replaced with new or ultrasonically cleaned nozzles within 25 flight cycles. If there have been any unresolved aborted ground starts (since the last cleaning and flow check) that are not attributed to an ignition system fault or a mechanical problem which is unrelated to the fuel nozzles, fuel nozzles must be selectively replaced within 5 cycles. The fuel nozzles may be replaced in quantities and locations as needed to restore the flow to 10 percent flow reduction or less.

(b) Ground starts must be initiated using single ignition, either ignition selector position 1 or 2. If an aborted start is experienced using single ignition that is related to a fuel nozzle problem, the engine may be started on the opposite ignition system or dual ignition and the fuel nozzles must be cleaned and flow checked within 25 flight cycles in accordance with PW Maintenance Manual P/N 785050, Chapter 73–13–07, Cleaning/Painting Section as revised by Temporary Revision 73–3, or FAA approved equivalent.

The flow check limits in Paragraph (a) are applicable to Paragraph (b).

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts, 01803 may adjust the compliance time specified in this AD.

PW Maintenance Manual P/N 785050, Chapter 73–13–07, Cleaning/Painting Section as revised by Temporary Revision 73–3 is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552 (a)(1). (Boeing Maintenance Manual, Chapter 73–11–05, Cleaning/Painting Section is an equivalent means of compliance.) All person affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Pratt & Whitney, Commercial Products Division, 400 Main Street, East Hartford, Connecticut 06108. This document also may be examined at the Office of the Regional Counsel, Rules Docket 85–ANE–8, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective on March 14, 1986.

Issued in Burlington, Massachusetts, on January 11, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86–2775 Filed 2–7–86 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–ASO–1]

Alteration of Transition Area, Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Atlanta, Georgia, transition area by raising the floor of controlled airspace from 700 to 1,200 feet, in the vicinity of Stone Mountain, Georgia. This action will provide relief to those aircraft operating to and from the Stone Mountain-Britt Memorial Airport during Visual Flight Rule conditions. This reverses an action which became effective, under Airspace Docket No. 85–ASO–21, on January 16, 1986.

EFFECTIVE DATE: 0901 UTC, March 13, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, January 16, 1986, the FAA amended Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Altanta, Georgia, transition area (50 FR 49528). This action was intended to provide additional controlled airspace for use by Air Traffic Control in radar vectoring of aircraft in the vicinity of Stone Mountain and DeKalb-Peachtree Airport. Due to internal FAA mail distribution problems, interested parties were not invited to participate in this rulemaking procedure. No comments objecting to the proposal were received and the legitimate concerns of operators at Stone Mountain-Britt Memorial Airport were not disclosed until after publication of the Final Rule. Alternative means to provide the necessary airspace for radar vectoring have been developed; thus, the need for the additional controlled airspace has been resolved.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations reduces the size of the Atlanta, Georgia, transition area and increases the base of controlled airspace in the vicinity of Stone Mountain 700 to 1,200 feet above the surface.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation of Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); (14 CFR 11.69); 49 CFR 1.47

2. By amending § 71.181 as follows:

§ 71.181 Atlanta, GA—[Amended]

By removing the words "within a 6.5-mile radius of Stone Mountain (lat. 33°48′22″N., long 84°08′47″W);".

Issued in East Point, Georgia, on January 29, 1986.

James L. Wright,

Acting Air Traffic Manager, Southern Region.

[FR Doc. 86–2773 Filed 2–7–86 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 91

[Docket No. 24861; Amdt. 91-193]

Change in Airspace Definition of Minimum Navigation Performance Specification

Correction

In FR Doc. 85-29517, appearing on page 51193 in the issue of Friday, December 13, 1985, make the following correction in the first column under Background:

In the second paragraph, the last line should read, "south of 38° 30″N".

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8960]

National Talent Associates, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: The Federal Trade Commission has modified a 1975 consent order with National Talent Associates, Inc., et al., amending the provisions of the order that tell the company what disclosures it must make to consumers about its success in obtaining paid employment for clients. The consent order prohibited the respondents from misrepresenting their ability to obtain modeling positions for young children and required them to disclose specified information to prospective clients.

DATES: Consent Order issued November 26, 1975. Modifying Order issued January 21, 1986.

FOR FURTHER INFORMATION CONTACT: Jerry McDonald, FTC/B-425, Washington, DC 20580, (202) 376-3484.

SUPPLEMENTARY INFORMATION: In the Matter of National Talent Associates, Inc., a New Jersey corporation, National Talent Associates, Inc., an Illinois corporation, National Talent Associates, Inc., a California corporation, Sanford Storm and Jerome P. Ashfield, individually and as officers of said corporations, William Schuller Agency, Inc., a corporation, and Monica Stuart, individually and as an officer of said corporation. The prohibited trade practices and/or corrective actions, as set forth at 40 FR 59591, remain unchanged.

List of Subjects in 16 CFR Part 13

Modeling agencies, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Before Federal Trade Commission

Commissioners: Terry Calvani, Acting Chairman, Patricia P. Bailey, Mary L. Azcuenaga.

In the Matter of National Talent Associates, Inc., a New Jersey corporation, National Talent Associates, Inc., an Illinois corporation, National Talent Associates, Inc., a California corporation, Sanford Storm and Jerome P. Ashfield, individually and as officers of said corporations, William Schuller Agency, Inc., a corporation, and Monica Stuart, individually and as an officer of said corporation.

[Docket No. 8960]

Order Reopening the Proceeding and Modifying Cease and Desist Order

On September 20, 1985, National Talent Associates, Inc., a New Jersey corporation; National Talent Associates, Inc., an Illinois corporation; National Talent Associates, Inc., a California corporation; and Sanford Storm and Jerome P. Ashfield, individually and as officers of said corporations (Petitioners) filed a request to reopen and modify the consent order entered against them by the Commission on November 26, 1975, in Docket No. 8960 (86 F.T.C. 1202).[1]

The request to reopen and modify the consent order was placed on the public record on September 20, 1985, and a press release regarding the request was issued on October 2, 1985. The public comment period ended on November 1, 1985, and no comments were filed. The deadline to rule on Petitioners' request was January 20, 1985.

Petitioners sell five year contracts to parents of young children under which they arrange to have the children photographed annually for five years. They then submit the photographs to talent agencies for consideration for employment as models. The order prohibits various misrepresentations including those relating to the employment opportunities and potential earnings available to children placed under their contracts. It further imposes affirmative obligations on Petitioners, including a requirement that they give to each prospective purchaser an "Important Information" document disclosing the number of children signed to their contracts during the immediately preceding two calendar year period, and information reflecting the success rates of these children in the modeling business.

Petitioners requested that several paragraphs of Part I of the order be modified or replaced with new paragraphs and that three new paragraphs be added to the order. They assert that changed conditions of fact since the order was issued require that paragraph 13 be modified. They state further that the public interest requires that the first and second "IT IS FURTHER ORDERED" paragraphs of the order be replaced with new paragraphs and that new third, fourth and fifth "IT IS FURTHER ORDERED" paragraphs be placed in the order.

Paragraph 13 of the Order

Under paragraph 13 of the order, Petitioners are prohibited from representing that:

> National Talent Associates, Inc., a New Jersey corporation, arranges for professional photographs to be taken of each person placed under its contract by an independent photographic studio.

Petitioners state that at the time that the order was issued, the individual respondents owned an interest in a photographic studio. This is no longer true, and Petitioners now arrange for NTA clients to have photographs taken by independent photographic studios. Based on this changed condition of fact, Petitioners ask that the words, "unless such is in fact true", be added to the end of the paragraph.

The Commission agrees with the Petitioners that paragraph 13 should be modified to reflect the stated changed factual condition. Petitioners should not be prohibited from making a truthful representation. If they acquire an interest in a photographic studio to which they refer clients in the future, the modified paragraph would prohibit them from representing that the photographic studio is an independent photographic studio.

