

flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
CALIFORNIA	
Pleasanton (City), Alameda County (FEMA Docket No. 7194)	
<i>Arroyo Mocho:</i>	
Just above Santa Rita Road ...	*336.
At intersection of Stoneridge Drive and Moreno Avenue.	None.
At intersection of Boardwalk Street and West Las Positas Boulevard.	None.
500 feet upstream of confluence of Arroyo Las Positas.	*351.
<i>Arroyo Las Positas:</i>	
At intersection of Pimlico and Fairlands Drives.	None.
At confluence with Arroyo Mocho.	*345.
Maps are available for inspection at the City of Pleasanton City Office, Public Works Department, 200 Old Bernal Avenue, Pleasanton, California.	
OKLAHOMA	
Marshall County (Unincorporated Areas) and Madill (City) (FEMA Docket No. 7206)	
<i>Glasses Creek:</i>	
Approximately 4,000 feet downstream of Burlington Northern Railroad.	*732.
Approximately 60 feet upstream of Burlington Northern Railroad.	*750.
Just upstream of U.S. Highway 70.	*757.
<i>Whiskey Creek:</i>	
Approximately 1,200 feet downstream of Burlington Northern Railroad.	*761.
Just upstream of State Route 99.	*792.
<i>Whiskey Creek Tributary:</i>	
Approximately 70 feet downstream of Park Road.	*785.
Just upstream of Park Road	*791.
Maps are available for inspection at the Marshall County Courthouse, Madill, Oklahoma.	

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for inspection at the City of Madill City Hall, 201 East Overton Street, Madill, Oklahoma.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 22, 1997.

Richard W. Krimm,
Executive Associate Director, Mitigation Directorate.

[FR Doc. 97-14429 Filed 6-2-97; 8:45 am]

BILLING CODE 6718-04-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1312

[STB Ex Parte No. 618]

Regulations for the Publication, Posting and Filing of Tariffs for the Transportation of Property by or With a Water Carrier in the Noncontiguous Domestic Trade

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Board makes technical amendments to the final rule published on April 18, 1997, to ensure that the intended application of the rule is not misunderstood with respect to electronic filings, and in all other respects denies the petition for reconsideration.

EFFECTIVE DATE: These rules are effective June 3, 1997.

FOR FURTHER INFORMATION CONTACT: James W. Greene, (202) 565-1578. [TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: The Caribbean Shippers Association, Inc. (CSA), filed a petition on April 22, 1997, requesting the Board to reopen and reconsider its final rules decision served April 17, 1997 (62 FR 19058). CSA contends that the Board committed legal error by impermissibly permitting carriers that utilize the Automated Tariff Filing and Information System (ATFI), an electronic tariff filing system developed by the Federal Maritime Commission (FMC), to avoid the

mandatory requirements of the posting provisions of 49 U.S.C. 13702(b)(1).¹

The provisions of 49 U.S.C. 13702(b)(1) require that carriers publish, file with the Board and keep available for public inspection tariffs containing the rates established for transportation or service in the noncontiguous domestic trade, and that the Board prescribe the form and manner of publishing, filing and keeping such tariffs available for public inspection. In our final rules, we provided that carriers could, at their election, meet the tariff requirements of section 13702(b)(1) by using FMC's ATFI system, and by following all of the posting and filing rules contained in the FMC's regulations at 46 CFR part 514.² Our regulations provided that noncontiguous domestic trade tariffs properly filed through the ATFI system would be deemed to be filed with us.³

In seeking reconsideration, CSA asserts that the posting requirements in 46 CFR part 514 are not applicable to electronic tariffs filed with the Board, but that, if they are, they do not comport with the requirements of section 13702(b)(1). CSA's position is incorrect.

At the outset, it is clear from our final rules that the posting requirements in 46 CFR part 514 apply to ATFI tariffs filed with the Board. Indeed, CSA cites in its petition a portion of the discussion in our decision that makes such intent abundantly clear. Nevertheless, to remove any doubt, we will modify paragraphs (b) and (d) of § 1312.17 to specifically include the word "posting." These amendments, which further clarify what we believe were already clear regulations, will become effective upon publication.

