spar cap replacement. The actions specified in this AD are intended to identify and correct this corrosion before the wing structure is damaged to the point of failure.

EFFECTIVE DATE: May 14, 1991.

ADDRESSES: Twin Commander Service Bulletin No. 208, dated June 11, 1990, that is discussed in this AD may be obtained from the Twin Commander Aircraft Corporation, 19003 59th Drive NE., Arlington, Washington 98223; Telephone (206) 435-9797. This document may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Barnett, Aerospace Engineer, FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056; Telephone (206) 227-2598.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Twin Commander 500 and 600 series airplanes that were fitted with an internal stainless steel strap in the spar cap assembly at manufacture was published in the **Federal Register** on December 26, 1990 (55 FR 53001). The proposed AD would require initial and repetitive ultrasonic inspections to detect and monitor possible lower wing spar cap corrosion in accordance with Twin Commander Service Bulletin (SB) No. 208, dated June 11, 1990.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment in favor of the proposed rule was received. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. These minor corrections will not change the meaning or intention of the AD nor add any additional burden upon the public than was already proposed.

It is estimated that 689 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 16 hours per airplane to perform the required AD, and that the average labor rate is $55 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $606,320.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Twin Commander Aircraft Corporation: Amendment 39-6965; Docket No. 90-CE-53-AD.

Applicability: Twin Commander Models 500U, 680FL, 680FL(P), 680W airplanes (serial numbers (S/N) 1731 through 1854); Model 500S airplanes (S/N 1755 through 3323); Model 681 airplanes (S/N 6001 through 6072); Model 685 airplanes (S/N 12001 through 12066); and Models 690, 690A, and 690B airplanes (S/N 11001 through 11566), certificated in any category.

Compliance: Required within the next 90 calendar days after the effective date of this AD, unless already accomplished, and every 12 calendar months thereafter.

To prevent structural failure of the wing in the area of the lower spar cap, accomplish the following:

(a) Perform an ultrasonic inspection for corrosion in accordance with the instructions in part II of Twin Commander Service Bulletin (SB) No. 208, dated June 11, 1990.

(1) If corrosion is not found, return the airplane to service and continue the inspection intervals as required in the Compliance section of this AD.

(2) If corrosion damage is found, prior to further flight, repair or replace the lower spar cap in accordance with the criteria and instructions in Twin Commander SB No. 208, dated June 11, 1990. Continue the inspection intervals as required in the Compliance section of this AD.

(b) Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD an be accomplished.

(c) An alternate method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Modification Branch, FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Modification Branch, FAA, Northwest Mountain Region.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Twin Commander Aircraft Corporation, 19003 59th Drive NE., Arlington, Washington 98223; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on May 14, 1991.

Issued in Kansas City, Missouri, on March 29, 1991.

Don C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-8301 Filed 4-8-91; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 150

Exemption From Speculative Position Limits for Positions Which Have a Common Owner, But Which Are Independently Controlled

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined to adopt as final the rules it proposed extending to certain commodity trading advisors an exemption from speculative position limits for positions which have a common owner but which are independently controlled (55 FR 30926 (July 30, 1990)). In adopting the proposed rules as final, the Commission is modifying Rule 1.46, as well, in response to comments received. As adopted, these rules broaden the scope of

eligibility for this exemption from speculative positions limits to commodity trading advisors, simplify the application process, and make other technical modifications to the rule.

EFFECTIVE DATE: May 9, 1991.

FOR FURTHER INFORMATION CONTACT: John R. Mielke, Associate Director, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K St. NW., Washington, DC 20581, (202) 254–3310 or 254–6990, respectively.

SUPPLEMENTARY INFORMATION:

I. Background

A. Paperwork Reduction Act Notice

The public reporting burden for the approved collection of information which contains this Rule is estimated to average 1.03 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of the information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joe F. Mink, C.F.T.C. Clearance Officer, 2033 K St. NW., Washington, DC 20581, and to Gary Waxman, Office of Management and Budget, room 3228, N.E.O.B., Washington, DC 20503.

B. Statutory Framework

As the Commission has noted previously, speculative position limits have been a tool for the regulation of futures markets for over half a century. During this time, the Congress consistently has expressed confidence in the use of speculative position limits as an effective protection against unreasonable or unwarranted price fluctuations. See, H.R. Rep. No. 421, 74th Cong., 1st Sess. 1 (1935). See also, H.R. Rep. No. 624, 99th Cong., 2d Sess. 44 (1986).

In this regard, section 4a(1) of the Commodity Exchange Act ("Act"), 7 U.S.C. 6a(1), states that:

> * * * [e]xcessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

Accordingly, the Congress provided the Commission with the authority to may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent this burden." 7 U.S.C. 6a(1).