First "It Is Further Ordered" Paragraph of the Order

Petitioners ask that the first "It Is Further Ordered" paragraph of the order, with the exception of the last subparagraph therein, be replaced with a new first "It Is Further Ordered" paragraph. The first "It is Further Ordered" paragraph reads as follows:

> It Is Further Ordered that respondents shall disclose the following information, in writing, in a clear and conspicuous manner to each person who is a prospective purchaser of any of their products or services, prior to entering into any agreement for the furnishing of such products or services, including the photographing of, or assistance to, any such

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[1] Other respondents under the order are not bound by Part I of the order, with which the petition is concerned, and are not Petitioners.

persons in seeking or obtaining employment opportunities as models, actors, actresses or entertainers in the commercial advertising, talent, modeling or entertainment industries.

a. The number of persons who contracted with respondents for the purchase of photographs or services to be used in connection with the selection, placement or employment of persons in the commercial advertising, talent, modeling or entertainment industries, as models, actors, actresses or entertainers, within the two calendar years immediately preceding the year in which the prospective purchaser was contacted, the number and percentage of such persons who obtained paid employment through the auspices of respondents, as well as the number of paid jobs and agency contracts obtained by such persons.

b. The total number of persons placed under contract by respondents in each of the following categories of gross annual earnings, derived from paid employment in the commercial advertising, talent, modeling or entertainment industries, as models, actors, actresses or entertainers, during the two calendar years immediately preceding the year in which the prospective purchaser was contacted by respondents: Under $100, $100–$250, $250–$500, $500–$1,000, $1,000–$2,000, $2,000–$4,000, $4,000–$6,000, $6,000–$8,000, $8,000–$10,000, $10,000 and above.

c. Whether any financial agreement, arrangement or connection, exists between respondents and any photographic studio to which they may refer prospective purchasers of their photographs or services.

d. Whether any financial agreement, arrangement or connection, exists between respondents and any person, firm or agency to whom photographs, or any other information, concerning the prospective purchaser, of their products or services may be sent by respondents.

e. The source or sources from which the names, addresses, or any other information about prospective purchasers, or about any other members of their immediate family, was obtained by respondents.

Petitioners' proposed first "It Is Further Ordered" paragraph of the order would effect several significant changes in the "Important Information" document. The document now relates to the success rates of children signed by NTA during the immediately preceding two calendar years. The modified paragraph would change the time period covered to the immediately preceding five calendar years. Petitioners argue that the information required to be disclosed does not accurately reflect NTA client opportuntities during the term of their contracts with NTA. "Of significant importance", Petitioners state, "NTA's agreements with clients are for five years; whereas, the order provisions require disclosure for two years. Depending on the date on which a client is signed during the two-year period, it is often impossible for a client to be processed by NTA, signed by a talent agency, obtain a job assignment and receive payment for the assignment in sufficient time to be included in all subparagraph a. data disclosure categories." Thus, to make the data more relevant to prospective purchasers, Petitioners propose to enlarge the two year period to five years.

The items of information to be disclosed on the "Important Information" document would be reduced from five to three. The order requires the disclosure of the number of children signed to NTA contracts, the number of these children who were accepted by talent agencies, the number and percentage who obtained paid employment, the number of paid job assignments that they obtained and their earnings. Data concerning the number who were accepted by talent agencies and the number of paid job assignments that they obtained would no longer be disclosed. According to the Petitioner, these items of information are confusing and not easily relatable to the total number of persons contracting with NTA. Furthermore, the Petitioners assert that this data is extremely burdensome to compile.

The disclosure of earnings prescribed by subparagraph b. of the first "It Is Further Ordered" paragraph would be substantially altered by Petitioners' proposed modification. The proposed categories of gross annual earnings are as follows: Under $500, $500–$5,000, $5,000–$10,000 and above $10,000. Additionally, cumulative earnings would be permitted rather than annual earnings during the five calendar year period. In support of this modification, Petitioners assert that the public interest requires the elimination of unnecessary detail, and the four categories of earnings are more concise and easier to understand. Additionally, Petitioners argue that the physical counting and compilation of this data has been extremely burdensome and costly to NTA. To continue the ten categories of earnings with five year computations would be even more burdensome.

Petitioners' proposed modifications would permit two footnotes to be placed on the "Important Information" document. A footnote to items one and two, the number of persons signed to NTA's contracts and the number and percentage of those persons who received payment for employment, would read:

Of the children signed during the past five years, only a few have had the opportunity to complete the full term of their five-year agreement.

A footnote to item three, the number of persons who earned income and their gross earnings, would read:

These figures do not include those children signed by NTA prior to *(Year)* who received earnings during the past five years.

Petitioners state that the footnotes are needed to "further clarify and explain the coverage of items, 1, 2 and 3 on the disclosure document."

Subparagraph c. of the first "It Is Further Ordered" paragraph requires Petitioners to disclose whether "any financial agreement, arrangement or connection exists between Petitioners and any photographic studio to which they may refer prospective purchasers of their photographs or services." Subparagraph d. requires the disclosure of any such arrangement with firms or agencies to whom photographs, or any other information concerning prospective purchasers of their photographs or services are sent. Petitioners ask that subparagraphs c. and d. be combined into subparagraph (4) in the paragraph that they propose. These disclosures would be necessary only if such financial arrangements exist. Petitioners assert that the public interest requires this modification for clarification purposes.

The Commission has concluded that, taken together, the modifications proposed by Petitioners to the first "It Is Further Ordered" paragraph of the order serve the public interest. The "Important Information" document does not accurately reflect the success rates of Petitioners' clients if it is limited to only two of the five years that they are under contract. Moreover, some less significant information would be eliminated. The essential information is the number of children signed to Petitioners' contracts, the number and percentage who obtained employment and their earnings. This information would be retained. Similarly, the reduction of categories of income from ten to four serves to make the document more concise and understandable. Unless a financial agreement, arrangement or connection exists between Petitioners and the photographic studios to whom they refer clients or the talent agencies to whom the photographs are submitted, there is no need to clutter the document with the disclosures required by subparagraphs c. and d. of the order. The footnotes, which would be permitted to appear on the document, would assist prospective purchasers in understanding the statistical data. Finally, the modified order paragraph is clearly drafted, and ambiguities have been eliminated.

Last Subparagraph of the First "It Is Further Ordered" Paragraph and the Second "It Is Further Ordered" Paragraph of the Order

Petitioners request further that the order be modified by deleting therefrom the last subparagraph of the first "It Is Further Ordered" paragraph and the second "It Is Further Ordered" paragraph and replacing them with the second "It Is Further Ordered" paragraph set forth in their petition. The subparagraph and paragraph proposed to be deleted from the order are:

At the time when the foregoing disclosures are made, respondents shall furnish the prospective purchase of any of their products or services with a retainable duplicate copy of the disclosure document, and secure from such prospective purchaser a signed acknowledgment of the receipt thereof on the properly dated original copy. The document containing the disclosures shall be headed "*Important Information*", and shall not contain information or representations other than those set forth above.

It is further ordered that respondents maintain, for a five year period following the execution thereof, the originals of the signed acknowledgments of receipt of the disclosures described in the preceding paragraphs and make them available for examination and copying, if necessary, by a duly authorized representative of the Federal Trade Commission, upon reasonable notice, during normal business hours.

The modification requested by respondents would replace the words "prospective purchaser", with the word, "purchaser". Additionally, respondents' representative would be required to sign the copy of the "Important Information" document that is retained for Commission staff inspection.

The Commission considers the proposed modifications, taken together, to be in the public interest. The first subparagraph of the proposed first "It Is Further Ordered" paragraph retains the obligation to give the "Important Information" document to each prospective purchaser of Petitioners' services. However, enforcement problems are brough about by a requirement that a signed acknowledgment of receipt be retained from each prospective purchaser. Additionally, the requirement that respondents' representative must also sign the copy of the document that is retained for staff inspection should serve to make those representatives aware of the importance of the document and the need to obtain a signed acknowledgment of receipt from each purchaser and to retain it.

Proposed Third "It Is Further Ordered" Paragraph of the Order

Petitioners ask that a new third "It Is Further Ordered" paragraph be placed in the order. It would prohibit them from making any claim or other representation, in advertising or promotional material, or in any oral sales presentation, that contradicts any of the information required to be disclosed in the "Important Information" document. In the view of the Commission, the public interest requires this prohibition to prevent overstatements of the employment opportunities and financial gains that may be anticipated by purchasing Petitioners' services.

Proposed Forth "It Is Further Ordered" Paragraph of the Order

A new forth "It Is Further Ordered" paragraph, which Petitioners to have up to sixty days after the close of each calendar year to update the "Important Information" document for the immediately preceding five calendar year period. In compiling the information required in the first item of information on the disclosure document, a tolerance of one quarter of one percent would be permitted and a tolerance of one percent would be permitted im compiling the information for the third item of information, if such variances resulted from a good faith efforth to accurately compile the required information.

