2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient "Buffalo gourd root powder" to read as follows:

**§ 180.1001 Exemptions from the requirement of a tolerance.**

(d) * * *

* * * * *

| Inert ingredients | Limits | Uses |
|---|---|---|
| Buffalo gourd root powder (*Cucurbita foetidissima* root powder). | No more than 2.5 lbs/acre/season (3.4 gm/acre/season of Cucurbitacin). | Gustatory stimulant |

* * * * *

[FR Doc. 92-21029 Filed 9-1-92; 8:45 am]

BILLING CODE 6560-50-F

## FEDERAL MARITIME COMMISSION

### 46 CFR Part 510

**[Docket No. 92-30]**

### Licensing of Ocean Freight Forwarders

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission amends its regulations which govern the licensing, duties and responsibilities of ocean freight forwarders, to reduce financial and regulatory burdens on the ocean freight forwarder industry. The final rule (1) removes the requirement that prior Commission approval be obtained for organizational changes involving the acquisition of one or more additional licensees by a licensee; (2) permits the processing fee for Commission approval of organizational changes to be paid by personal check; and (3) permits the licensee's name to appear before or after the shipper's name when the licensee's name appears in the shipper identification box on the bill of lading. (The final rule also includes technical changes to reflect the redesignation of the Commission's Bureau of Tariffs to the Bureau of Tariffs, Certification and Licensing.)

**EFFECTIVE DATE:** Effective on September 2, 1992, except the removal of § 510.19(a)(5), the redesignation of § 510.19(a)(6) and (7), and the addition of § 510.19(f) which are effective April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:**
Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification & Licensing, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-001, (202) 523-5796
or
Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001, (202) 523-5783

**SUPPLEMENTARY INFORMATION:** The Federal Maritime Commission ("Commission" or "FMC") initiated this proceeding by publishing a Notice of Proposed Rulemaking ("NPR") in the **Federal Register** on June 5, 1992 (57 FR 24004). The NPR solicited comments on a proposed rule to amend certain provisions of the freight forwarder regulations in order to reduce financial and regulatory burdens on the ocean freight forwarder industry.

The proposed rule would (1) remove the requirement that prior Commission approval be obtained for organizational changes involving the acquisition of one or more additional licensees by another licensee; (2) permit the processing fee for Commission approval of organizational changes to be paid by personal check; and (3) permit the licensee's name to appear before or after the shipper's name when the licensee's name appears in the shipper identification box on the bill of lading.

### Comments

Comments were received from the National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA"); the Pacific Coast Council of Customs Brokers and Freight Forwarders Associations, Inc. ("Pacific Coast Council"); the New York Foreign Freight Forwarders and Brokers Association New York ("NYFFBA"); Hiram Walker & Sons, Inc. ("Hiram Walker"); and, jointly certain South America, Central America and Caribbean conferences and discussion agreements ("Conferences").[1]

NCBFAA opposes removing the requirement for prior Commission approval of licensee acquisitions at this time. Although it believes that "the Commission is on the right track" with this proposed rule, NCBFAA advises that the proposed rule is untimely.

The underpinning of NCBFAA's concern about timeliness is a petition pending before the Commission seeking relief, pursuant to section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 876 from a proposed consortium allegedly sponsored by the Government of the Republic of Korea.[2] NCBFAA argues that removing the approval requirement at this time would facilitate the alleged proposed monopolization and controlled cargo practices in the U.S.-Korean trades by authorizing the acquisition of licensees for the projected consortium.

NCBFAA further believes that given the consortium issue the acquisition process should be scrutinized more closely, and suggests that the Commission require an appropriate

[1] Those conferences and discussion agreements are as follows: Venezuelan American Maritime Association; Atlantic and Gulf/West Coast South America Conference; United States/Central America Liner Association; Central America Discussion Agreement; United States Atlantic & Gulf/Hispaniola Steamship Freight Association; Hispaniola Discussion Agreement; United States Atlantic & Gulf/Southeastern Caribbean Steamship Freight Association; Southeastern Caribbean Discussion Agreement; Jamaica Discussion Agreement; United States/Panama Freight Association; PANAM Discussion Agreement; Puerto Rico/Caribbean Discussion Agreement; Caribbean and Central American Discussion Agreement. Sea-Land Service, Inc., a member of some of the foregoing conferences and agreements, did not participate in their comments.

