

Regulations by distribution of a public notice to all known interested parties.

#### Procedural Requirements

##### *a. Executive Order 12866*

This proposed rule is not a significant regulatory action under E.O. 12866. The Corps expects the economic impact of this rule, if approved, to be so minimal that further regulatory evaluation is unnecessary. We have concluded this because we expect that the proposed change will benefit the commercial towing industry.

##### *b. Review Under the Regulatory Flexibility Act*

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the change to the tow length on the Red River Waterway and mooring locations on the Yazoo Diversion Canal, would have a positive affect on the towing industry and the general public, with no anticipated navigational safety or interference with existing waterway traffic and accordingly, certifies that this proposal, if adopted, will have no significant economic impact on small entities.

##### *c. Review Under the National Environmental Policy Act*

An environmental assessment has been prepared for this action. We have concluded, based on the Red River Waterway increase in tow length and Yazoo Diversion Canal mooring locations, there will not be a significant impact to the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the Corps Vicksburg District Office, in room 129, Regulatory Branch, located at 4155 E. Clay Street, Vicksburg, Mississippi.

##### *d. Collection of information*

This proposed rule contains no collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

##### *e. Federalism*

The Corps has analyze this proposed rule under principles and criteria in E.O. 12612 and has determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### *f. Unfunded Mandates Act*

This proposed rule does not impose an enforceable duty among the private sector and therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found, under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

#### List of Subjects in 33 CFR Part 207

Navigation (water), Transportation, and Lockage.

For the reasons set out in the preamble, we propose to amend 33 CFR Part 207, as follows:

### **PART 207—NAVIGATION REGULATIONS**

The authority citation for Part 207 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1).

2. Section 207.249 is amended by revising paragraphs (b)(5)(iv) to read as follows:

**§ 207.249 Ouachita and Black Rivers, Ark, and La. Mile 0.0 to Mile 338.0 (Camden, Ark.) above the mouth of the Black River; the Red River, La., Mile 6.7 (Junction of Red, Atchafalaya and Old Rivers) to Mile 228.0 (Shreveport, La.); use, administration, and navigation.**

(b) \* \* \*

(5) \* \* \*

(iv) The maximum dimensions on the Red River Waterway of a vessel tow attempting to pass through the lock during normal pool stages in a single passage are 80 feet wide, 705 feet long, and 9 feet draft. Tows requiring breaking into two or more sections to pass through the lock may transit the lock at such time as the lockmaster/lock operator determines that they will neither unduly delay the transit of craft of lesser dimensions, nor endanger the lock structure and appurtenances because of wind, current, and other adverse conditions. These craft are also subject to such special handling requirements as the lockmaster/lock operator finds necessary at the time of transit.

\* \* \* \* \*

3. Section 207.260 is amended by revising paragraphs (c) and (g) to read as follows:

**§ 207.260 Yazoo Diversion Canal, Vicksburg, Miss., from its mouth to the entrance of the upper Vicksburg Harbor Extension.**

\* \* \* \* \*

(c) *Mooring.* No vessel or raft shall be moored along the west bank of the canal

between points Latitude 32°21'22", Longitude 90°53'02" and Latitude 32°20'48", Longitude 90°53'22", which is approximately 2000 feet above and 2000 feet below the public boat launch (foot of Clay Street) at Vicksburg City Front. No vessel or raft shall be moored along the west bank of the canal at any stage from the mouth of the Yazoo Diversion Canal where it enters into the Mississippi River to Latitude 32°20'21", Longitude 90°53'44" which is approximately 1200 feet from the mouth. At stages below 20 on the Vicksburg gage, no vessel or raft shall be moored along the east bank of the canal from the mouth of the Yazoo Diversion Canal where it enters into the Mississippi River to Latitude 32°20'12", Longitude 90°53'41", which is approximately 750 feet from the mouth. When tied up, boats, barges, or rafts shall be moored by bow and stern lines parallel to the bank and as close in as practicable. Lines shall be secured at sufficiently close intervals to insure the vessel or raft will not be drawn away from the bank by winds, current, or other passing vessels. No vessel or raft shall be moored along the banks of the canal for a period longer than five (5) days without written permission from the District Engineer, Corps of Engineers, Vicksburg District Office, 4155 E. Clay St, Vicksburg, Mississippi 39180-3435.

\* \* \* \* \*

(g) *Fairway.* A clear channel not less than 175 feet wide as established by the District Engineer shall be left open at all times to permit free and unobstructed navigation by all types of vessels.

Dated: February 19, 1997.