In support of their request that the order be modified by adding the above-described paragraph, Petitioners contend that the public interest requires the "collection, assimilation and dissemination of accurate data; however, contrary to the public interest, the order does not allow sufficient time to collect the required data nor provide for good faith human error in assembling the data for display on the "Important Information" document. the proposed order paragraph, Petitioners continue, "takes into account the necessary time needed to accurately complete the "Important Information" document and allows for good faith error, should the physical counting and compilation of statistical data (including determining five year cumulative earnings figures for each eligible client) result in insignificant errors.

We agree with Petitioners that adequate time should be provided in the order to update the information on the "Important Information" document from one calendar year to the next. The sixty days requested by Petitioners is reasonble. We agree also that small tolerances should be permitted for errors made in good faith in compiling the statistical data showing the number of children signed to their contracts and their earnings. No tolerance would be permitted for the information showing the number and percentage who were successful in being employed through Petitioners' auspices since this information involves fewer numbers and less difficult calculations.

Proposed Fifth "It Is Further Ordered" Paragraph of the Order

Petitioners further request that a fifth "It Is Further Ordered" Paragraph be placed in the order. It would require Petitoners to "maintain, and, upon request, make available to the Federal Trade Commission records substantiating the statistical information contained in each 'Important Information' document then in use." As the "Important Information" document relates to a period of five calendar years, the records substantiating the information would be maintained for five years. Petitioners assert that the proposed fifth "It Is Further Ordered" paragraph is in the public interest as it provides "additional compliance safeguards by establishing data substantiation and recordkeeping requirements which will allow the Commission's staff to effectively monitor Respondents' compliance with the first "It Is Further Ordered" provision.

The Commission has concluded that the public interest clearly requires that records substantiating the information on the "Important Information" document be maintained for compliance monitoring purposes.

Conclusions

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), requires that an order be modified or set aside upon a satisfactory showing that changed conditions of law or fact require that the order be altered, modified or set aside. The Commission's rules implementing this statute amplify on this by providing that an order should be altered, modified or set aside if "the public interest so requires." The Commission has concluded that Petitioners have adequately shown that changed conditions of law and public interest considerations require that the order be modified in the manner requested by Petitioners.

The "Important Information" document, if prepared in accordance with the terms of the modified order, will more accurately reflect the success rates of Petitioners' clients. By the elimination of unnecessary information the document will be more understandable and meaningful to prospective purchasers of Petitioners' services. The burden and expense of compiling the statistical data for the document will also be substantially reduced. Moreover, the modifications strengthen the order by requiring substantiation for the information on the "Important Information" document and prohibiting representations that may contradict this information.

It is therefore ordered that the proceeding is hereby reopened and the Decision and Order issued on November 26, 1975, is hereby modified to read as follows:

Order

It is ordered that National Talent Associates, Inc., New Jersey, Illinois and California corporations, their successors and assigns, and Sanford Storm and Jerome P. Ashfield, individually and as officers of said corporations, and said respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and distribution of products or services in connection with the placement and employment of persons as models, actors, actresses or entertainers in the commercial advertising, talent, modeling or entertainment industries, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, orally or in writing, that:

1. Respondents have received information that a person may possess the necessary personal or physical characteristics or other qualifications suitable for success in the commercial advertising, talent, modeling or entertainment industries.

2. Referrals from past purchasers of their products or services are a significant source from which the names of potential purchasers have been obtained.

3. Respondents have obtained the names of potential purchasers from a source which cannot be divulged.

4. Respondents, when requested, will provide persons with the source from which the information referred to in their solicitation letters, solicitation phone calls, or in any other means of solicitation was obtained and the nature of such information, unless respondents provide such information when requested.

5. National Talent Associates, Inc. has the expertise essential for the judging and selection of the most qualified persons to be used as models, actors, actresses or entertainers in the commercial advertising, talent, modeling or entertainment industries.

6. National Talent Associates' salesmen, agents or representatives have the expertise essential to select and judge the suitability of persons as models, actors, actresses or entertainers in the commercial advertising, talent, modeling or entertainment industries.

7. Persons who prior to an in-person interview have been solicited by National Talent Associates, Inc., have been selected on the basis that they may have the necessary personal or physical characteristics or other qualifications suitable for success in the commercial advertising, talent, modeling or entertainment industries.

8. The majority of National Talent Associates' income is derived from its personal management contracts and its ability to place persons under contract with the leading advertising modeling, talent or entertainment agencies.

9. Persons are selected and offered contracts by National Talent Associates, Inc., only on the basis that they may possess the personal or physical characteristics or other qualifications suitable for success in the commercial advertising, talent, modeling or entertainment industries.

10. A person's chances for selection by Monica Stuart, the William Schuller Agency, Inc., or by any person or agency, will be aided, increased or enhanced, by entering into a contract with National Talent Associates, Inc.

11. Access to Monica Stuart or to the William Schuller Agency, Inc., is available only to persons who contract with National Talent Associates, Inc.

12. Monica Stuart or the William Schuller Agency, Inc., review photographs of only those persons who have contracted with National Talent Associates, Inc.

13. National Talent Associates, Inc., a New Jersey corporation, arranges for professional photographs to be taken of each person placed under its contract by an independent photographic studio, unless such is in fact true.

14. Persons who contract with National Talent Associates, Inc. will receive annually one black and white, 8 x 10 inch, photograph of children in the family not under contract, for a five year period, or for any period in excess of the period in which said photograph is received without any obligation to purchase additional photographs at an added cost.

15. Natural color photographs of persons who contract with National Talent Associates, Inc., are submitted annually, for a five year period, or for any period in excess of the period in which said photographs are submitted to Monica Stuart or to the William Schuller Agency, Inc., for her or their consideration and review, without disclosing that, unless the person comes back for rephotographing annually for a five year period, such person's photographs will not be resubmitted to Monica Stuart or to the William Schuller Agency, Inc.

16. National Talent Associates, Inc., photographs other persons in a family in addition to the person whose name appears on its contract, solely for the purpose of submitting said photographs to Monica Stuart of the William Schuller Agency, Inc., for her evaluation of their potential for the commercial advertising, modeling, talent or entertainment industries.

17. The remuneration received by Monica Stuart of the William Schuller Agency, Inc., in connection with her consideration and review of photographs submitted to her by National Talent Associates, Inc., is derived solely from a percentage of the earnings of persons selected by her and placed under contract by the William Schuller Agency, Inc.

18. Persons placed under contract by National Talent Associates, Inc., can reasonably anticipate significant or substantial earnings from paid employment in the commercial advertising, talent, modeling or entertainment industries as models, actors, actresses, or entertainers.

19. Persons who contract with National Talent Associates, Inc., may reasonably anticipate earning sums of money sufficient to provide for a college education or for any other such formal education.

20. A person's chances for selection as a model, actor, actress or entertainer by the commercial advertising, modeling, talent or entertainment industries is, in any way, enhanced solely because he or she is Black, Oriental, has red hair, freckles or because of his or her size, age or any other specific racial or personal characteristics.

It is further ordered that respondents shall disclose clearly and conspicuously to each prospective purchaser of their services, prior to entering into any agreement for the furnishing of such services, the following information in a written document entitled "Important Information":

(1) The total number of persons signed to contracts and accepted by respondents during the five (5) calendar years immediately preceding the year in which the prospective purchaser is contacted; provided, however, such total number may also be broken down by individual calendar year so long as the

total number for the five (5) calendar years appears with such calendar year breakdown;

(2) The number and percentage of those persons in (1) above, who received payment for employment;

(3) The number of persons in (1) above who earned income and their cumulative gross earnings during the five (5) calendar years immediately preceding the year in which the purchaser is contacted, in each of the following categories: under $500, $500–$5,000, $5,000–$10,000, and above $10,000;

(4) Any financial agreement or affiliation between respondents and (a) any photographic studio to which they may refer purchasers of their services, and/or (b) any person, firm or agency to whom photographs, or any other information, concerning purchasers of their services may be sent by respondents;

(5) The source or sources from which the names, addresses, or any other information about prospective purchasers, or about any other members of their immediate family, was obtained by respondents;

and shall disclose in such "important information" document no other statistical data or information except (a) the name and addresses of National Talent Associates; (b) the following footnote relating to (1) and (2) above:

Of the children signed during the past five years, only a few have had the opportunity to complete the full term of their five-year agreement.

and (c) the following footnote relating to (3) above:

These figures do not include those children signed by NTA prior to *(Year) who received earnings during the past five years.*

It is further ordered that respondents shall provide to each purchaser of their services a retainable copy of the "Important Information" document, and secure from each such purchaser a signed and dated copy of such document containing an acknowledgement by the purchaser of having received such document, which shall also be signed by respondents' representative, and that respondents shall maintain each such signed and dated document for five years and, upon request, make them available to the Federal Trade Commission for inspection and copying.