[2] This petition, entitled Petition No. P3-92—*Petition Of Korean Forwarders & Customs Brokers Association Of Southern California Pursuant To Section 19(b)(b) Of The Merchant Marine Act Of 1920 Regarding Conditions Unfavorable To Shipping In The Foreign Trade Between The United States And The Republic Of Korea*, was dated June 16, 1992, and was filed by the Korean Forwarders and Customs Brokers Association of Southern California. The petition requested Commission action to prevent an agency of the Government of the Republic of Korea from allegedly sponsoring a consortium which plans to establish a transportation operation in the United States offering freight forwarding, non-vessel-operating common carrier, customs brokerage and other transportation services in the U.S.-Korean trade. In a Notice of Filing of Petition For Relief, served June 29, 1992, the Commission advised that Petition No. P3-92 would be held in abeyance because: (1) Bilateral talks between Korea and the United States were scheduled for July 1992; (2) the consortium is nonexistent; and (3) certain Commission action proposed in FMC Docket No. 92-42, *Actions To Adjust Or Meet Conditions Unfavorable To Shipping In The United States/Korea Trade*, could affect the consortium issue.

affirmation from all proposed transferees that: (1) They will abide by all applicable U.S. laws; (2) they will not join with other licensees in seeking to control or otherwise unlawfully monopolize ocean forwarding in any specific trade(s); (3) they are privately owned independent entities rather than instruments of a foreign government; and (4) they have accurately represented any direct or indirect ownership or control by any foreign government. Finally, the NCBFAA suggests an alternative to this proposed rule, to wit: Exempt licensees from the approval process only when the sole change in the identity of the forwarder is through a corporate restructuring, such as a consolidation. NCBFAA favors the proposed amendments which would allow payment by personal check and permit a licensee's name to appear before or after the shipper's name in the shipper identification box on the bill of lading.

The Pacific Coast Council's comments generally tracked those of NCBFAA. Although expressing general support for the licensee acquisition amendment, the Pacific Coast Council argues that the proposed change is untimely because elimination of the prior approval requirement would subvert the Commission's proposed sanctions in Docket No. 92–42.[3] The Pacific Coast Council favors the amendments permitting payment by personal check and permitting a licensee's name to appear before or after the shipper's name.

The NYFFBA, on the other hand, favors elimination of the prior approval requirement for acquisition of licensees for the reasons that the requirement is unnecessary, time consuming and economically and financially burdensome.[4] NYFFBA supports the other proposed amendments permitting payment by personal check and permitting a licensee's name to appear before or after the shipper's name.

Hiram Walker opposes the elimination of the licensee acquisition prior approval requirement, indicating that the Commission and the public should be aware of such acquisitions. Hiram Walker is concerned about potential effects on existing agreements with shippers and possible conflict of interest or restraint of competition and trade. It also opposes the proposed amendment which would allow the licensee's name to appear before or after the shipper's name in the shipper identification box. Opposition is based on the view that the name of only the true shipper or beneficial owner of the cargo should appear in the shipper identification box.

Finally, the Conferences oppose the elimination of the prior approval requirement for acquisition of licensees because of concerns about the Commission's ability to monitor the fitness qualifications of the resulting entity. The Conferences are further opposed to the proposed amendment which would permit payment by personal check on the ground that mere suspension of an application in the event of a dishonored personal check was insufficient. The Conferences contend that dishonoring a personal check bears on the character of the licensee. The Conferences recommend that, if implemented, the proposed rule be revised to require a re-examination of the licensee's fitness, including, but not limited to, a full adjudicatory investigation when a personal check is dishonored.

**Discussion**

The Commission has considered all of the comments received in this proceeding and has determined to adopt the proposed rule as a final rule in this matter, with certain changes which are discussed below. Any comments not expressly discussed either have been incorporated without discussion, have been found to be mooted by the changes incorporated into the final rule, or have been found to be irrelevant, without merit or beyond the scope of the proceeding.

*Acquisitions of Licensees*

The concerns expressed by Hiram Walker and the Conferences are not relevant to the process of Commission approval of licensee acquisition under existing regulations. A decision to forgo adoption of this proposed change, therefore, would not result in the effects contemplated by Hiram Walker and the Conferences.

Additionally, elimination of the prior approval requirement for licensee acquisitions is not likely to have the deleterious effect described by NCBFAA and the Pacific Coast Council. The involved amendment would not subvert the sanctions proposed in Docket No. 92–42 should they become effective. Under that proceeding, licensees which are majority owned or controlled by non-U.S. citizen Korean nationals would be ineligible to perform the duties of an ocean freight forwarder in the U.S. trades. This ineligibility would extend to licensees acquired by those Korean forwarders. Therefore, any licensee which a Korean forwarder acquired also would be ineligible to operate as a freight forwarder in the U.S. trades. Similarly, this ineligibility would impede the acquisition of licensees for the projected consortium.

Nevertheless, the Commission recognizes that in these circumstances, adoption of the proposed amendment might be misperceived as inconsistent with the ongoing proceedings in Docket No. 92–42 and Petition No. P3–92. The concerns about timeliness expressed by the affected industry do have merit. However, because it would be inappropriate to withdraw an otherwise beneficial rule solely for that reason, the amendment will be adopted, but its effective date will be postponed to April 1, 1994, a date when the pending proceedings are likely to be concluded.