C. Regulatory Framework

Generally, there are three elements to the regulatory framework of speculative position limits. They are the levels of the limits, the exemptions from them (in particular, for hedgers), and the policy on aggregating accounts. Undergirding this framework are the basic determinations of the Commission that all contract markets must have speculative position limits and that responsibility for speculative position limits be lodged with both the Commission and the exchanges.[1] Since its creation, the Commission periodically has reviewed each of these policies pertaining to speculative limits.[2]

Over the last several years, the Commission had been engaged in a thorough revision of its speculative position policies. In this regard, the Commission had modified and updated speculative position limits by issuing a clarification of its hedging definition with regard to the "temporary substitute" and "incidental" tests (52 FR 27195 (July 20, 1987)), and guidelines regarding the exemption of risk-management positions from exchange-set speculative position limits in financial futures contracts. 52 FR 34633 (September 14, 1987). In addition, the Commission completely revised Federal speculative position limits, adding Federal speculative position limits for soybean meal and soybean oil, and amending the structure and levels of the Federal speculative position limits, 52 FR 38914 (October 20, 1987). Most recently the Commission promulgated Commission Rule 150.3(a)(4), an exemption from speculative position limits for the positions of multi-advisor commodity pools and other similar entities which use independent account controllers. See, Commission Rule 150.3, 53 FR 41563 (October 24, 1988).

D. Exemption for Commonly-Owned, But Independently Controlled Positions

The exemption from speculative position limits for commonly owned but independently controlled positions was promulgated in response to concerns raised by certain segments of the futures industry, such as commodity pool operators and commodity trading advisors, with regard to the application of the Commission's 1979 Aggregation Policy to such accounts, 53 FR 41563, 41565.[3] Such issues were also raised before the Congress during the Commission's 1986 reauthorization. In particular, commodity pools and pension funds objected that the aggregation of such positions based upon ownership, but where actual trading control had been delegated, unnecessarily restricted their use of the futures and option markets, thereby restricting their growth.[4]

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[1] In this regard, it should be noted that the Commission directly administers speculative position limits for futures contracts on domestic agricultural commodities. See, 17 CFR 150.2. In contrast, Commission Rule 1.61, 17 CFR 1.61, requires that for all option contracts, and for futures contracts on all other commodities, exchanges adopt and enforce speculative position limits. Exchange-set speculative position limits are approved by the Commission under the standards set forth in rule 1.61 and under Section 5a(12) of the Act. Section 4a(5) of the Act provides that violation of such an exchange-set speculative position limit that has been approved by the Commission, in addition to being an enforceable violation of exchange rules, is also a violation of the Act.

[2] Initially, for example, the Commission redefined "hedging" (42 FR 42748 (August 24, 1977)), raised speculative position limits in wheat (41 FR 35060 (August 19, 1976)), and in 1979 issued its Statement of Policy On Aggregation of Accounts and Adoption of Related Reporting Rules ("1979 Aggregation Policy"), 44 FR 33839 (June 13, 1979).

In the 1979 Aggregation Policy, the Commission provided guidance to futures commission merchants and others regarding the aggregation of positions for participants in controlled and guided account programs. Specifically, the 1979 Aggregation Policy provided guidance with respect to the meaning of the "control" criterion of the aggregation standard contained in Section 4a of the Act. The 1979 Aggregation Policy stated that FCMs are deemed to control all discretionary customer accounts and accounts which are part of a customer trading program unless specified conditions indicative of the absence of control exist.

[3] That policy provided with respect to commodity pools that the positions held in all commodity pools operated by a commodity pool operator, other than a commodity pool operator who is an officer, partner, or employee of a futures commission merchant, shall be considered positions controlled by the commodity pool operator unless:

1. A trader other than the commodity pool operator directs trading for such commodity pool;

2. The commodity pool operator maintains only such control over trading in the commodity pool as is necessary to fulfill its duty to supervise diligently all accounts of the pool; and

3. Each trading decision of the commodity pool is determined independently of all trading decisions in other commodity pools and positions in accounts which the commodity pool operator holds, has a financial interest in or controls. 44 FR 33846.

Unlike the relief granted to the managed account programs of FCMs, however, the 1979 Aggregation Policy did not relieve individual commodity pools from the retirement that they aggregate their positions, even if they used independent advisors to control their trading.

[4] *See*, H.R. Rep. No. 624, 99th Cong., 2d Sess. 43 (1986).

In response, the Commission determined not to amend directly its aggregation policies. Rather, in recognition of the growth of such multi-advisor commodity funds and to accommodate these changing market conditions, the Commission determined to exempt such entities, on a case-by-case basis, from speculative position limits, 17 CFR 150.3 (1990). The salient characteristics of the exemption adopted by the Commission included: defined eligibility for the exemption limited to commodity pool operators or similar entities excluded under Commission Rule 4.5; the requirement that independent account controllers be unaffiliated, or be deemed to be unaffiliated by meeting specified criteria;[5] application of the exemption only to positions held in trading months outside of the spot month; case-by-case determinations; and, the Commission's ability to condition or withdraw the exemption in its discretion, including the ability to grant partial relief.[6]

Eligibility for this exemption was limited to commodity pool operators or the operators of similar entities excluded from the definition of "pool" or "commodity pool operator" under Commission Rule 4.5 that have delegated trading authority to independent account controllers. In response to the initial notice of proposed rulemaking, 53 FR 13290, several commenters requested that the eligibility for this exemption be broadened. The Commission determined, however, that in light of the unprecedented nature of the exemption, caution in defining its applicability and breadth was warranted. 53 FR 41567.

II. The Proposed Rulemaking

A. The Proposed Amendments

After observing the operation of the exemption since the end of 1988, and completing a market survey of trading by commodity pools during the period of December 1, 1988, to March 31, 1989, the Commission concluded, that, overall, this exemption from speculative position limits has worked well. It further concluded, however, that certain specific provisions of the rule could be refined to achieve greater administrative efficiency. Accordingly, as discussed below, the Commission proposed to broaden the exemption under Commission Rule 150.3(a)(4) and to simplify the application process. See, 55 FR 30926 (July 30, 1990).