It is further ordered that respondents shall not, in advertising or promotional material, or in any oral sales presentation, make any claim or other representation that contradicts any of the information required to be disclosed in the "Important Information" document.

It is further ordered that respondents shall have up to sixty (60) days after the close of each calendar year to compile and update the "Important Information" document for the immediately preceding five-calendar-year period; provided, however, no "Important Information" document shall be given to any prospective purchaser after sixty (60) days from the beginning of each calendar year that does not disclose the information required to be disclosed by (1) through (5) above for the immediately preceding five-calendar-year period. In compiling the information required in (1) and (3) above, it shall not be a violation of this order if the figures in (1) vary by one-quarter (¼) of of one percent (1%) and the figures for (3) vary by one percent (1%), if such variances resulted from a good faith effort to accurately compile the required information.

It is further ordered that respondents shall maintain, and upon request, make available to the Federal Trade Commission records substantiating the statistical information contained in each "Important Information" document then in use.

It is further ordered that, if any representations are made by the respondents, their salesmen, representatives or agents, either expressly or implied, orally or in writing, pertaining to any standards, qualifications or characteristics which a person must meet or possess before respondents will agree to place such a person under contract, photograph them or otherwise assist or render services to said person, respondents shall maintain complete and detailed records as to such persons who have failed to meet or possess such standards, qualifications or characteristics, including their names, addresses, date of rejection, and the reason or reasons for their rejection by respondents. Such records shall be made available for examination and copying if necessary, by a duly authorized representative of the Federal Trade Commission, upon reasonable notice, during normal business hours.

It is further ordered that the respondents named in Part I of this order shall submit to respondents Monica Stuart and the William Schuller Agency, Inc., for their inspection and evaluation, copies of all written promotional or sales materials, including but not limited to sales solicitation letters, contract forms, brochures, flyers, and sales presentation scripts. Said respondents will submit said materials to Monica Stuart and the William Schuller Agency, Inc., on a continuing basis whenever there is a change, revision or modification of any of the materials.

It is further ordered that respondents shall cease and desist from:

a. Failing to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

"YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

b. Failing to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall be attached to the contract or receipt and easily detachable , and which shall contain in ten point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract:

NOTICE OF CANCELLATION

(enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale: Or you may if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract. (Amended November 1, 1973).

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to (*Name of seller*), at (*address of seller's place of business*) not later than midnight of (Date).

I hereby cancel this transaction.

(Date)

(Buyer's signature)

c. Failing, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

d. Including in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this Rule including specifically his right to cancel the sale in accordance with the provisions of this Rule.

e. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

f. Misrepresenting in any manner the buyer's right to cancel.

g. Failing or refusing to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

h. Negotiating, transferring, selling or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

i. Failing, within 10 business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

Provided, however, that nothing contained in this order shall relieve respondents of any additional obligations respecting contracts required by federal law or the law of the state in which the contract is made. When such obligations are inconsistent, respondents can apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required. The Commission, upon a showing of inconsistency, shall make such modifications as may be warranted in the premises.

II

It is ordered that William Schuller Agency, Inc., a corporation, its successors and assigns, and Monica Stuart, individually and as an officer of said corporation, and respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and distribution of products or services in connection with the placement and employment of persons as models, actors, actresses or entertainers in the commercial advertising, talent, modeling or entertainment industries, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing to consumers, directly or indirectly, orally or in writing, that:

1. A person's chances for selection by Monica Stuart, the William Schuller Agency, Inc. or by any person or agency, will be aided, increased or enhanced by entering into a contract with National Talent Associates, Inc.

2. Access to Monica Stuart or to the William Schuller Agency, Inc. is available only to persons who contract with National Talent Associates, Inc.

3. Monica Stuart or the William Schuller Agency, Inc., review photographs of only those persons who have contracted with National Talent Associates, Inc.

4. National Talent Associates, Inc. photographs other persons in a family in addition to the person whose name appears on its contract, solely for the purpose of submitting said photographs to Monica Stuart of the William Schuller Agency, Inc. for her evaluation of their potential for the commercial advertising, modeling, talent or entertainment industries.

5. The remuneration received by Monica Stuart of the William Schuller Agency, Inc., in connection with her consideration and review of photographs submitted to her by National Talent Associates, Inc., is derived solely from a percentage of the earnings of persons selected by her and placed under contract by the William Schuller Agency, Inc.

6. Natural color photographs of persons who contract with National Talent Associates, Inc. are submitted annually, for a five year period, or for any period in excess of the period in which said photographs are submitted to Monica Stuart or to the William Schuller Agency, Inc. for her or their consideration and review without disclosing that, unless the person comes back for rephotographing annually for a five year period, such person's photographs will not be resubmitted to Monica Stuart or to the William Schuller Agency, Inc.

It is further ordered that respondents Monica Stuart and William Schuller Agency, Inc. shall maintain complete and detailed records as to the number of persons whose photographs were submitted to them by any of the respondents set forth under Part I of the order herein, and the number of such persons who have failed to meet or possess the standards, qualifications or characteristics which a person must meet or possess before respondents herein will agree to place such a person under contract, or otherwise assist or render services to said person, including their names, place of residence, and month and year of rejection. Such records shall be made available for examination and copying if necessary by an authorized representative of the Federal Trade Commission, upon reasonable notice, during normal business hours.

It is further ordered that respondents Monica Stuart and William Schuller Agency, Inc. shall inspect and evaluate the written promotional and sales material submitted to them by respondents named in Part I of this order. Within 30 days of their receipt of said materials, respondents Monica Stuart and William Schuller Agency, Inc. shall notify said other respondents, in writing as to any comments, complaints they might have, or any corrections they might require, concerning any representations relating to them contained in the materials submitted. Monica Stuart and William Schuller Agency, Inc. shall simultaneously submit to the New York Regional Office a copy of such notification to the respondents named in Part I of this Order.

It is further ordered that respondents Monica Stuart and William Schuller Agency, Inc. shall notify the Federal Trade Commission, in writing, of any consumer complaints received by them concerning any of the respondents named in Part I of this order. Such notification shall be made to the New York Regional Office within 30 days after receipt of the consumer complaint. This provision shall apply only to those complaints about representations by or practices of the respondents named in Part I which relate to respondents Monica Stuart and William Schuller Agency, Inc.

III

For the purposes of the following provisions of this order, unless otherwise specified, the term "respondents" shall include each of the respondents named heretofore in this order.

It is further ordered that respondents William Schuller Agency, Inc. and Monica Stuart shall forthwith deliver a copy of this order or a memorandum incorporating its provisions to all present and future employees engaged in the sale of said respondents' products or services and shall secure from each such person a signed statement acknowledging receipt of a copy of this order or the memorandum.

It is further ordered that corporate respondents National Talent Associates, Inc. and individual respondents Sanford Storm and Jerome P. Ashfield shall forthwith deliver a copy of this order or a memorandum incorporating its provisions to all present and future salesmen or other employees engaged in the sale of said respondents' products or services and shall secure from each such salesman or employee a signed statement acknowledging receipt of a copy of this order or the memorandum.

It is further ordered that respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered that each individual respondent shall promptly notify the Commission of any discontinuance of his or her present business or employment and of his or her affiliation with any new business or employment. Such notice shall include such respondent's current business address and a statement as to the nature of the business or employment in which he or she is engaged as well as a description of his or her duties and responsibilities.

It is further ordered that corporate respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other changes in the corporations which may affect compliance obligations arising out of this order.