John P. D'Aniello,

*Deputy Director of Civil Works.*

[FR Doc. 97-5048 Filed 3-4-97; 8:45 am]

BILLING CODE 3710-92-M

### **PANAMA CANAL COMMISSION**

#### **35 CFR Part 103**

#### **RIN 3207-AA40**

#### **Preference in the Transit Schedule/Order of Transiting Vessels; Passenger Steamers Given Preference in Transiting**

**AGENCY:** Panama Canal Commission.

**ACTION:** Notice of proposed rule with request for comments.

**SUMMARY:** This document proposes a test of a revised vessel transit reservation system. The proposed rule incorporates certain new features, including increasing the number of

available reserved transit slots, creation of a third booking period, establishment of new booking fees for transit reservations whenever the total number of vessels awaiting transit is excessively high, and clarification and refinement of procedures concerning cancellations, refunds, and penalties.

The proposed rule being announced also makes certain passenger vessels seeking preference over other vessels in transiting the Panama Canal, that heretofore were exempt, subject to the revised vessel transit reservation system to be tested.

**DATES:** Written comments must be received on or before April 4, 1997.

**ADDRESSES:** Written comments may be mailed to John A. Mills, Secretary, Panama Canal Commission, 1825 I Street, NW, Suite 1050, Washington, DC 20006-5402, Telephone (202) 634-6441, Fax (202) 634-6439, Internet E-Mail: PanCanalWO@AOL.COM.

**FOR FURTHER INFORMATION CONTACT:** John A. Mills, Secretary, Panama Canal Commission, 1825 I Street, NW, Suite 1050, Washington, DC 20006-5402, Telephone (202) 634-6441, Fax (202) 634-6439, Internet E-Mail: PanCanalWO@AOL.COM.

**SUPPLEMENTARY INFORMATION:** On April 1, 1983, the Panama Canal Commission (PCC) implemented the vessel transit reservation system described in 35 CFR 103.8.

Section 1801 of the Panama Canal Act of 1977, as amended (22 U.S.C. 3811), authorizes PCC to prescribe and, from time to time, amend regulations governing the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto.

For the reasons discussed below, PCC proposes to adopt an interim rule to test certain improvements and modifications to the current vessel transit reservation system, formerly known as the Panama Canal Transit Booking System.

Technological advances now permit the shipping industry to schedule vessels for arrival and transit of the Panama Canal earlier than the current 21-day limitation stipulated in 35 CFR 103.8. Additionally, a significant number of Canal customers (especially those who utilize the reservation system) operate on regular fixed schedules that are planned and published as much as a year in advance.

The sixteen (16) reserved transit slots currently available are based on what the sustainable Canal capacity was in 1983 when the current vessel transit reservation system was put into effect. Today, due to major Canal improvements and more efficient use of

PCC's operational resources, the sustainable Canal capacity has been significantly increased, thereby allowing reserved transit slots to be increased to 21.

Under the current vessel transit reservation system, when reduced Canal capacity attributable to maintenance and other factors coincides with unusually high vessel arrivals, transit bookings frequently are suspended. Canal customers complain that it is during just such periods that the vessel transit reservation system is the most beneficial to shipping and, for that reason, Canal authorities should continue taking reservations.

In response to these customers complaints, when due to various operational factors sustained Canal capacity is expected to be reduced, Canal authorities will continue to book transits, although the number of available reserved transit slots may be reduced. To better reflect the market value of the transit reservation service being provided to Canal customers whenever the total number of vessels awaiting transit is excessively high, customers wishing to reserve transit slots during these periods will be required to pay a premium booking fee.

Since 1925, certain passenger vessels have been given preference over other vessels in transiting the Panama Canal; the original justification being that such vessels carried the bulk of overseas travelers and mail and, unlike most other vessels, operated on fixed published schedules. When the current vessel transit reservation system went into effect in 1983, passenger vessels were exempted from the provisions thereof and continued to receive preference in transiting. Today, the focus of the passenger vessel industry is luxury leisure cruising. Also, many other types of vessels now operate on fixed published schedules.

In fairness to all Canal customers seeking timely transits, commercial passenger vessels, as a condition to continuing to receive preference in transiting the Canal, should be required to reserve transit slots and pay prescribed booking fees.

Technological improvements in PCC's communications capabilities will permit Canal customers to request transit reservations 24 hours a day.

Cancellations of transit bookings on short notice by Canal customers is disruptive to vessel transit operations. Shortened deadlines coupled with financial incentives will encourage customers to give Canal authorities greater advance notice of cancellations.

Summarizing, PCC hereby proposes to implement an interim rule, which

would test certain modifications and refinements of the existing rule, in the following particulars:

1. Make commercial passenger vessels subject to the vessel transit reservation system as a condition of continued preferential treatment in transiting;

2. Increase the number of reserved transit slots from 16 to 21;

3. Permit reservation requests to be made via fax, 24 hours a day, with processing handled on a first come-first served basis;

4. Permit transit reservations to be made up to 365 days in advance;

5. Increase booking fee whenever the total backlog of vessels awaiting transit is projected to be, within 48-hours, 90 or more vessels, to \$0.69 per PC/UMS Net Ton;

6. Use shortened deadlines and financial incentives to reduce cancellations of transit bookings on short notice; and

7. Clarify policies and procedures concerning refunds and penalties.

The test of the interim rule will be 120 days in duration, or longer, to afford PCC a fair opportunity to determine whether the refinements to the current rule discussed herein, are feasible and beneficial to PCC and its customers.