*Payment by Personal Check*

The only opposition to permitting payment by personal check in applications for Commission approval of organizational changes was that of the Conferences. The Conferences are against the provision in the proposed rule that would suspend Commission consideration of an application when a check is dishonored, on the grounds that a dishonored personal check goes directly to the character of a licensee. A personal check, however, may be dishonored for various reasons, including those which do not bear on the character of the account holder. Also, reexamination of an applicant's fitness, including a full adjudicatory investigation, would be cumbersome, expensive and time consuming to both the licensee and the Commission. The Commission's proposal to defer the application process by suspending consideration adequately addresses the concerns associated with a dishonored personal check in a simple, expedient and efficient manner. Moreover, adequate procedures to address issues concerning a licensee's character or fitness presently exist in the Commission's regulations, and those procedures may be applied to concerns

[3] The proceeding in Docket No. 92–42 resulted from a petition filed by Direct Container Line, Inc. on January 13, 1992. *Petition Pursuant to Section 19(1)(b) of the Merchant Marine Act of 1920 Against Certain Practices of the Government Of Korea.* (Petition No. P2–92.) The petition sought relief, pursuant to section 19 of the Merchant Marine Act, 1920, from conditions allegedly unfavorable to shipping in the United States-Korea trade resulting from the laws of the Republic of Korea. Thereafter, the Commission initiated an investigation pursuant to section 19 and determined that unfavorable conditions did exist in the trade. On July 1, 1992, in Docket No. 92–42, the Commission published a proposed rule which would suspend the licenses of ocean freight forwarding enterprises owned or controlled by non-U.S. citizen Korean nationals, among other sanctions.

[4] NYFFBA supported the license suspension sanctions in Docket No. 92–42.

arising from a dishonored personal check, as the Commission may determine on a case-by-case basis. Accordingly, this amendment is being adopted in the final rule without change.

*Shipper Identification Box*

The only opposition to permitting the licensee's name to appear before or after the shipper's name in the shipper identification box was that of Hiram Walker, which opposes any appearance of the licensee's name in the shipper identification box. However, that result is beyond the scope of this proposed rule and is not well taken, inasmuch as the existing regulations currently permit the licensee's name to appear in the shipper identification box after the name of the shipper.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule streamlines the regulatory process and thereby reduces the financial, administrative and regulatory burdens of ocean freight forwarders. Inasmuch as this reduction will be beneficial to those entities, the Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

This rule does not contain any collection of information requirements that require submission to the Office of Management and Budget ("OMB"). Therefore, OMB review is not required.

**List of Subjects in 46 CFR Part 510**

Fees and user charges, Licensing, Ocean freight forwarders, Reporting and record keeping requirements, Surety bonds.

Therefore, pursuant to 5 U.S.C. 553 and sections 17 and 19 of the Shipping Act of 1984, 46 U.S.C. app. 1716 and 1718, part 510 of title 46, Code of Federal Regulations, is amended as follows:

**PART 510—[AMENDED]**

1. The authority citation for part 510 continues to read:

**Authority:** 5 U.S.C. 553, 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; 21 U.S.C. 853a.

2. Section 510.19 is amended by deleting paragraph (a)(5) and by redesignating paragraphs (a)(6) and (a)(7) as (a)(5) and (a)(6), respectively.

3. Section 510.19 is also amended by revising paragraph (e) and adding a new paragraph (f) to read as follows:

**§ 510.19 Changes in organization.**

* * * * *

(e) *Application form and fee.* Applications for Commission approval of status changes or for license transfers under paragraph (a) of this section shall be filed in duplicate with the Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, on Form FMC–18, Rev., together with a processing fee of $100, made payable by money order, certified check, cashier's check or personal check to the Federal Maritime Commission. Should a personal check not be honored when presented for payment, the processing of the application shall be suspended until the processing fee is paid.

(f) *Acquisition of one or more additional licensees.* In the event a licensee acquires one or more additional licensees, for the purpose of merger, consolidation, or control, the acquiring licensee shall advise the Commission of such change within thirty days after such change occurs by submitting in duplicate, an amended Form FMC–18, Rev. No application fee is required when reporting this change.

5. Section 510.23 is amended by revising paragraph (a) to read as follows:

**§ 510.23 Forwarder and carrier; compensation.**

(a) *Disclosure of principal.* The identity of the shipper must always be disclosed in the shipper identification box on the bill of lading. The licensee's name many appear with the name of the shipper, but the licensee must be identified as the shipper's agent.

* * * * *

By the Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 92–21039 Filed 9–1–92; 8:45 am]

BILLING CODE 6730–01–M

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

**[Docket No. 90–01; Notice 3]**

**RIN 2127–AE33**

## Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule; response to petition for reconsideration.