It is further ordered that the respondents shall within sixty days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued: January 21, 1986.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-2817 Filed 2-7-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 45

[Docket No. RM 83-63-000; Order No. 446]

Electric Utilities; Automated Authorization for Holding Certain Positions That Require Commission Approval Under Section 305 (B) of the Federal Power Act

Issued: February 6, 1986

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending Part 45 of its regulations to authorize, generically, certain "interlocking positions" that require Commission approval under section 305(b) of the Federal Power Act (FPA). The Commission is providing this authorization to eliminate what it believes to be an unnecessary reporting burden on applicants and to reduce the time the Commission spends examining and processing certain applications to hold interlocking positions that are routinely approved.

EFFECTIVE DATE: This rule will be effective April 11, 1986.

FOR FURTHER INFORMATION CONTACT: Lori Tsang, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357-8463.

Before Commissioners: A.G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending Part 45 of its regulations to authorize certain "interlocking positions" that require Commission approval under section 305(b) of the Federal Power Act (FPA).[1] The Commission provides this authorization to eliminate what it believes to be an unnecessary filing burden on certain categories of applicants and to reduce the time expended by applicants and the Commission in preparing and processing these types of applications to hold interlocking positions which have traditionally been approved routinely because they present no potential threat to public or private interests within the meaning of the FPA.

The Commission's experience in reviewing the applications it has processed in recent years shows that there are certain types of applications which are routinely approved because the interlocking positions involved present no foreseeable danger of the abuses that section 305(b) was intended to preclude.[2]

On May 17, 1985, the Commission issued a Notice of Proposed Rulemaking (NOPR) in Docket No. RM83-63-000[3] proposing to amend Part 45 of the regulations to provide an automatic authorization to hold several enumerated types of interlocking positions that require Commission approval under section 305(b). In initiating the rulemaking proceeding, the Commission, was responding, in part, to a petition for rulemaking submitted by eight registered electric utility holding companies.[4] The holding companies

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[1] 16 U.S.C. 825(d) (1982). In the absence of prior Commission authorization, section 305(b) precludes an individual from serving concurrently as (1) an officer or director of more than one public utility, (2) an officer or director of a public utility and of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility ("securities firm"), or (3) an officer or director of a public utility and of any company supplying electrical equipment to such public utility ("electrical equipment supplier"). For purposes of this discussion the term "interlocking positions" is used to refer to the concurrent positions identified in section 305(b).

[2] With respect to the kinds of interlocking positions at issue in this rulemaking, the Commission received, in fiscal years 1982, 1983, and 1984, 86 applications for authority to hold positions with public utilities that are under common ownership, 15 applications for authority to hold positions with a public utility and with a jointly-owned public utility that owned and operated a single generating facility, and 115 applications for authority to hold new or additional positions by applicants who already held Commission approval to hold interlocking positions with the same company. All of these applications were approved on a case-by-case basis. Each application, even when routine, is estimated to have required approximately 21 hours to prepare..

[3] 50 FR 21304 (1985)

[4] Petition for Rulemaking Submitted by Registered Holding Companies (filed April 20, 1983) (Docket No RM83-63-000). The eight petitioners were Allegheny Power System, Inc., American Electric Power Company, Inc., Central and South West

Continued

requested that the Commission streamline its application procedure for authority to hold the following interlocking positions: (1) positions with public utilities that are owned by a single electric utility holding company registered with the Securities and Exchange Commission (SEC);[5] and (2) positions with a public utility that is owned by a registered holding company and a public utility that is a generating company owned by the holding company system, including those held in partnership with public utilities that are not affiliated with the system. The companies asserted that these types of interlocking positions do not adversely affect public or private interests and that the Commission's current application procedure is both burdensome and unnecessary.

II. Background

A. Requirements of Section 305(b)

When Congress investigated the utility industry in 1935, it found that public utilities [6] often had related interests because they belonged to various holding company systems, or because individuals served as officers or directors of more than one public utility or as officers or directors of a public utility and a firm that provided the public utility with goods and services. Congress expressed the belief that the existence of holding company systems and interlocking positions led to certain potential abuses in the industry, and sought to address such concerns through multifaceted legislation.[7] In 1940, this Commission's predecessor, the Federal Power Commission (FPC), set forth what it regarded as the principal abuses that section 305(b) of the FPA was designed to prevent:

(1) Control over a large number of geographically widespread public utilities by a small group of individuals with perhaps a minimum of investment;

(2) The evasion, by means of comon control, of competition resulting in higher costs and poorer services to consumers;

(3) The lack of arm's-length dealings between public utilities and organizations furnishing financial services or electrical equipment;

(4) The employment of dummy directors designated solely for the purpose of executing the orders of those in control and of nominal directors who give little time and attention to the affairs of the companies; and

(5) Violations of laws, ethics, and good business practices by those holding such interlocking positions, whereby such relationship is employed for their own benefit or profit or for the benefit or profit of any other person or persons, and to the detriment of the companies, their security holders, or the public interest.[8]

As a means of curbing such practices, Congress provided in section 305(b) that it is unlawful to hold "interlocking positions" unless the Commission, by order, authorizes the holding of the positions. Section 305(b) requires applicants, in the "form and manner prescribed by the Commission," to demonstrate that "neither public nor private interests will be adversely affected" by holding a particular interlock.

B. Commission Implementation of Section 305(b)

The Commission has implemented section 305(b) of the FPA through Part 45 of its regulations. Part 45 requires each person desiring to hold interlocking positions to submit an application to the Commission for authority to hold the specified positions.[9] Upon review of each individual application, the Commission or its designee [10] determines whether the holding of the positions for which the applicant has applied might "adversely affect public or private interests." Upon finding that it would not have such adverse effect, the application is granted.[11]

When an applicant who has received Commission approval to hold interlocking positions is elected or appointed to *another* position with one of the same companies, or is elected or appointed to new interlocking positions with additional companies, another application is required in order to hold these new positions.[12]

III. Summary of Comments and Revisions to NOPR

A. Introduction

In the NOPR issued on May 17, 1985, the Commission proposed to issue automatic authorization to hold the following interlocking positions:

(1) Positions as officer or director of more than one public utility when 100% of the voting stock of each utility is owned by the same holding company;

(2) Positions as officer or director of two public utilities where one of them is owned, wholly or in part, by the other and as its primary business generates electric power from one electric generating facility for sale to its owners; and

(3) Positions as officer or director of more than one public utility if the person is already authorized under Part 45 to hold different positions as officer or director with those utilities where the interlock involves affiliated public utilities.

The Commission received nine responses to this NOPR, seven from public utilities or public utility holding companies, one from Edison Electric Institute, and one from a lawyer.[13]

All of the commenters support the Commission's proposal, although six suggest certain amendments or clarifications of the proposed rule.

B. Discussion

1. Authorization to hold positions as officer or director of more than one public utility when 100% of the

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Corporation, Eastern Utilities Associates, General Public Utilities Corporation, New England Electric System, Northeast Utilities, and The Southern Company.

[5] *See* Public Utility Holding Company Act of 1935, 15 U.S.C. 79 through 79z6 (1982).

[6] Under section 201(e) of the FPA, the term "public utility," with certain specific exceptions, means a person who owns or operates facilities subject to the jurisdiction of the Commission under Part II of the FPA (other than interconnection and wheeling facilities subject to Commission jurisdiction solely by reason of sections 210, 211, or 212).

[7] In attempting to resolve the perceived problems with holding companies, Congress identified what were believed to be the social and economic ills associated with these abuses, including the following: (1) Excessive charges to subsidiary public utility companies for goods and services resulting from the lack of arm's-length bargaining or the restraint of free and independent competition; (2) allocation of charges for goods and services among subsidiary companies in different States so as to frustrate State regulation; (3) control of subsidiary public utility companies through disproportionately small investment resulting in accounting practices, and rate, dividend, and other policies that complicated and obstructed State regulation; and (4) a general lack of economy of management and operation of the public utilities, a lack of efficiency and adequacy of services or a lack of effective public regulation, and a lack of economies in raising capital. Title I, Sec. 1, of the Public Utility Act of 1935 (49 Stat. 803, 15 U.S.C. 79a). Title I was the Public Utility Holding Company Act of 1935. Title II became Parts II and III of the Federal Power Act, which include section 305(b).

[8] *John Edward Aldred*, 2 FPC 246 (1940).