In particular, the Commission proposed to expand eligibility for the exemption to commodity trading advisors. Commodity trading advisors initially were not eligible for the exemption.[7] Nevertheless, several commenters argued that, by virtue of their being Commission registrants who trade professionally on behalf of others, sometimes using multi-advisor structures, commodity trading advisors were similarly situated to commodity pool operators. These commenters also pointed out that the independent commodity trading advisors of a futures commission merchant are included under the Commission's 1979 Aggregation Policy and that commodity trading advisors not associated with a futures commission merchant should be accorded equivalent treatment by inclusion in the exemptive relief.[8]

In light of the absence of extraordinarily large position concentrations associated with the current exemption, the lack of adverse data arising from the study of trading by commodity pools [9] and the lack of problems associated with the relief accorded to commodity trading advisors associated with a futures commission merchant under the Aggregation Policy, the Commission proposed to include commodity trading advisors within the class of those eligible for exemption from the speculative position limits for positions which are commonly owned, but independently controlled.

Although Commission Rule 150.1(d)(3) currently defines an independent account controller as a person "who is unaffiliated with" other account controllers or the applicant commodity pool, an applicant may nonetheless demonstrate that sufficient indicia of independence exist to deem an account controller which is affiliated, either with a second account controller or as an employee of a commodity pool operator, to be unaffiliated, for purposes of this exemption. 53 FR 41568.

Many of the applications for exemption received by the Commission have included affiliated account controllers requesting to be deemed to be unaffiliated pursuant to the specified criteria. Before approving these exemptions, the Commission required the affiliated account controllers to demonstrate that they used screening procedures appropriate for maintaining the independence and confidentiality of their day-to-day trading activities, while providing for an appropriate level of supervision and oversight of their activities. In light of this experience and the lack of problems associated with these exemptions, the Commission proposed to remove the non-affiliation requirement from the definition. Rather, the Commission proposed that, where independent account controllers are affiliated, they specifically demonstrate their actual independence through the indicia of appropriate screening procedures, separate registration and marketing of the affiliated entities, and upon request, a demonstration that the affiliate's trading system is independent from that of the applicant or any other of the applicant's account controllers. In addition, the Commission proposed a fourth criterion, that the trading system of affiliated account controllers be separately developed and independent of other trading systems. 55 FR 30930.

As explained in the Notice of Proposed Rulemaking, separate development would be required to be demonstrated by reference to the autonomy of the system's originator and independence of the trading system by its lack of reliance on any other trading systems for its development or operation and that its trading signals are unique. Under this proposed criterion, the

[5] These indicia of independence include appropriate screening procedures, separate registration and marketing, and a separate trading system. 53 FR 41563, 41566.

[6] Were a commodity pool operator or other eligible entity to seek approval for multiple independent account controllers which cause the Commission concerns because of the potential size of the overall positions, the Commission could grant the applicant commodity pool operator an exemption for some fraction of the amount of contracts for which the exemption is being sought.

[7] Initially, in adopting this exemption, the Commission determined that, in light of its unprecedented nature, caution was warranted. In particular, the Commission determined that providing for an initial period to study the implementation of the rule before its further expansion was advisable. 53 FR 41567.

[8] Commission staff twice has been requested to confirm that it will not recommend to the Commission any enforcement action against multi-advisor commodity trading advisors seeking to be exempted from the speculative position limits where a commodity trading advisor has an equity ownership interest in a second commodity trading advisor. In both cases, the requestors stated that the commodity trading advisors trade according to separate technical systems, which were developed completely independently, that they maintain separate operations, are marketed to the public separately, and have in place appropriate screening procedures. One of those requests was granted subsequent to the proposed expansion of the exemption. See, CFTC No-Action Letter No. 90-5 issued by the Division of Economic Analysis, and the other was withdrawn.

[9] In particular, the staff's compilation of statistical data regarding trading by commodity pools indicates that the positions controlled by commodity pools generally are not, as a class, of the largest magnitude. To be sure, particular commodity trading advisors or commodity pools may be active, and may generally hold positions, in particular futures markets. Nothing in the statistics complied on their trading activities from December 1, 1988, to March 31, 1989, however, specifically would militate against the granting of exemptions under the current rule, or to the expansion of the exemption to additional categories of professional traders.

applicant would be required to describe the circumstances of the development of the respective trading systems. *Id.*

Finally, the Commission proposed to reduce the amount of documentation required to be filed as part of the application for exemption. In proposing this amendment, the Commission noted its belief that, in granting these exemptions, greater reliance can be placed on the applicant's sworn factual statements and representations that it meets the applicable criteria. In proposing this modification to the rules, the Commission noted that—

to the extent market surveillance uncovers trading patterns between such independent account controllers which suggest actual trading together or otherwise lack of independence on the part of various account controllers, the Commission will initiate vigorous, appropriate action including recision of exemptions which have been granted, or other appropriate legal action. Specifically applicants should note that affidavits submitted pursuant to Commission Rule 150 constitute a "report filed with the Commission" for purposes of section 6(b) of the Act. Thus, any applicant who willfully makes any false or misleading statement of a material fact in such an affidavit commits a violation of the Act.