**SUMMARY:** This rule amends certain provisions in Standard No. 131, School Bus Pedestrian Safety Devices (49 CFR § 571.131) which requires new school buses to be equipped with a stop signal arm. Specifically, the amendment requires the stop signal arm to be aligned relative to the lower edge of the passenger window. In addition, with respect to stop arms equipped with lights to meet the standard's conspicuity requirement, this notice amends the flash rate so that it more closely correlates to the most recent recommended practice of the Society of Automotive Engineers. These amendments will increase the effectiveness of stop signal arms by improving their visibility to other motorists.

**DATES:** *Effective Date:* The amendment becomes effective September 2, 1992.

*Petitions for reconsideration:* Any petition for reconsideration of this rule must be received by the agency not later than October 2, 1992.

**ADDRESSES:** Petitions for reconsideration should refer to Docket No. 90–01; Notice 3 and be submitted to the following: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles Gauthier, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366–4799.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On May 3, 1991, NHTSA published a final rule establishing a new Federal motor vehicle safety standard requiring new school buses to be equipped with a stop signal arm. (56 FR 20363). A stop signal arm is a device patterned after conventional " STOP" signs and

attached to the left side of a school bus. When the school bus stops, the stop signal arm automatically extends outward from the bus. Its purpose is to alert motorists that a school bus is stopping or has stopped. The standard specifies requirements about the stop signal arm's appearance, size, conspicuity, operation and location.

The agency established this new safety standard after reviewing the available information, including the docket comments, the Fatal Accident Reporting System (FARS) data, and a report issued by the National Academy of Sciences entitled "Improving School Bus Safety," (Special Report No. 222). The agency determined that a safety need exists for better controlling the movement or vehicles passing stopped school buses during the loading and unloading of passengers.

## II. Petitions for Reconsideration

NHTSA received two petitions for reconsideration of the stop signal arm rule. One was a petition from the California Department of Education (DOE) requesting a change in the requirement regarding the height at which a stop signal arm should be located. DOE asked that the reference to the lower edge of the driver's window frame in S5.4.1(b) be deleted, stating that some school bus models are designed so that the lower edge of the driver's side window is lower than the side windows at the passenger seats. The petitioner believed that installation of the stop signal arm relative to the lower edge of the driver's window could reduce the visibility of the stop signal arm to other motorists and thus reduce the arm's effectiveness. The California DOE recommended that the reference in S5.4.1(b) be changed to the lower edge of the passenger windows.

The other petition was from Epicor Industries, a manufacturer of turn signals, hazard warnings and alternating flashers. It requested that the agency change the requirements for the flash rate for stop signal arm lights under S6.2.2 to conform with the most recent version of SAE J1054, "Warning Lamp Flashers, (October 1989). The petitioner stated that such an amendment would assure that the two lamps would flash alternately and have "on" times that meet an accepted standard and have been proven effective. The previous version of SAE J1054 (January 1977), which was used by NHTSA to develop the final requirements of S6.2.2, was determined by the SAE to be incorrectly written. Epicor also requested that Standard No. 131 be amended to include a provision requiring all replacement parts for stop signal arms to comply with the requirements of the standard similar to the provisions of S5.7 in Standard No. 108, Lamps, Reflective Devices, and Associated Equipment.

## III. Agency's Review of the Petitions for Reconsideration

### *A. Reference Plane for Stop Signal Arm's Location*

In the final rule, NHTSA specified location requirements applicable to the stop signal arm, based on the goal of standardization, the views of State school transportation personnel about effective locations for stop signal arms, typical location of these devices, and the Vehicle Safety Act's directive that the safety standards be objective. Section S5 currently specifies that school buses be equipped with at least one stop signal arm installed on the left side of the bus so that, when extended, (1) it is perpendicular to the side of the bus, plus or minus five degrees, (2) it has the top edge of the octagon parallel to and within 6 inches of a horizontal plane passing through the lower edge of the driver's window frame, and (3) its vertical centerline is at least 9 inches away from the school bus body, the agency stated that these requirements will provide uniform location specifications while providing users flexibility to install stop signal arms consistent with their experiences with these devices. The location requirements are also intended to ensure that the stop signal arms are visible to motorists trailing and approaching stopped school buses.

As mentioned above, California DOE requested that S5.4.1(b) be amended so that the reference plane passes through the lower edge of the passengers' windows instead of the lower edge of the driver's window. The petitioner believed that this change was necessary to accommodate the new practice of designing some school buses so that the driver's window is lower than the passenger's windows.

NHTSA notes that the agency's decision in the final rule to specify the lower edge of the driver's window was based on the assumption that the lower edge of the driver's window and passengers' windows were all in the same horizontal plane. While this assumption remains valid in most situations, the agency is aware that an increasing number of new school buses are being designed so that the driver's side window is lower than the passenger side windows. The agency believes that new school buses are being designed in this manner to improve school bus driver visibility of student pedestrians in front of and along side the school bus.