[9] Approximately 100 such applications are processed annually by the Commission.

[10] The Commission has delegated authority to act on uncontested applications to the Director of its Office of Electric Power Regulation. 18 CFR 375.308.

[11] In some cases, the Commission has granted conditional approval depending on the particular circumstances of the case. In any event, it also reserves authority to revisit the approval if the circumstances change.

[12] 18 CFR 45.4(a).

[13] The commenters are Iowa Power and Light Company (IPL); American Electric Power Company, Inc. (AEP); Northeast Utilities (NU); New England Electric System (NEES); Cincinnati Gas & Electric Company (CG&E); Edison Electric Institute (EEI); Atlantic City Electric Company (ACE); Wisconsin Electric Power Company (WEPCO); and Herbert B. Cohn.

outstanding voting stock of each pertinent public utility is owned by the same holding company.

a. *Rationale.* As part of its effort to address the perceived abuses caused by the practice of individuals holding interlocking positions and the existence of holding company systems, Congress enacted the Public Utility Holding Company Act of 1935 (the "Holding Company Act") to regulate holding companies and to simplify the complex network of public utilities belonging to holding company systems. Congress found, in 1935, that a small minority of shareholders were using complex networks of holding company systems to manipulate and control a large number of public utilities. This control by minority shareholders resulted in poor management (due to absentee officers and board directors), lack of competition, and violations of law, ethics, and good business practices.

Today, largely due to the SEC's operations under the Holding Company Act, a complex network of holding companies no longer exists. Holding companies now operate as single coordinated electric systems with simplified stock structures. The remaining nine registered electric utility holding companies now own, directly or indirectly, all or substantially all of the common or other voting stock of their systems' public utilities.[14] The abuses resulting from minority shareholder control no longer occur. Each holding company system is, for present purposes, a single company conducting its electric utility operations through more than one corporate identity.

Holding companies often appoint individuals to numerous similar positions with public utility subsidiaries in their respective systems. Under the Commission's current regulations, those individuals must submit separate applications for authority to hold each interlocking position.

For the following reasons the Commission believes that the current filing requirements are unnecessary and burdensome. First, because a holding company controls the voting stock of the public utilities within its system, it, in fact, controls all of its affiliated public utilities. It is not important whether the holding company controls its public utilities by assigning the same individuals to similar positions within each utility in its system, or by assigning different individuals to each public utility. In either case, the holding company exercises effective control over the public utilities within its system. Second, because State and Federal agencies now closely regulate holding companies and their public utilities, the Commission believes that the holding of interlocking positions within a holding company system no longer leads to the kinds of difficulties that Congress feared might impede State regulation.[15] Third, the Commission acknowledges that allowing an individual to hold similar positions with several public utilities within a holding company system may enable the holding company to control and operate its system more efficiently and economically. Fourth, full public disclosure of these interlocking positions can be assured without case-specific approvals as a result of annual filing requirements under FPA section 305(c). Finally, a review of the applications processed over the years reveals that the abuses that section 305(b) was intended to preclude are never alleged to result from the holding of interlocking positions within holding company systems as they are now constituted.

b. *Comment Summary.* Five commenters raised concerns regarding holding companies which fail, technically, to meet the 100% ownership of "voting stock" requirement set forth in the NOPR.

NU explains that electric utilities generally have both common and preferred stock outstanding and, in a holding company system, only the common stock is owned by the holding company. While common stock normally carries the entitlement to vote for directors, preferred stock typically has some limited voting rights. NU further states that under the Holding Company Act, the requirement as to stock ownership of subsidiaries is that the parent own 100% of the common stock of the subsidiary, and preferred stock with limited voting rights is permitted to be issued publically. Therefore, NU contends that the new rule should define "voting stock" to mean "capital stock of any class of a corporation, the holders of which are, ordinarily, in the absence of contingencies, entitled to elect a majority of the corporate directors (or persons performing similar functions)."

Mr. Cohn states that among the registered holding company systems there are instances where preferred stock with voting power is outstanding and the holding comany owns 100% of the common stock of a subsidiary, but something less than 100% of the subsidiary's total voting stock. Therefore, Mr. Cohn suggests amending the proposed rule to require ownership of 100% of the subsidiary's common stock *and* at least 80% of its outstanding voting stock.

NEES explains that its wholesale generating utility, New England Power Company, has two classes of stock with general voting rights. In excess of 98% of the vote is in common stock, all of which is owned by NEES, while the remaining vote is in the 6 % cumulative preferred stock. Therefore, NEES recommends that the Commission require ownership of 100% of the common stock of a subsidiary. Alternatively, NEES suggests that the level of voting stock ownership be set at such a percentage (i.e., 85%) as would clearly demonstrate operational control.

AEP states that three of the major public utility subsidiaries in the AEP system have outstanding preferred and preference stock that carry voting power, although 100% of their common stock is owned by AEP. AEP contends that it would be unnecessarily restrictive to exclude such public utility subsidiaries from coverage of the proposed rule. Accordingly, AEP suggests requiring ownership of 100% of the common stock of a subsidiary, and 80% of its voting stock.

CG&E states that it owns 99.9% of its subsidiary, Union Light, Heat and Power Company.[16] CG&E therefore suggests that proposed § 45.9(a)(1) be broadened to include "public utilities substantially or virtually wholly owned and controlled."

Mr. Cohn and AEP further suggest that the rule be amended to include indirect ownership through a subsidiary as well as direct ownership. AEP explains that, under the proposed amendment, interlocks involving one AEP system company, Kanawha Valley Power company (Kanawha) would not be covered, since Kanawha is a 100% owned public utility subsidiary of Appalachian Power Company, which in turn, is a direct public utility subsidiary of AEP.

c. *Comment Analysis.* Keeping in mind the concerns expressed by Congress in 1935, when it passed section 305(b) of the FPA, a holding company's actual control over its subsidiaries appears to be the appropriate focus of this Commission's scrutiny. Because the ability to elect directors is the primary

[14] Although there are numerous exempt electric utility holding company systems, these systems also appear to hold, directly or indirectly, controlling voting stock in their utility subsidiaries.

[15] *See supra,* note 7.

[16] *Moody's Public Utility Manual* (1985) indicates that, as of December 31, 1984, CG&E owns 99.9% of the "capital stock" of Union Light, Heat and Power Company. This suggests that Union Light, Heat and Power Company has only one class of stock.

means of exercising corporate control, a holding company's ownership of its subsidiaries' voting stock necessary to elect the board of directors should remain the test for purposes of the instant rule. Thus, the Commission has concluded that control of "voting stock" should, indeed, be defined in terms of the ability to elect directors.

The NOPR required 100% ownership of a subsidiary's "voting" stock. However, as the commenters pointed out, electric utilities often have two classes of stock outstanding—common and preferred—both of which have some "voting" rights. A holding company generally owns only the common stock. Therefore, a holding company would not own 100% of a subsidiary's "voting" stock, in the broadest sense of that term. Additionally, as evidenced by CG&E, there may be situations where a subsidiary has only one class of stock, less than 100% of which is owned by the parent company.

Consequently, in order to best implement the intent of the rule, the Commission will provide for automatic authorization of interlocking positions between more than one public utility *if* the same holding company owns, directly or indirectly,[17] that percentage of each utility's stock (of whatever class or classes) which is required by each utility's by-laws to elect directors.

2. Authorization to hold positions as officer or director of two public utilities where one of them is owned, wholly or in part, by the other and as its primary business generates electric power for sale to its owners from one electric generating facility.

a. *Rationale.* Several public utilities are jointly owned by a few corporate or governmental owners, such as other public utilities, holding, companies, municipalities, or rural electric cooperatives. These public utilities were formed for the purpose of taking advantage of economies of scale and sharing the risks of financing, constructing, and operating facilities for the benefit of the utility's joint owners. These companies are usually owned by a small number of corporations and are managed by one of the owners under a management agreement.