55 FR 30930.

Along with a greater reliance on the affidavits and representation of the applicants, the Commission proposed to streamline the application process. In particular, the Commission proposed to delete certain of the requirements that documentary evidence supporting the affidavit of the applicant be provided for its analysis.[10] Instead, those submitting affidavits as part of their application should assume responsibility for assuring themselves that the appropriate documentary and other factual evidence supports their affidavit. The Commission proposed these changes based on its belief that this modification is in greater harmony with the approach it has adopted under the 1979 Aggregation Policy in determining issues of independence, and is the more appropriate placement of responsibility for assuring compliance with the Act.

The Commission also proposed to modify the provision that applications must be supplemented or updated ten days prior to changes in independent account controller, within ten days of any material change in the application, or within such time as specified by the Commission in a special call. As proposed, the Commission must be notified ten days prior to the addition of independent account controllers, and within ten days following the termination of the authority of, or relationship with, independent account controllers. The Commission further proposed that where an applicant is adding independent account controllers, the notice include the same information required in the affidavits filed as part of the original application. These proposed modifications to the requirement for supplementation of the original application recognize the fact that, as the Commission has observed, such changes have occurred relatively often and are consistent with the industry practice, as detailed by various commenters, of terminating trading authority on less than ten days notice.[11]

Finally, the Commission noted in initially proposing the exemption, that although certain additional reporting requirements eventually might be needed to monitor operation of the exemption, at the outset, such concerns could be addressed through special call to the traders, 53 FR 13294. Although, the Commission has issued no such special calls to date, it determined that modifications to the reporting requirements are necessary in order to monitor effectively the activities of those trading pursuant to such an exemption, but noted that it separately will propose to modify its reporting requirements to permit it to better monitor the trades of entities eligible for this exemption, along with other changes to the reporting rules. Those rules are still being considered by the Commission, and have not yet been proposed.

B. Comments Received

The Commission received twelve comments in response to its proposed rulemaking to broaden the categories of those eligible for the exemption and to streamline the application process. These twelve commenters included four futures exchanges, three commodity trading advisors, three industry associations, one futures commission merchant and one producer association.

Generally, commenters were supportive of the proposed rules. They expressed agreement with the Commission's incremental approach to expanding the exemptions from speculative position limits, in response to its experience with the earlier rules. In particular, several commenters noted with approval the Commission's position that the current exemption has worked well. In this regard, most commenters noted that they welcomed the Commission's continuing attention to the impact of its rules and changes in the markets. Commenters expressing a view on the proposed streamlining of the application process and the reduction in supporting documents required to be filed uniformly supported the proposal.

Nevertheless, despite their general agreement with the Commission's approach, most commenters offered suggestions for modifying the proposed rules. In particular, several commenters suggested that eligibility for the exemption be broadened further. In addition, commenters opposed the additional proposed criterion, that the trading systems of affiliated account controllers be separately developed and independent, by which an affiliated account controller must demonstrate its independence. One commenter objected that the exemption does not apply in the spot month, and others objected that exchange implementation of similar rules was burdensome. Two comments concerned ancillary rules regarding the treatment of long and short positions held in the same account and issues regarding disclosure by commodity trading advisors. The Commission has considered carefully these comments, and as explained below, with one addition, is adopting as final the proposed amendments.

III. The Final Rules

The most frequent comment suggested that eligibility for the exemption be broadened even further. In this regard, one commenter opined that the exemption as proposed to be amended would not be available to—

commercial banks, merchant banks, investment banks, insurance companies, broker-dealers, FCMs and other financial institutions which engage in speculative futures trading through multiple, independent account controllers. The rapid pace of evolution in the financial markets counsels against freezing the class of entities that may be eligible for relief under the exemption. Indeed, predetermining the class of eligible entities may have an unintended adverse

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[10] In particular, the Commission proposed to delete the requirement that supporting documents, such as binding powers of attorney and account opening documents, be filed. Additional documents which are currently required with the application, but which the Commission is proposing to delete, include proof of registration with the Commission of each independent account controller and updated Form 40s.

Of course, most, if not all, of these types of documentary evidence, in any event, are required elsewhere by the Commission to be maintained, or will be maintained as a routine business record.

[11] As the Commission noted in the Notice of Proposed Rulemaking, both the current provision, and as proposed to be modified, is merely a notification requirement. Accordingly, the Commission will notify the applicant within the ten day period if the supplementation and updating of the application is insufficient or raises concerns about the continued viability of the exemption. In the absence of such notification, the exemption remains effective and the change is effective.

55 FR 30931.

impact on the structure and growth of the institutional presence in the domestic futures markets.

A futures exchange noted that eligibility for the exemption should be extended to other market participants, as well, including futures commission merchants, certain partnerships and registered floor traders. The exchange opined that broadening eligibility for this exemption from speculative position limits generally should result in increased volume and open interest, especially in the deferred months. An industry trade association commenting on this issue noted that futures commission merchants, investment banks and "other financial intermediaries", parent/affiliate firms and corporate divisions may also have such multi-advisor structures and should therefore also be included under the exemption. Other commenters suggested broadening the exemption also to include commercial banks, merchant banks, and insurance companies.

The Commission has carefully considered the views expressed by the commenters with regard to the appropriate breadth of the exemption. The Commission is mindful that sophisticated institutions may employ multi-advisor structures for trading. Moreover, the Commission is aware of no adverse market effects resulting from the exemptions granted so far.