CSA also seems to assert that the FMC's posting requirements, which we have adopted verbatim in the revised regulations, do not satisfy the law, and it asks that we modify them to "make it

very clear that U.S. governmental ATFI charges may not be assessed by the carriers for the posting compliance required by section 13702(b)(1)." CSA's point is far from clear, but we will address its statement as well as we can.

At the outset, we note that the posting requirements of 49 U.S.C. 13702, which are implemented in 46 CFR 514.8, require each carrier in the noncontiguous domestic trade to "make available to the public at each facility at which it receives freight * * * for transportation, or at which it employs a general or sales agent, all tariff material governing transportation to and from the facility in question." 46 CFR 514.8(k)(1)(i)(B). In addition to these provisions requiring carriers to provide free access to rate information at their places of business, the general provisions of 46 CFR 514.8(k)(1)(i)(A) require that every carrier using the ATFI system "promptly make available to the public in paper or electronic form and at a reasonable charge (such as for a regular subscription under § 514.15(b)(30)) all tariff material required by this part to be filed." All of these posting requirements apply to carriers, not to the U.S. Government.

CSA seems to equate the provisions of 46 CFR 514.8(k)(1)(i)(A), which permit carriers to charge fees for requests for tariffs other than those made by persons who appear at the carrier's places of business, with "U.S. Governmental ATFI charges." The governmental ATFI charges, however, are very different from permissible carrier tariff dissemination charges. The ATFI fee imposed pursuant to 46 CFR 514.21(g) for remote electronic retrieval is a charge assessed by the United States Government to recover the costs of alternative tariff access that is provided by the United States Government;⁴ it is not a charge assessed by carriers to comply with the posting requirement. The remote access for which the Government assesses a charge is not provided pursuant to the posting requirement. Rather, it is simply an alternative form of access made available by the United States Government to persons who might prefer to obtain tariff information from the Government rather than from the

carrier pursuant to the posting requirement.

CSA appears to suggest, as it did in its response to the notice of proposed rulemaking (NPR) served December 20, 1996 (61 FR 67291), that no shipper should ever have to pay for any rate information on an ATFI shipment, because the carrier should be required to make electronic tariff information available to any person, through dial-up access by modem, without charge. As we noted in our prior decision, the existing FMC regulations, including the regulations permitting carriers to charge shippers for off-premise tariff information, have been in effect for many years. CSA has presented absolutely no support for its proposal to change these regulations, and we will not adopt it. The existing regulations provide means by which shippers can obtain free tariff information. To require carriers to adapt their existing systems so that any shipper can obtain free tariff information by modem would clearly entail additional costs. As the existing regulations plainly provide all that is required under the statute,⁵ and as CSA has not even attempted to show why the carriers, rather than CSA's members, should bear the cost of rate dissemination beyond that required by the statute, CSA's petition for reconsideration will be denied.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1312

Motor carriers, Noncontiguous domestic trade, Tariffs, Water carriers.

Decided: May 22, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1312 of the Code of Federal Regulations is amended as follows:

¹ Prior to October 1, 1996, the requirements for electronically filed tariffs in the noncontiguous domestic trade were administered by the FMC. On October 1, 1996, in conjunction with the ICCTA's transfer of jurisdiction over port-to-port water carrier transportation in the noncontiguous domestic trade from FMC to the Board, the FMC requirements were adopted for tariffs filed electronically with the Board. See Electronic Filing of Noncontiguous Domestic Trade Tariffs, Special Tariff Authority No. 4, served October 1, 1996.

² The conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 103 (1995) (ICCTA), urged the Board to continue the FMC's practice of allowing carriers to file their noncontiguous domestic trade tariffs electronically. H. R. Rep. No. 422, 104th Cong., 1st Sess. 206 (1995).