The Commission has routinely approved applications for authority to hold interlocking positions with such a public utility and one of the utility's corporate owners because it is believed that the holding of such interlocking positions creates no danger of fostering section 305(b) abuses. In essence, these jointly-owned companies are partnerships which have set out specific control arrangements in their initial agreements. None of the potential section 305(b) abuses appear to occur as a result of interlocking positions between the owner companies and the generating utilities.

b. *Comment Summary.* Mr. Cohn and AEP suggest amending the proposed rule to include jointly-owned companies that *operate* electric facilities as well as those that own them. AEP notes, as an example, that such an amendment would include interlocking positions involving Cardinal Operating Company which is jointly owned by Ohio Power Company and Buckeye Power, Inc. Mr. Cohn, AEP, and NU also suggest amending the proposed rule to include jointly-owned companies generating power from *more than one unit.* AEP states that such a modification would apply to the Ohio River Valley Electric Corporation (OVEC) and Indiana Kentucky Electric Corporation (IKEC) which own five and six generating units respectively.

NU and NEES recommend a further amendment to the proposed rule to include jointly-owned *transmission* as well as generating companies. These commenters refer, in particular, to jointly-owned transmission companies that are being organized to import power from Quebec to New England. Finally, NU suggests that the rule should automatically authorize interlocks with companies within the *same holding company system* as any of the joint owners, on the grounds that officers or directors of its system companies have "routinely" been authorized to hold interlocking positions of this kind.

c. *Comment Analysis*—(i) *Including companies within the same holding company system as any of the joint owners.* After due consideration, the Commission has decided not to expand the rule to include all companies that are within the same holding company system as any of the joint owners. The Commission perceives no problem if a person holds positions within *one* holding company system and one of the holding company subsidiaries is an owner or operator of a jointly-owned facility. However, if the rule were to grant the proposed expansion of authorization, the potential exists for automatic authorization of positions with utilities associated with two or more of the *non-affiliated* joint owners merely because the companies are associated with members of the joint facility venture, *i.e.*, the possibility exists that a person would be authorized to hold positions with different holding companies. Such a situation would create potential conflict of interest problems for the holder of the interlock who would be performing duties for potentially competing utility systems. While such concerns might be alleviated on a case-by-case basis, insofar as some of those companies may be actual or potential competitors of one or more of the other owners, the Commission prefers to continue to review those applications individually.

(ii) *Including jointly-owned companies that either own or operate electric facilities.* The NOPR proposed to automatically authorize interlocking positions between "two *public utilities*, where one of them is owned, wholly or in part, by the other and as its primary business . . . " (emphasis added). The term "public utility," in turn, is defined in section 201(e) of the FPA as ". . . any person who owns *or operates* facilities subject to the jurisdiction of the Commission. . ." (emphasis added). Therefore, jointly-owned companies that *operate* facilities subject to the jurisdiction of the Commission are also covered by the rule. The final rule clarifies this point.

(iii) *Including jointly-owned (a) multiple-facility companies as well as single-facility companies and (b) transmission companies as well as generating companies.* Although the language in the NOPR focused on jointly-owned single-generating facility companies, the rationale for the NOPR applies generally to jointly-owned companies which are formed to take advantage of economics of scale and to share the risks of financing, constructing, and operating electric facilities, and are formed like partnerships with specific control arrangements in their initial management/operating agreements. As stated in the NOPR, interlocking positions within such companies are routinely approved.

The fact that transmission rather than generating facilities are involved, or that more than one facility is involved, does not detract from the salient considerations enumerated in the NOPR. Those considerations apply as well to jointly-owned companies owning or operating more than one facility and to jointly-owned companies owning or operating transmission facilities. In each case, the companies are formed to take advantage of the efficiencies and economics of scale and to share the risks discussed in the NOPR, and in each case management and operating

[17] This revision also implements the suggestion by AEP and Mr. Cohn to include within the scope of the rule indirect ownership through a holding company system affiliate. This change, too, is consistent with the intent of the NOPR since holding company control is equally complete, albeit indirect.

control are predetermined by agreement. Accordingly, the Commission is adopting these proposals to expand the scope of the proposed rule.

3. *Changing Positions Within Affiliated Public Utilities.*

Officers and directors already holding Commission-approved interlocking positions with two or more public utilities are frequently promoted, transferred, or otherwise assume new titles and responsibilities within these companies. Under section 45.4(a) of the Commission's current regulations, these individuals must file a complete interlocking position application under Part 45 for authority to hold each new position.

As discussed previously, the abuses that section 305(b) was intended to preclude do not appear to result from the holding of interlocking positions between affiliated public utilities controlled by a single parent holding company. Moreover, a change in the duties and responsibilities of an officer or director holding interlocking positions does not materially affect the possibility of fostering section 305(b) abuses within the context of an affiliated relationship between public utilities. No comments addressed this aspect of the NOPR. The Commission will therefore retain in the final rule the automatic authorization of such intracorporate changes in positions.

4. Other Issue.

WEPCO suggests amending the proposed rule to include interlocks between public utilities and banks, trust companies, banking associations, and firms that are authorized by law to underwrite or participate in the marketing of securities of a public utility, provided that such organizations have not and will not underwrite public utility securities. This proposal is well beyond the scope of the NOPR in this docket and the Commission declines to implement it in this final rule.

C. Conclusion

The Commission herein provides for automatic authorization to hold the following interlocking positions:

(1) Position as officer or director of more than one public utility when the same holding company owns, directly or indirectly, that percentage of each utility's stock (of whatever class or classes) which is required by each utility's by-laws to elect directors;

(2) Positions as officer or director of two public utilities where one of them is owned, wholly or in part, by the other and as its primary business owns or operates transmission or generating facilities to provide transmission service or electric power for sale to its owners; and

(3) Positions as officer or director of more than one public utility if the person is already authorized under Part 45 to hold different positions as officer or director of those utilities where the interlock involves affiliated public utilities.

Because these types of interlocking positions have no apparent potential to jeopardize public or private interests, the Commission is amending Part 45 of its regulations to provide a generic authorization (*i.e.*, by operation of the rule without prior review on a case-specific basis) to hold these interlocking positions.[18] This automatic authorization applies to anyone elected or appointed to these positions. To monitor all pre-authorized positions held subject to section 305(b) approval, the Commission will require that all persons holding interlocking positions pursuant to this automatic authorization file a short informational report within 30 days after they assume their interlocking positions. However, persons who are already assigned a current section 305(b) Commission identification number and file an annual FERC Form 561 information report will not be required to separately submit a report when they assume interlocking positions subject to this rule.[19] Information concerning any new interlocking position, assumed by an individual holding previously authorized interlocking positions, will be reported in that person's annual Form 561 report.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [20] requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. In the NOPR, the Commission found that the proposed rule would not impose any regulatory or administrative burdens on a signficant number of small entities and that it would not require an expenditure of resources by such entities. No comments were received on this finding and the modifications adopted in the final rule do not materially affect the earlier conclusions.

[18] In the NOPR in this docket, the Commission expressed its view that the FPC had earlier adopted an unnecessarily narrow interpretation of the ability to address categories of interlocking positions generically in its Order No. 246, 27 FR 4912 (1962). The Commission has therefore overruled Order No. 246 in this regard.

[19] Under 18 CFR Part 46, a Form 561 is filed annually by persons holding Commission-approved interlocking positions.

[20] 5 U.S.C. 601–612 (1982).

Accordingly, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act Statement

The information collection provisions of this rule are being submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and OMB's regulations, 5 CFR 1320 (1985). The information collection requirements are in fact being reduced by this rule. Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention Lori Tsang, (202) 357–8463).

VI. Effective date

This final rule is effective April 11, 1986.

List of Subjects in 18 CFR Part 45

Electric utilities.

In consideration of the foregoing, the Commission grants the petition for rulemaking in this docket submitted by the holding companies and amends Part 45 of Chapter I, Title 18 of the Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. The authority citation for Part 45 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r (1982); Department of Energy Organization Act, 42 U.S.C. 7701–7352 (1982); Exec. Order No. 12,009, 3 CFR Part 142 (1978).

2. Section 45.1 is revised to read as follows:

§ 45.1 Applicability; who must file.

(a) This part applies to any person seeking to hold the following interlocking positions:

(1) Officer or director of more than one public utility;

(2) Officer or director of a public utility and of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility; or

(3) Officer or director of a public utility and of any company supplying electrical equipment to a public utility.

(b) Any person seeking to hold any interlocking position described in § 45.2 of this Chapter must do the following:

(1) Apply for Commission authorization under § 45.8 of this Chapter; or

(2) If qualified, comply with the requirements for automatic authorization under § 45.9 of this Chapter.