NHTSA has decided to amend the requirements of S5.4.1(b) to require that the top edge of the stop signal arm be aligned with the lower edge of the frame of the passenger window immediately behind the driver's window. The agency believes that specifying this window as the reference will ensure that stop signal arms are more visible to other motorists, since some school buses are designed with the bottom of the driver's window being well below that of the passenger's windows. Under the May 1991 final rule, as the lower edge of the driver's window gets closer to the ground, so does the signal stop arm, thereby reducing its visibility to other motorists, and thus its effectiveness.

The agency anticipates that this amendment will not result in any adverse impact to school bus manufacturers or users that were planning to install the stop signal arm relative to the lower edge of the driver's window. In most buses, the driver's window is on the same plane as the passenger's windows. In addition, the agency has reviewed those new bus designs with lower driver windows and believes that installing the stop signal arm relative to the lower edge of the passengers' windows will not result in any additional compliance problems for manufacturers.

### *B. Flash Rate*

In the final rule, the agency determined that a stop signal arm must either be reflectorized or have flashing lamps to provide increased conspicuity, or both. The final rule stated that if flashing lamps are used, they must comply with the requirements for color, flash rate, and vibration, moisture, dust, corrosion, photometry, and warpage, as set forth in S6.2. The notice stated that the tests for flash rate were patterned after the tests in the Society of Automotive Engineer's (SAE's) Recommended Practice, J1054, Warning Lamp Alternating Flashers (January 1977). Specifically, S6.2.2 of the final rule states:

> The lamps on each side of the stop signal arm, when operated at the manufacturer's design loan, shall flash at a rate of 60–120 flashes per minute with a current "on" time of 50 percent.

The petition from Epicor requested that the requirements for the flash rate be patterned after the more recent SAE Recommended Practice for alternating flashers promulgated in October 1989. The October 1989 Recommended Practice cleared up technical problems caused by the existence of two SAE

Recommended Practices dealing with alternating flashing lamps—SAE J1054 and SAE J1104. While J1054 described the performance parameters for a flasher, J1104 specified how to assure that a particular flasher design conformed to the performance parameters. In October 1989, SAE revised J1054 to incorporate the pertinent features and allowable elements of both SAE Recommended Practices, thus eliminating the need for J1104. In doing so, SAE substituted the flash rate conditions of J1104 for those in J1054.

After reviewing the modified SAE Recommended Practice, NHTSA has decided to pattern S6.2.2 after the October 1989 SAE Recommended Practice, J1054. Given that the SAE has determined that the January 1977 version of J1054 is technically incorrect, the agency believes that S6.2.2 should be revised to reflect the language adopted in the October 1989 version of J1054.

*C. Replacement Equipment*

The final rule specified that Standard No. 131 is a vehicle standard that applies to new school buses. The Standard does not apply to stop signal arms sold in the aftermarket. Nor do the Standard's provisions apply to stop signal arm replacement parts.

Epicor requested that Standard No. 131 be amended to include a section requiring that all replacement bulbs and lenses for stop signal arms meet the requirements of the standard. It was suggested that such an amendment would parallel S5.7 of Standard No. 108, which requires replacement lights to comply with that standard. Requesting that Standard No. 131 be amended to make the replacement bulbs and lenses subject to the requirements of the standard is based on the assumption that such a requirement is necessary for safety. Specifically, the petitioner stated that the amendment would ensure that the standard is "not abused over time as worn parts and components are replaced."

In determining whether to extend Standard No. 131's requirements to aftermarket replacement parts, the agency contacted Specialty Manufacturing Company, the largest manufacturer of stop signal arms. Specialty Manufacturing explained that the bulbs installed in the flashing lamps are the same bulbs used in passenger car stop lamps. In addition, the replacements are normally bought directly from Specialty Manufacturing because the lamp lens has a unique shape and hole pattern.

NHTSA has decided not to extend Standard No. 131 to replacement parts. The agency disagrees with the petitioner's contention that inferior replacement parts will be used unless the Standard is amended. The agency notes that the only replacement bulbs available can be assumed to be in compliance with the standard's requirements for stop signal arm bulbs since those bulbs are the same as the bulbs required to comply with the requirements for passenger car replacement lamps under S5.7 of Standard No. 108. The only known source of replacement lamp lens is the original manufacturer, and the agency does not anticipate the entry of low quality replacement bulbs and lamps into the market given the low cost and low volume of this market. Accordingly, the agency has decided to deny the petitioner's request to establish performance requirements for replacement equipment.

NHTSA has determined that an immediate effective date is in the public interest. The amendments made by this notice impose no new requirements but instead either increase manufacturer flexibility or are for purposes of clarification or correction. Since the new Standard No. 131 is effective September 1, 1992, the agency has determined that it is in the public interest to have these amendments become effective at the same time. Absent these amendments, manufacturers availing themselves to this flexibility would be unable to certify that their school buses comply with Standard No. 131.

