.20–70.

(d) An unmanned barge that has only small access openings closed by watertight gasketed covers of steel or equivalent material on the freeboard deck, may be assigned a freeboard 25 percent less than that calculated in accordance with this subpart.

6. By revising § 42.20–25 to read as follows:

§ 42.20–25 Correction for block coefficient.

If the block coefficient (Cb) exceeds 0.68, the tabular freeboard specified in § 42.20–15 as modified, if applicable, by §§ 42.20–5 (b) and (d), and 42.20–20(a) must be multiplied by the factor (Cb+0.68)/1.36.

7. By revising § 42.20–75(a)(1) to read as follows:

§ 42.20–75 Minimum freeboard.

(a) *Summer freeboard.* (1) The minimum freeboard in summer must be the freeboard derived from the tables in § 42.20–15 as modified by the corrections in §§ 42.20–3 and 42.20–5, as applicable, and §§ 42.20–20, 42.20–25, 42.20–30, 42.20–35, 42.20–60, 42.20–65 and, if applicable, § 42.20–70.

* * * * *

8. By revising paragraph (a) of § 42.25–20 as follows:

§ § 42.25–20 Computation for freeboard.

(a) The minimum summer freeboards must be computed in accordance with §§ 42.20–5 (a) and (b), 42.20–13, 42.20–15, 42.20–20, 42.20–25, 42.20–30, 42.20–35, 42.20–60, and 42.20–65, except that § 42.20–60 is modified by substituting the percentages in Table 42.25–20(a) for those given in § 42.20–60.

Dated: July 27, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–23349 Filed 8–24–83; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30822–170]

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; closure.

SUMMARY: NOAA issues this notice to close the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the Harpoon Boat category. Closure of this fishery is necessary because the annual catch quota will be attained by the effective date. Upon closure, vessels permitted in this category will be prohibited from fishing for or retaining any Atlantic bluefin tuna captured in the regulatory area for the remainder of 1983. The action is prescribed by regulations for the fishery.

EFFECTIVE DATE: August 23, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, extension 325, or David S. Crestin, 617–281–3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745).

Section 285.22(b) of the regulations provides for an annual quota of 60 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the Harpoon Boat category in the Regulatory Area. This quota was subsequently increased to 75 st effective August 11, 1983 (48 FR 36823, published August 15, 1983). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 67 st, and the recent catch rate, that the annual quota of giant Atlantic bluefin tuna allocated to vessels permitted in the Harpoon Boat category will be attained by the effective date. Fishing for, and retention of, any Atlantic bluefish tuna by these vessels must cease at 0001 EDT on August 23, 1983.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery. This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

(Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h)

Dated: August 22, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–23399 Filed 8–22–83; 5:06 pm]

BILLING CODE 3510–22–M