3. The Table of Contents of Part 45 is amended by adding the following entry to read as follows:

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

Sec.

* * * * *

45.9 Automatic authorization of certain interlocking positions.

4. Part 45 is amended by adding a new § 45.9, to read as follows:

§ 45.9 Automatic authorization of certain interlocking positions.

(a) *Applicability.* Subject to paragraphs (b) and (c) of this section, the Commission authorizes any officer or director of a public utility to hold the following interlocking positions:

(1) Officer or director of one or more other public utilities if the same holding company owns, directly or indirectly, that percentage of each utility's stock (of whatever class or classes) which is required by each utility's by-laws to elect directors;

(2) Officer or director of two public utilities, if one utility is owned, wholly or in part, by the other and, as its primary business, owns or operates transmission or generating facilities to provide transmission service or electric power for sale to its owners; and

(3) Officer or director of more than one public utility, if such officer or director is already authorized under this part to hold different positions as officer or director of those utilities where the interlock involves affiliated public utilities.

(b) *Conditions of authorization.* Any person authorized to hold interlocking positions under this section must submit, not later than 30 days after assuming the duties of the position, an informational report in accordance with paragraph (c) of this section, unless that person is already authorized to hold interlocking positions of the type governed by this section.

(c) *Informational report.* An informational report required under paragraph (b) of this section must state:

(1) The full name and business address of the person required to submit this report;

(2) The names of all public utilities with which the person holds or will hold the positions of officer or director and a description of those positions;

(3) The names of any entity, other than those listed in paragraph (c)(2) of this section, of which the person is an officer or director and a description of those positions; and

(4) An explanation of the corporate relationship between or among the public utilities listed in paragraph (c)(2) of this section which qualifies the person for automatic authorization under this section.

[FR Doc. 86-2856 Filed 2-7-86; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-246 (Oklahoma-7); Order No. 447]

High Cost Gas Produced From Tight Formations; Final Rule

Issued: February 7, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission is authorized to designate natural gas as "high-cost natural gas" where it determines such gas is produced under conditions which present extraordinary risks or costs. The Commission is also authorized to prescribe an incentive maximum lawful price applicable to high-cost gas. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas qualifying for an incentive price (18 CFR 271.703 (1985)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. In this order, the Federal Energy Regulatory Commission adopts the recommendation of the Oklahoma Corporation Commission that the Upper Marchand Sand of the Hoxbar Group located in Comanche County, Oklahoma, in Section 11, Township 3 North, Range 9 West, be designated as a tight formation under § 271.703(d) of the Commission's regulations.

EFFECTIVE DATE: This rule is effective March 10, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Winters, (202) 357-5578, or C.W. Gray, Jr., (202) 357-8731.

Before Commissioners: A.G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Based on a recommendation made by the Oklahoma Corporation Commission (Oklahoma), the Commission amends its regulations[1] to include the Upper Marchand Sand of the Hoxbar Group in Comanche County, Oklahoma, in Section 11, Township 3 North, Range 9 West, as a designated tight formation eligible for incentive pricing. The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on October 18, 1985.[2]

Evidence submitted by Oklahoma supports the assertion that the Upper Marchand Sand of the Hoxbar Group, described above, meets the guidelines contained in § 271.703(c)(2). The Commission adopts this recommendation.

This amendment shall become effective March 10, 1986.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Part 271 is amended as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(195) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(195) Upper Marchand Sand of the Hoxbar Group in Oklahoma. RM79-76-246 (Oklahoma-7).

(i) *Delineation of formation.* The Upper Marchand Sand of the Hoxbar Group is found in Section 11, Township 3 North, Range 9 West, in Comanche County, Oklahoma.

(ii) *Depth.* The depth to the top of the Upper Marchand Sand is 9,976 feet. The average net thickness of the recommended zone is 50 feet. The recommended zone consists of the upper

[1] 18 CFR 271.703(d) (1985).

[2] 50 FR 43407 (Oct. 25, 1985). Comments on the proposed rule were invited and none were received. No party requested a hearing and no hearing was held.

half of the Marchand Sand. The Marchand Sand is overlain by the Medrano Sandstone and underlain by the Culp-Melton Zone.

[FR Doc. 86-2854 Filed 2-7-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Southeast Alaska REG 85-01]

Safety Zone; Ketchikan Harbor, Ketchikan, AK

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Safety Zone in Ketchikan Harbor, Ketchikan, Alaska, from 1 May 1986 to 30 September 1986 and annually thereafter. The safety zone is the only suitable area for the maneuvering and anchoring of large passenger vessels in the Ketchikan area. When this area is used as an anchorage by private and other commercial vessels at the same time as a large cruise ship, the risk of collision between vessels is greatly increased due to the limited maneuverability of the larger vessels. The safety zone is needed to reduce this risk of collision and the inherent danger to life and property that this situation causes.

EFFECTIVE DATE: May 1, 1986, to September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Scot W. Tiernan, (907) 586-7288.

SUPPLEMENTARY INFORMATION: On October 15, 1985 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (50 FR 41705). Interested persons were requested to submit comments and two comments were received.

Drafting Information

The drafters of the notice are LT R.N. Janelle, project officer, Marine Safety Office, Juneau, Alaska, and LT Dave Shippert, project attorney, Coast Guard District Legal Office.

Discussion of Comments

Only two comments were received. The first comment addressed the fact that the positions of the navigation buoys which mark the corners of the Safety Zone were incorrectly published in the Notice of Proposed Rulemaking (NPRM). The latitude and longitude position of each buoy as published in the NPRM was in degrees, minutes and seconds. The correct location should have the seconds listed as tenths of minutes. For example, latitude 55°−20′−3″ N, in the Final Rule becomes 55°−20.3′ N. However, since no other comments addressed this error, and the boundary buoys are long established navigation aids, this minor error did not seem to cause any confusion on the location of the Safety Zone. The second comment supported the need for the safety zone.

Economic Evaluation and Certification

This final rule is considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is necessary. The impact on smaller vessels in terms of cost and inconvenience is minimal because of the large number of anchorages suitable to that class of vessel outside of the proposed Safety Zone.

Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulations

In consideration of the foregoing Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation of Part 165 continues to read as set forth below:

Authority: 33 U.S.C. 1225 and 1231, 50 U.S.C. 191, 49 CFR Part 146 and 33 CFR 1.05-1(a), 6.04-1 and 160.5.

2. Section 165.1705 is added to read as follows:

§ 165.1705 Ketchikan Harbor, Ketchikan, Alaska—Safety Zone.

(a) That portion of Ketchikan Harbor, Ketchikan, Alaska enclosed by the following boundary lines is a Safety Zone: A line from Thomas Basin Entrance Light "2", latitude 55°−20′.3 N., longitude 131°−38′.5 W., to East Channel Lighted Buoy "4A", latitude 55°−20′.4 N., longitude 131°−38′.9 W., to Pennock Island Reef Lighted Buoy "PR", latitude 55°−20′.3 N., longitude 131°−40′ W., to Wreck Lighted Buoy "WR6", latitude 55°−20′.7 N., longitude 131°−40′.3 W., then following a line bearing 064 degrees true to shore. This zone is effective 24 hours per day from 1 May through 30 September, annually. Annual notices of these regulations will be issued in Local Notices to Mariners.

(b) Special Regulations:

(1) All vessels may transit or navigate within the safety zone.

(2) No vessels, other than a large passenger vessel over 1600 gross tons (including ferries), may anchor within the Safety Zone without the express consent of the Captain of the Port, Southeast Alaska.

Dated: January 7, 1986

D.M. Waldron,

Commander, U.S. Coast Guard Marine Safety Officer, Juneau, Alaska, Captain of the Port, Southeast, Alaska.

[FR Doc. 86-2850 Filed 2-7-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP New London Regulation 86-05]

Safety Zone Regulations; Long Island Sound, Block Island Sound

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around the vessel "Sea Level 7". The zone is needed to protect the vessel from a safety hazard associated with diving operations in which it is involved. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective on 26 January 1986. It terminates on 31 January 1986 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: ENS Jonathan Hammond, 203-442-4471.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent damage to the vessel involved.

Drafting Information

The drafters of this regulation are ENS Jonathan Hammond, project officer for the captain of the port, and Ms. M.A. Arisman, project attorney, Third Coast Guard District Legal Office.