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

**Rulemaking Analyses and Notices**

*Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures*

NHTSA has analyzed this rulemaking and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency believes that a full regulatory evaluation is not required because the rule will have only minimal economic impacts. The first amendment will affect only a very small number of school buses. Even those school buses with driver's windows which are lower than the passengers' windows will have little or no added difficulty in complying with the modified requirement. Further, there should be no added difficulty in complying with the flash rate requirements of the amendment.

*Regulatory Flexibility Act*

NHTSA has considered the effects of this action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. School bus manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Small governmental units and small organizations are generally affected by amendments to the Federal motor vehicle safety standards as purchasers of new school buses. However, any impact on small entities from this action will be minimal since the amendments make minimal changes in the final rule that will not impose additional costs. Accordingly, the agency has determined that preparation of a regulatory flexibility analysis is unnecessary.

*Executive Order 12612 (Federalism)*

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

*National Environmental Policy Act*

NHTSA has also analyzed this rulemaking action for purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

**List of Subjects in 49 CFR Part 571**

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

**PART 571—[AMENDED]**

1. The authority citation for part 571 of Title 49 continues to read as follows:

**Authority:** 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

**§ 571.131 [Amended]**

2. In Section 571.131, the title of the section is revised to read as follows:

**§ 571.131 Standard No. 131; School bus pedestrian safety devices.**

*Standard No. 131, S5.4 [Amended]*

3. In Standard No. 131, S5.4 is revised to read as follows:

* * * * *

S5.4 The stop signal arm shall be installed on the left side of the bus.

S5.4.1 The stop signal arm shall be located such that, when in the extended position:

(a) The stop signal arm is perpendicular to the side of the bus, plus or minus five degrees;

(b) The top edge of the stop signal arm is parallel to and not more than 6 inches from a horizontal plane tangent to the lower edge of the frame of the passenger window immediately behind the driver's window; and

(c) The vertical centerline of the stop signal arm is not less than 9 inches away from the side of the school bus.

S5.4.2 A second stop signal arm may be installed on a school bus. That stop signal arm shall comply with S5.4 and S5.4.1.

* * * * *

*Standard No. 131, S6.2.2 [Amended]*

4. In Standard No. 131, S6.2.2 is revised to read as follows:

S6.2.2 *Flash Rate.* The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash at a rate of 60 to 120 flashes per minute with a current "on" time of 30 to 75 percent. The total of the percent current "on" time for the two terminals shall be between 90 and 110.

Issued on: August 28, 1992.

Marion C. Blakey,

*Administrator, Acting.*

[FR Doc. 92-21148 Filed 9-1-92; 8:45 am]

BILLING CODE 4910-59-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 653

[Docket No. 920648-2206]

RIN 0648-AE75

## Red Drum Fishery of the Gulf of Mexico

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 3 to the Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (FMP). This final rule removes from the regulations the detailed procedures applicable to the Gulf of Mexico Fishery Management Council (Council) and NMFS for assessing the stock and determining the allowable biological catch (ABC) of red drum; removes from the regulations language specifying that, at such time as a catch of red drum is allowed, a person landing red drum, other than from a directed commercial fishery, must comply with the landing and possession laws of the state where landed; and makes other minor corrections and clarifications to the regulations. In addition, Amendment 3 changes the requirement that the procedure for stock assessments, panel reports, and setting ABC and total allowable catch (TAC) be commenced prior to October 1 every year to "prior to October 1 every other year or at such time as agreed upon by the Council and the Regional Director," Southeast Region, NMFS. The intended effects of this rule are to simplify the regulations by removing administrative procedures that are not applicable to the conduct of the red drum fishery; to comply with a ruling by the U.S. District Court for the District of Columbia; and to ease an unnecessarily burdensome requirement for stock assessments, panel reports, and findings regarding ABC and TAC.

**EFFECTIVE DATE:** October 2, 1992.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Sadler, 813-893-3161.

**SUPPLEMENTARY INFORMATION:** The red drum fishery is managed under the FMP, prepared and amended by the Council, and its implementing regulations at 50 CFR part 653 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The background and rationale for the measures in this final rule, and for the change in the procedure for stock assessments, panel reports, and setting ABC and TAC, are set forth in the preamble to the proposed rule (57 FR 26814, June 16, 1992) and in Amendment 3, the availability of which was announced (57 FR 23199, June 2, 1992), and are not repeated here.

No comments were received on the proposed rule.

### Changes from the Proposed Rule

NMFS has determined that removal from the regulations of the procedures for stock assessment and analysis of the red drum resource and for revising the management measures, in their entirety, may deprive fishermen and other interested persons of necessary information regarding the possible future establishment of an allowable catch of red drum from the EEZ. Accordingly, in lieu of being removed, § 653.24 is revised to remove the detailed procedures while still apprising interested persons of the frequency of stock assessment and analysis and the general method for revising the management measures. Details of those procedures are contained in the FMP.