Nevertheless, the Commission believes that the continued expansion of eligibility should be in a phased approach. The current exemption and the proposed expansion are limited to those who trade professionally for others, and who have a fiduciary relationship to those for whom they trade. In this respect the exemption has been similar to the relief which previously was made available to futures commission merchants under the 1979 Aggregation Policy. The classes of trader suggested by commenters for inclusion in the exemption differ from this pattern. The Commission will undertake further expansion of the exemption after it has had an opportunity to assess the impact of the current expansion and has gained a better understanding of the characteristics of the market users who might benefit from, and their need for, such an exemption and any potential impact from further broadening this exemption.

In this connection, the Commission notes that only eleven entities have applied for an exemption under the current rules, and an analysis of their trading reveals that they generally do not often avail themselves of the expanded limits. In particular, of the six commodity pools granted exemptions under Commission Rule 150.3(b) that were studied by the staff, over the last six months, these pools exceeded the all-futures-combined speculative position limit in only 9.6 percent of the instances in which they held reportable positions in any futures market having a Commission-set speculative position limit. Moreover, the Commission notes that none of the types of market users suggested by commenters as needing a broadened exemption themselves commented on the proposal. Accordingly, the prerequisite factual context for further expansion has not yet fully been developed.

Commenters also expressed concern regarding the proposed revisions associated with modification of the requirement that independent account controllers, by definition, must be unaffiliated. In particular, while deleting this definitional requirement, the Commission proposed an additional criterion by which affiliated account controllers demonstrate their actual independence. That criterion requires that the trading system of affiliated account controllers be separately developed and independent of other trading systems.

One commenter, an exchange, opined that this criterion should be defined in a "broader sense." The commenter continued that "the development and independence of trading systems may be extremely difficult to differentiate." It concluded that trading systems may be—

> defined by market knowledge, training, instinct and skill. The specifics of such a system cannot be systematically measured, and are inherently different. Furthermore, computer programs that use the same fundamental market indicators * * * may be indistinguishable between affiliated account controllers.

A producer group agrees, in general, with the above observations. It notes that although "proof of independence is an admirable goal * * * a perfectly unique system might be difficult to produce" and that "elements of logic and analysis" are bound to be similar. Instead, it recommends without elaboration that the Commission should assess the independence of trading systems. An industry trade association suggested that "genuinely independent trading systems, which have a common or overlapping genesis but which have been separately refined, especially fundamental trading systems which have a common developmental genesis may have problems meeting the criterion that trading systems be separately developed." This commenter recommends that the CTA describe the circumstances of the development of the trading system and that the Commission, in its discretion, deny such exemptions on a case-by-case basis. And finally, a commodity trading advisor observed that "there exist objective methods for demonstrating the independence of two systems" and that these data comparisons between systems should be the basis for establishing the independence of systems traded by affiliated account controllers.

The current exemption includes a bright-line test of independence, thus defining independent account controllers as "unaffiliated." See, 17 CFR 150.1(d)(3). In moving away from this requirement and toward a more streamlined application procedure, it is necessary to maintain a clearly defined standard of that which constitutes independence. Although data comparisons between various trading systems have been made, the Commission believes that, at this time, it lacks sufficient experience to use these forms of analysis in establishing such a definitive standard. Accordingly, the Commission proposed that the trading systems of affiliated account controllers be separately developed and independent of other trading systems.

The fundamental rationale underlying the proposed rule is that individual traders, and not computer programs, control trading. There is little difference with regard to the control of trading between a trader who trades regularly following two separate philosophies in determining his trading activities from a second trader who reduces those philosophies to an automated format using computer technology. The Commission believes that all of the trading of each of the individuals equally is controlled by that trader and should be aggregated. Moreover, the rule would not recognize as independently developed two systems by the same designer, who then licensed one to a second commodity trading advisor to trade.

Of course, many trading systems based on technical analysis, even when developed by different individuals, will use similar data bases and similar logic. Analogously, many traders in any particular futures market will share similar views with respect to market fundamentals. This fact alone will not call into question the separate development of a trading system, as long as the system was autonomously developed by its creator. As explained in the notice of proposed rulemaking, this standard clearly would be met where an affiliated commodity trading advisor—

purchased its interest in the affiliate subsequent to the development by the affiliate of its trading program * * * * Alternatively, a commodity pool operator could seek an exemption for an employee who autonomously developed a trading system, and who met the other indicia of independence * * * *

55 FR 30930.

As emphasized by the Commission in proposing this amendment—

* * * [t]he lack of affiliation remains a brightline test in establishing the independence of account controllers. Accordingly, affiliates would still 'bear a heavy burden in otherwise demonstrating their independence,' 53 FR 41568, by reference to the above four indicia.

Id.