³ The Board and the FMC entered into an interagency agreement to provide for the use of the ATFI system for tariffs covering services subject to the Board's jurisdiction.

⁴ As in the case of printed tariff information available at the Board's office, any person may obtain free access to noncontiguous domestic trade ATFI tariffs at the Board's office. However, as is the case with copies of printed tariffs, ATFI tariffs that a person requests from a remote location will be provided, but at a fee that contributes to the Government's cost of providing the service.

⁵ We have reviewed the posting requirements set forth at 46 CFR 514.8(k)(1)(i) (A) and (B), and we conclude that they fully comport with the requirements at 49 U.S.C. 13702(b)(1).

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN NONCONTIGUOUS DOMESTIC TRADE

1. The authority citation for part 1312 continues to read as follows:

Authority: 49 U.S.C. 721(a), 13702(a), 13702(b) and 13702(d).

2. In § 1312.17, paragraphs (b) and (d) are revised to read as follows:

§ 1312.17 Electronic filing of tariffs.

* * * * *

(b) *Compliance with FMC requirements.* All tariffs filed electronically must fully comply with the filing and posting procedures, and the data record format and content requirements, established for the ATFI system (see 46 CFR part 514).

* * * * *

(d) *Relief from this part.* Electronically filed tariffs will not be subject to the filing and posting procedures, and the format requirements, for printed tariffs as set forth in §§ 1312.4, 1312.5, and 1312.7 through 1312.15; however, such tariffs must otherwise fully comply with the requirements of this part.

[FR Doc. 97-14457 Filed 6-2-97; 8:45 am]
BILLING CODE 4915-00-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312-7021-02; I.D. 052897A]

Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker and Roughey Rockfish in the Aleutian Islands Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting retention of Pacific cod in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI) by vessels using trawl gear. This action is necessary to prevent overfishing of the shortraker/roughey rockfish species group.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 29, 1997, until 2400

hrs, A.l.t., December 31, 1997. Comments must be received at the following address no later than 4:30 p.m., A.l.t., June 18, 1997.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief,

Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668 [Attn. Lori Gravel], or be delivered to the fourth floor of the Federal Building, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI

exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Magnuson-Stevens Act requires that conservation and management measures prevent overfishing. The 1997 overfishing level for the shortraker/roughey rockfish species group in the Aleutian Islands subarea of the BSAI is established by the Final 1997 Harvest Specifications for Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 1,250 metric tons (mt). The acceptable biological catch level for this group is 938 mt. As of May 10, 1997, 1,206 mt of shortraker/roughey rockfish have been caught.

NMFS closed directed fishing for shortraker/roughey rockfish in the Final 1997 Harvest Specifications of Groundfish and prohibited retention of shortraker/roughey rockfish on April 2, 1997 (62 FR 16736, April 8, 1997). Substantial trawl fishing effort will be directed at remaining amounts of Pacific cod in the Aleutian Islands subarea during 1997. These fisheries can have significant bycatch of shortraker/roughey rockfish.

The Administrator, Alaska Region, NMFS, has determined, in accordance with § 679.25(a)(1)(i) and (a)(2)(iii), that closing the season by prohibiting retention of Pacific cod by vessels using trawl gear is necessary to prevent overfishing of the shortraker/roughey rockfish species group, and is the least restrictive measure to achieve that purpose. Without this prohibition of retention, significant incidental catch of shortraker/roughey rockfish would

occur by trawl vessels targeting Pacific cod.

Therefore, NMFS is requiring that further catches of Pacific cod by vessels using trawl gear in the Aleutian Islands subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b)(2).

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Immediate effectiveness is necessary to prevent overfishing of shortraker/roughey rockfish in the Aleutian Islands subarea of the BSAI. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until June 18, 1997.

Classification

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: May 28, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97-14467 Filed 5-29-97; 4:26 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312-7021-02; I.D. 052897B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Hook-and-Line Gear in Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 30, 1997, until 1200 hrs, A.l.t., September 15, 1997.