### Classification

The Secretary determined that Amendment 3 is necessary for the conservation and management of the red drum fishery and that it is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this final rule is not a "major rule" requiring the preparation of a regulatory impact analysis under Executive Order 12291.

The Council prepared a regulatory impact review (RIR) for Amendment 3, which concludes that this final rule will reduce costs.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared.

The Council prepared an environmental assessment (EA) as part of Amendment 3 that discusses the impact on the environment as a result of this rule. Based on the EA, the Assistant Administrator concluded that there will be no significant impact on the human environment as a result of this rule.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Alabama, Florida, Louisiana, and Mississippi. Texas does not participate in the coastal zone management program. These determinations were submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Louisiana agreed with the determination. Alabama, Florida, and Mississippi did not respond during the statutory time period; therefore, state agency agreement with the consistency determination is automatically inferred.

This final rule does not contain a collection-of-information requirement

for purposes of the Paperwork Reduction Act.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

**List of Subjects in 50 CFR Part 653**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 28, 1992.

**William W. Fox, Jr.,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 653 is amended as follows:

## PART 653—RED DRUM FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 653 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

**§ 653.2 [Amended]**

2. In § 653.2, the definitions for *Commercial fishing (fishery)*, and *Directed commercial red drum fishing (fishery)* are removed.

**§ 653.3 [Amended]**

3. In § 653.3, paragraph (c) is removed.

4. In § 653.7, paragraph (d) is revised to read as follows:

**§ 653.7 Prohibitions.**

* * * * *

(d) Fail to release immediately with a minimum of harm a red drum caught in the EEZ; or possess a red drum in or from the EEZ, as specified in § 653.22(a).

* * * * *

**§ 653.22 [Amended]**

5. In § 653.22, the section heading is revised to read *Harvest and possession limitations.*

6. Section 653.24 is revised to read as follows:

**§ 653.24 Adjustment of management measures.**

Prior to October 1 every other year or such time as agreed upon by the Council and the Regional Director, the Science and Research Director will prepare a stock assessment and analysis of the red drum resource. Based on a stock assessment and analysis, and in accordance with the procedures specified in the FMP, the Council may establish TAC and user group allocations by amendment to the FMP.

[FR Doc. 92-21152 Filed 9-1-92; 8:45 am]

BILLING CODE 3510-22-M

**50 CFR Part 661**

**[Docket No. 920412-2112]**

## Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS announces the closure of the commercial fishery in the exclusive economic zone (EEZ) from the U.S.-Canada border to Cape Falcon, Oregon, at 0001 hours, August 26, 1992. The Director, Northwest Region, NMFS (Regional Director), determined that the harvest guideline of 17,600 coho salmon has been reached and the fishery, which closed at midnight, August 22, 1992, should not be reopened. This action is necessary to conform to the preseason announcement of the 1992 management measures and is intended to ensure conservation of coho salmon.

**DATES:** Effective at 0001 hours local time, August 26, 1992. Actual notice to affected fishermen was given prior to the time the fishery was scheduled to reopen (0001 hours local time, August 26, 1992) through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.23. Comments will be accepted through September 16, 1992.

**ADDRESSES:** Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700-Bldg. 1, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at (206) 526-6140.

**SUPPLEMENTARY INFORMATION:** In its emergency interim rule and notice of 1992 management measures (57 FR 19388, May 6, 1992), NMFS announced that the 1992 commercial fishery between the U.S.-Canada border and Cape Falcon, Oregon, would open July 20 and continue through the earliest of August 31 or attainment of harvest guidelines of either 18,100 coho salmon or 4,400 chinook salmon. These harvest guidelines have since been revised to be 17,600 coho salmon and 9,700 chinook salmon (57 FR 36021, August 12, 1992).

The last opening of this fishery was on August 20-22, 1992, followed by a 3-day closure.

Based on the best available information on August 24, the commercial catch in the subarea from the U.S.-Canada border to Cape Falcon totaled about 18,900 coho salmon and about 8,700 chinook salmon. Unlike fisheries managed under quotas that require closure upon the projected attainment of the quota, fisheries managed under harvest guidelines do not require closure upon the projected attainment of the guideline. However, it was determined that the commercial fishery from the U.S.-Canada border to Cape Falcon, Oregon, would be managed to keep catches near the guideline levels. Therefore, the commercial fishery in this subarea, which closed at 2400 hours local time, August 22, 1992, will remain closed for the duration of its scheduled 7/20-8/31 season. Closure of this fishery is authorized by regulations at 50 CFR 661.21(b)(1)(i).

In accordance with the inseason notice procedures of 50 CFR 661.23, actual notice to fishermen of this action was given prior to 0001 hours local time, August 26, 1992, by telephone hotline number (206) 526-6667 or (800) 662-9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 Khz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington, Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding the closure of the commercial fishery between the U.S.-Canada border and the Cape Falcon. The states of Washington and Oregon will manage the commercial fishery in the State waters adjacent to this area of the EEZ in accordance with this Federal action. This notice does not apply to treaty Indian fisheries or to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment.