A futures exchange suggested that the spot month restriction be eliminated, contending that "independent control does not disappear during the spot month" and that the exchange is "very concerned that this restriction could potentially result in the forced liquidation of large positions at an artificial point." Commission Rule 150.3(a)(4), however, permits the speculative position limits to be exceeded to the extent that the positions are carried for entities qualifying for exemption under the rule and "are not in the spot month if there is a position limit which applies to individual trading months during their expiration." 17 CFR 150.3(a)(4). As the Commission explained in adopting this rule, it—

has traditionally taken a cautious approach with regard to spot-month speculative position limits. In proposing that the exemption apply to positions outside of the spot month, the Commission was mindful that specific spot-month limits are provided in order to alleviate concerns regarding congestion and other problems attendant to the shortages of deliverable supplies at the expiration of the contract. However, the Commission notes that the absence of position limits for individual trading months indicates the absence of these regulatory concerns in some cases such as certain finanical futures which are cash settled or physical delivery contracts with very broad deliverable supplies (*e.g.*, foreign currencies) * * * * The rule, as adopted, provides that the exemption shall apply in the spot month for those contracts which do not have individual month speculative position limits. By permitting the exemption to apply in the spot month for those contracts, the Commission will have an opportunity to study this issue further based upon actual trading experience.

53 FR 41569 (footnote omitted).

Accordingly, exchanges have been free, based on, and consistent with, the existing Commission rule, to apply their own exemptions in the spot month of selected contracts. As indicated above, the Commission assumed that the exemptions adopted by the exchanges would reflect that fact, and that subsequently it would be able to review the exchange experience with trading in the spot month. The Commission continues to believe that the position stated above with the adoption of the original rule remains valid. Accordingly, the Commission reiterates that, as currently provided, exchanges are free to adopt rules applying such an exemption in the spot month for those contract markets not having an individual month limit during the expiration month. And as stated above, the Commission may reconsider this requirement after having an opportunity to study further the issue based upon actual trading experience.

On an issue related to implementation of exchange rules, two commenters opined that the Commission should formulate a coordinated procedure with the exchanges to approve applications for exemption. One of the commenters "question[ed] the usefulness of having a number of exchanges review the same materials and draw their own conclusions for granting an exemption, once the Commission has already made such a determination."

The Commission is mindful that the enforcement by each exchange of its speculative position limit rules has the potential of increasing regulatory costs. However, application to each exchange for which an exemption is requested is necessary because such exemptions may be conditioned, in the discretion of the grantor, based upon the application and any other relevant factors.[12] See, 17 CFR 150.3(b)(2). In this connection, an exchange noted that—

the Exchange believes that it should be vested with the power to grant the exemption from speculative position limits on a case-by-case basis. In other words, the exemption should not be self-executing by merely filing * * * *. Additionally, the Exchange believes it should be able to deny or limit the extent of its approval if concerned that its markets are too liquidate or if concerned about the potential size of the overall positions in its markets. Certainly, the Exchange would not want to be faced with a situation where, if a CTA (or CPO or pension fund) were to go bankrupt, an excessive number of positions in any one commodity would have to be liquidated. The Exchange should be able to deny or restrict the exemption whenever it has reason to believe that the financial risk of any one position is too large.

The Commission agrees that it is necessary for each exchange to make an independent determination of whether, and to what degree, an exemption from its speculative limits should be granted. Nevertheless, the Commission also believes that the relative burden of filing with each exchange can be moderated. For that reason, the Commission has encouraged the exchanges to adopt exemptive rules which duplicate the Commission's. Accordingly, current exchange rules are uniform. In this regard, the Commission encourages the exchanges to modify their rules consistent with the amendments adopted herein. The uniform implementation of these amendments by the exchanges, and in particular, the simplified filing procedures being adopted herein, should largely mitigate the cost of multiple filings.

The CTAs commenting on the proposed rules raised two issues involving relief from requirements which are ancillary to the exemption but which both arise from the treatment of "affiliated" entities. In particular, they requested that the Commission clarify the applicability of rule 1.46 and the disclosure requirements under rules 4.31(a)(3) and 4.21(a)(5) to those entities granted exemptions under Commission Rule 150.3. The commenters note that in granting an exemption from speculative position limits under rule 150.3, the Commission determines that those entities, regardless of the formal nature of their relationship, trade independently. Accordingly, they contend, relief from the provisions of rules 1.46, 4.31(a)(3) and 4.21(a)(5) is consistent with the intent of those rules.

In particular, Commission Rule 1.46 requires that the positions be offset when both long and short positions are held for the account of any customer. 17 CFR 1.46. Among the exemptions from that general requirement are purchases or sales made in the separate account of a commodity pool, 17 CFR 1.46(d)(4), and purchases or sales made in separate accounts owned by a customer where "[e]ach person directing trading for one of the separate accounts is unaffiliated with and acts independently from each other person directing trading for a separate account." 17 CFR 1.46(d)(6).

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[12] The commenter also suggested that the Commission and the exchanges set the applicable exemptive levels too low when conditioning such exemptions. The Commission has granted exemptions to commodity pools having multiple independent account controllers generally at levels between two and four times the applicable speculative position limit, depending upon the overall liquidity of the particular contract market. An analysis of selected entities granted such exemptions reveals that seldom, if ever, do they approach the upper limit of the exemption level granted. Accordingly, the Commission, for the present, will continue to grant exemptions as it has been doing, but will review its policies in this regard periodically.

The Commission agrees that the intent of these exemptions from rule 1.46 would be applicable equally to any entity granted an exemption from speculative position limits under Commission Rule 150.3.[13] Accordingly, the Commission is amending rule 1.46, adding a new paragraph (d)(7), to clarify this intent.

Rules 4.21 and 4.31, respectively, require registered commodity pool operators and commodity trading advisors to disclose their past performance and the past performance of their principals. Rule 4.21 also requires registered commodity pool operators to show the past performance of their pools' commodity trading advisors and their principals. In the Notice of Proposed Rulemaking, the Commission noted that such disclosures would not constitute "marketing" for purposes of determining the independence of the traders. 55 FR 30930. The commenters further suggested, however, that "[o]nce the Commission determines that each is a separately operated entity that will not be involved in the trading of the other, there is no reason to include both sets of data" in the applicable Disclosure Documents.

In this regard, the Commission notes that the Division of Trading and Markets has issued a letter exempting a CTA from the requirement in rule 4.31(a)(3) that it include in its Disclosure Document a statement of the past performance of a second CTA, which is a ninety percent owner of the first, based upon representations that:

> (1) the * * * trading programs were separately developed; (2) [the second CTA] and its personnel have no role in the day-to-day operations of [the first]; (3) [the first] has sufficient support personnel such that, in the event of an emergency it should not be necessary to call upon [the second's] personnel for assistance; and (4) [the first's] Disclosure Document explicitly states that neither [the second] nor its principals have any involvement in [the first's] trading.

CFTC Interpretative Letter No. 91-1, *supra* note 13, at 37,631. The Commission anticipates that the staff will review requests for exemptive relief with respect to past performance disclosure by entities granted exemptions under Commission Rule 150.3 on a case-by-case basis. Accordingly, the Commission is not now amending these rules. Of course, it may reconsider this determination based upon its further experience in administering exemptions under Commission Rule 150.3.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small entities. The Commission has previously determined that "large traders" are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). These proposed rules are exemptions from limits on the size of speculative positions which typically may be held by the largest traders in these markets. Accordingly, if promulgated, these rules would have no significant impact on a substantial number of small entities. Moreover, the Commission invited comments from any firms or other persons which believed that the promulgation of these rules might have a significant impact upon their activities. No such comments were received. For the above reasons, and pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission previously submitted these rules in proposed form and their associated information collection requirements to the Office of Management and Budget (OMB), estimating that the burden associated with this entire collection, including the rule, as proposed, is as follows:

Average Burden Hours Per Response	1.03
Number of Respondents	165
Frequency of Response	3.82

OMB approved the collection of information associated with the rule on November 2, 1990, and assigned OMB control No. 3038–3013 to the rule.

Copies of the OMB approved information collection package associated with this rule may be obtained from Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254-9735.

List of Subjects in 17 CFR Part 150

Agricultural commodities, Exemptions from speculative Position limits, position limits.

In consideration of the foregoing and pursuant to the authority contained in the Act and, in particular, sections 2(a)(11), 4a, and 8a(5) of the Act, 7 U.S.C. 4a(j), 6a, and 12a(5), the Commodity Futures Trading Commission hereby proposes to amend parts 1 and 150 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, and 24, unless otherwise noted.

2. Section 1.46 is amended by adding a new paragraph (d)(7) to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

* * * * *

(d) * * *

(7) Purchases or sales made in the separate accounts of a person granted an exemption in accordance with § 150.3 of this chapter, *provided* That:

(i) The purchases and sales for such accounts are executed in open and competitive means on or subject to the rules of a contract market; and

(ii) No position held for or on behalf of separate accounts traded in accordance with this paragraph may be closed out by transferring such an open position from one of the separate accounts to another of such accounts.

* * * * *

PART 150—LIMITS ON POSITIONS

3. The authority citation for part 150 continues to read as follows:

Authority: 7 U.S.C. 6a and 12a(5) (1982).

4. Section 150.1 is amended by redesignating paragraph (d) as paragraph (e), revising newly redesignated paragraph (e), and adding a new paragraph (d) to read as follows:

[13] In this regard, the Commission notes that the Division of Trading and Markets, by letter dated January 18, 1991, confirmed that where two CTAs which are affiliated "will be operated as independent entities with independent trading systems and * * * will not be involved in one another's trading activities", and "where [the two CTAs] each direct trading for a separate account of a client, they will satisfy the criteria of [Rule 1.46(d)(6)(i)]. * * *" CFTC Interpretative Letter No. 91-1 [Current Transfer Binder], Comm. Fut. L. Rep. (CCH) ¶ 24,988 (Jan. 18, 1991).

§ 150.1 Definitions.

* * * * *

(d) *Eligibility entity* means—

A commodity pool operator, the operator of a trading vehicle which is excluded, or who itself has qualified for exclusion from the definition of the term "pool" or "commodity pool operator," respectively, under § 4.5 of this chapter, or a commodity trading advisor:

(1) Which authorizes an independent account controller independently to control all trading decisions for positions it holds directly or indirectly, or on its behalf, but without its day-to-day direction; and

(2) Which maintains only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf.

(e) *Independent account controller* means a person—

(1) Who specifically is authorized by an eligible entity, as defined in paragraph (d) of this section, independently to control trading decisions on behalf of, but without the day-to-day direction of, the eligible entity;

(2) Over whose trading the eligible entity maintains only such minimum control as is consistent with its fiduciary responsibilities necessary to fulfill its duty to supervise diligently the trading done on its behalf;

(3) Who trades independently of the eligible entity and of any other independent account controller trading for the eligible entity; and

(4) Who is registered as a futures commission merchant, introducing broker, commodity trading advisor, or an associated person of any such registrant.

5. Section 150.3 is amended by revising paragraphs (a)(4), the introductory text of (b), (b)(1), and (b)(3)(i)–(iii) to read as follows:

§ 150.3 Exemptions.