**Classification**

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

**List of Subjects in 50 CFR Part 661**

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 27, 1992.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 92-21131 Filed 9-1-92; 8:45 am]

BILLING CODE 3510-22-M

## 50 CFR Part 661

**[Docket No. 920412-2112]**

## Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Inseason adjustment.

**SUMMARY:** NMFS announces that for the commercial fishery from Cape Falcon to Cascade Head, Oregon, up to 25 coho salmon may be landed before the species ratio landing restriction of at least 1 chinook salmon for every 2 coho salmon is required, and there may be no more than 1 landing per day, beginning August 22, 1992. The Director, Northwest Region, NMFS (Regional Director), has determined the landing restriction should be relaxed to provide commercial fishermen with additional opportunity to harvest coho salmon before the scheduled closure on August 31, 1992. This action is intended to maximize the harvest of coho salmon without exceeding the ocean share allocated to the commercial fishery in this subarea.

**DATES:** Effective at 0001 hours local time, August 22, 1992. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.23. Comments will be accepted through September 16, 1992.

**ADDRESSES:** Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700–Bldg. 1, Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at (206) 526–6140.

**SUPPLEMENTARY INFORMATION:** In its emergency interim rule and notice of 1992 management measures (57 FR 19388, May 6, 1992), NMFS announced that the 1992 commercial fishery for all salmon species between Cape Falcon and Florence South Jetty, Oregon, would open July 22 and continue through the earliest of August 31 or attainment of either the coho salmon ceiling south of Cascade Head, Oregon, or the overall coho salmon quota south of Cape Falcon, Oregon. The coho salmon ceiling south of Cascade Head was reached and the commercial fishery from Cascade Head to the U.S.-Mexico border was closed to coho salmon fishing at midnight, August 7, 1992 (57 FR 36608, August 14, 1992). The commercial fishery in the subarea from Cape Falcon to Cascade Head has continued as scheduled for all salmon species. Preseason restrictions still in effect for the commercial fishery between Cape Falcon and Cascade Head include a species ratio landing restriction such that at least 1 chinook salmon must be landed for each 2 coho salmon landed, except that a landing of 2 coho salmon and no chinook salmon is allowed.

Based on the best available information on August 18, 1992, the commercial catch south of Cape Falcon totaled about 46,900 coho salmon through August 16, 1992. Therefore, about 10,100 fish of the overall catch quota of 57,000 coho salmon south of Cape Falcon are available for harvest by the commercial fishery between Cape Falcon and Cascade Head before its scheduled closure on August 31, 1992. Commercial fishing representatives requested additional opportunity to harvest the remaining coho salmon while extending the season for all salmon species for as long as possible through August 31, 1992. Therefore, the commercial fishery in the subarea from Cape Falcon to Cascade Head is modified to allow up to 25 coho salmon to be landed before the species ratio landing restriction of at least 1 chinook salmon being landed for each 2 coho salmon landed is required, and there may be no more than 1 landing per day. Modification of limited retention regulations is authorized by regulations at 50 CFR 661.21(b)(1)(ii).

In accordance with the inseason notice procedures of 50 CFR 661.23, actual notice to fishermen of this action was given prior to 0001 hours local time, August 22, 1992, by telephone hotline number (206) 526–6667 or (800) 662-9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 KHz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Oregon Department of Fish and Wildlife regarding the adjustment affecting the commercial fishery between Cape Falcon and Cascade Head. The State of Oregon will manage the commercial fishery in State waters adjacent to this area of the exclusive economic zone in accordance with this Federal action. This notice does not apply to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment.

### Classification

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

### List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 27, 1992.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 92-21078 Filed 9-1-92; 8:45 am]

BILLING CODE 3510-22-M

## 50 CFR Part 663

**[Docket No. 920400-2100]**

## Pacific Coast Groundfish Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Release of reserve.

**SUMMARY:** NMFS announces the release of the 30,000-mt reserve of Pacific whiting for at-sea processing in the Pacific coast groundfish fishery off Washington, Oregon, and California. This action is intended to provide for full utilization of the Pacific whiting resource by U.S. fishermen and processors.

**DATES:** Effective from 0001 hours (local time) September 4, 1992, until modified, superseded, or rescinded.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at (206) 526–6140; or Rodney McInnis at (310) 980–4040.

**SUPPLEMENTARY INFORMATION:** The emergency interim rule allocating the 1992 Pacific whiting resources at 50 CFR 663.23(b)(5) (57 FR 13661, April 17, 1992, extended at 57 FR 32181, July 21, 1992) initially limited the amount of the 1992 Pacific whiting (whiting) harvest guideline of 208,800 metric tons (mt) that could be processed at sea in the exclusive economic zone to 98,800 mt, with 80,000 mt set aside for shoreside processing and the remaining 30,000 mt