(a) * * *

(4) Carried for an eligible entity in the separate account or accounts of an independent account controller which has been approved by the Commission under paragraph (b) of this section, and are not in the spot month if there is a position limit which applies to individual trading months during their expiration; *provided, however,* That the overall positions held or controlled by each such independent account controller may not exceed the limits specified in § 150.2 of this part.

(b) Application for Exemption of Independent Account Controllers. Any eligible entity who directly or indirectly holds, but does not control, positions in contract markets having speculative position limits set forth in § 150.2 of this part may file with the Commission an application for exemption from those limits for the positions controlled by an independent account controller.

(1) Filing the application. Such application shall be made to the Commission's Washington office, Attention: Division of Economic Analysis, unless otherwise directed by the Commission or its delegates, and must include the following:

(i) An affidavit, duly notarized, of the eligible entity identifying each independent account controller and stating that each named independent account controller has been delegated authority to trade the account without further specific, day-to-day direction of trading decisions, and that the applicant maintains only such minimum control as is necessary to fulfill its fiduciary responsibilities and its duty to supervise diligently the trading by the independent account controllers. If the applicant is an organization, the affidavit must be that of a partner, officer, or trustee authorized by the organization to bind the organization;

(ii) An affidavit, duly notarized, of each independent account controller certifying that the controller is registered with the Commission, in fact exercises independent authority with respect to directing the trading of the account and does not have knowledge of trading decisions by any other account controller. If the independent account controller is affiliated with the eligible entity or another independent account controller trading for the eligible entity, the affidavit further must:

(A) Explain the circumstances of the affiliation;

(B) Describe the written procedures in place to preclude such account controllers from gaining access to, or receiving data about, trades of other account controllers, including a description of document routing procedures, the physical location of such account controllers, and other procedures or security arrangements which would maintain the independence of their activities;

(C) Certify that such trading is done pursuant to separately-developed and independent trading systems and describing the circumstances of the development of the trading systems; and

(D) Certify that such trading has been solicited by a separate Disclosure Document that meets the standards of § 4.21 of this chapter and has been separately marketed from that of the applicant.

(iii) Any additional information or documents required by the Commission which, in light of the circumstances of the application, appears necessary to demonstrate the nature of the relationship between the eligible entity and the independent account controller(s).

* * * * *

(3) * * *

(i) Ten days prior to additions of independent account controllers;

(ii) Within ten days of withdrawal by the eligible entity of trading authorization to an approved account controller, changes in the ownership or control of the accounts, changes in registration status of the account owners or independent account controllers, or any other material change in the application; or

(iii) Within such time as may be specified by the Commission upon special call by the Commission to the applicant.

* * * * *

Issued in Washington, DC, this 2nd day of April, 1991, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91-8135 Filed 4-8-91; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 90F-0252]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-acrylic acid copolymer, partial sodium salt as a component of adhesives intended for use with articles in contact with all types of food. This action is in response to a petition filed by Michelman, Inc.

DATES: Effective April 9, 1991; written objections and requests for a hearing by May 9, 1991.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 28, 1990 (55 FR 35189), FDA announced that a food additive petition (FAP OB4218) had been filed by Michelman, Inc., 9089 Shell Rd., Cincinnati, OH 45236-1299, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of ethylene-acrylic acid copolymer, partial sodium salt as a component of adhesives intended for use in food-contact applications.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use of ethylene-acrylic acid copolymer, partial sodium salt as a component of adhesives intended for use with articles in contact with all types of food is safe, and that the regulations in § 175.105(c)(5) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 9, 1991 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Secs. 201, 402, 409, 706, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

§ 175.105 [Amended]

2. Section 175.105 *Adhesives* is amended in the table in paragraph (c)(5) by removing the text under the heading "Limitations" for the entry "Ehhylene-acrylic acid copolymer, partial sodium salt * * *."

Dated: March 29, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-8204 Filed 4-8-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 90-048]

RIN 2115-AD62

Vessel Traffic Management in St. Marys River

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard is correcting the table which appeared in rule document 90-048 on vessel traffic management in St. Marys River (56 FR 11511), published on Tuesday, March 19, 1991.

FOR FURTHER INFORMATION CONTACT: Bruce Riley, Project Manager, Navigation Safety Special Projects Staff, Tel. (202) 267-0412.

SUPPLEMENTARY INFORMATION: In rule document 90-048 (56 FR 11511), of Tuesday, March 19, 1991, the table in § 161.834 on page 11512 identifying permanent reporting points, incorrectly required reporting at all points, whether upbound or downbound. The introductory text and the table in § 161.834 should read as follows:

§ 161.834 [Corrected]

The following locations are permanent reporting points:

Downbound vessels	Reporting points	Upbound vessels
Report	Ile Parisienne Light.	
	Gros Cap Reefs Light.	Report.
Report	Round Island Light 32.	Report.
Report	Pointe Louise	Report.
Report	Clear of lock	Report.
Report	Mission Point	Report.
Report	Six mile Point	Report.
Report	Ninemile Point	Report.
Report	West Neebish Channel Light 29.	
Report	Munuscong Lake Junction Lighted Body.	Report.
Report	De Tour Reef Light.	Report.

Dated: April 3, 1991.

J.W. Lockwood,

Captain, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 91-8275 Filed 4-8-91; 8:45 am]

BILLING CODE 4910-14-M