PCC strongly encourages all interested persons to submit written data, views or arguments before PCC publishes the interim rule in the Federal Register. All timely written submissions will be considered by PCC. Wherever suggested revisions to the proposed rule are indicated, revisions based thereon will be made. The test of the interim rule will commence upon its publication in the Federal Register, but no earlier than the expiration of the comment period announced in this notice.

PCC is exempt from Executive Order 12866. The provisions of that directive, therefore, do not apply to this proposed rule. Even if the Order was applicable, this proposed rule would not have any significant economic impact on any substantial number of small entities under the Regulatory Flexibility Act of 1980.

Additionally, PCC has determined that implementation of this proposed rule will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of PCC certifies that these proposed regulatory changes meet the applicable standards contained in sections 3(a) and 3(b)(2) of Executive Order No. 12988 of February 7, 1996.

List of Subjects in 35 CFR Parts 103 and 104

General provisions governing vessels, Panama Canal, Vessels.

For the reasons set forth in the preamble, PCC proposes to amend 35 CFR Chapter 1 by removing §§ 103.8 and 103.9, and adding a new part 104 to read as follows:

## **PART 104—VESSEL TRANSIT RESERVATION SYSTEM**

Sec.

- 104.1 Applicability and scope.
- 104.2 Definitions.
- 104.3 Booking periods; allocation of booking slots.
- 104.4 Booked transits.
- 104.5 Passenger vessel preference.
- 104.6 Booking Fees.
- 104.7 Penalties.
- 104.8 Re-scheduling; refunds.
- 104.9 Cancellations.
- 104.10 Regular transits.
- 104.11 Temporary suspension of system.
- 104.12 Further implementation.

Authority: 22 U.S.C. 3811.

### **§ 104.1 Applicability and scope.**

Subject to the limitations imposed by Article III of the 1901 Treaty to Facilitate the Construction of a Ship Canal, entered into by the United States and Great Britain, and by Articles II and VI of the 1977 Treaty concerning the Permanent Neutrality and Operation of the Panama Canal, between the United States and the Republic of Panama, Canal authorities have implemented a vessel transit reservation system that allows vessels desiring transit of the Panama Canal to reserve transit slots by complying with the provisions of this part.

### **§ 104.2 Definitions.**

(a) *Booked for transit* means that a vessel, in advance of arriving at the Canal, has been assigned a specific date by Canal authorities on which it will be moved through the Canal and that the vessel has otherwise complied with the provisions of this part.

(b) *Regular transit* means movement through the Canal of a vessel that has not been booked for transit.

(c) *Required arrival time* means the date and the hour of the day established by Canal authorities as the deadline by which a vessel booked for transit must arrive at a terminus of the Canal in order to transit on its reserved transit date.

### **§ 104.3 Booking periods; allocation of booking slots.**

(a) Vessel agents only may request reserved transit slots for vessels during the following booking periods:

(1) First period—365 to 22 days prior to the requested transit date.

(2) Second period—21 days to 4 days prior to the requested transit date.

(3) Third period—3 to 2 days prior to the requested transit date.

(b) A total of 21 reserved transit slots will be made available for all three booking periods, allocation of which among the booking periods is to be determined by Canal authorities. Canal authorities, from time to time, may adjust the total number of available reserved transit slots to ensure continued safe and efficient operation of the Canal.

### **§ 104.4 Booked Transits.**

(a) The specific order vessels transit the Canal, whether booked or regular transits, shall be determined by Canal authorities. Except as provided in this part, a vessel booked for transit may not transit prior to its reserved transit date, unless Canal authorities determine that assigning the vessel an earlier transit slot would not impair safe and efficient operation of the Canal.

(b) Notwithstanding any subsequent assignment of an earlier transit slot, a vessel booked for transit will be charged the prescribed booking fee.

(c) Substitution of reserved transit slots between or among vessels booked for transit will be permitted only on conditions specified by Canal authorities.

### **§ 104.5 Passenger vessel preference.**

To the extent consistent with efficient operation of the Canal, and subject to being booked for transit, commercial passenger vessels running on fixed published schedules will be given preference over other vessels in transiting, as determined by Canal authorities.

### **§ 104.6 Booking fees.**

(a) The booking fee for reserving a transit slot for a vessel measured in accordance with § 135.13(a) of this chapter, shall be \$0.26 per PC/UMS Net Ton.

(b) The booking fee for reserving a transit slot for a vessel subject to transitional relief measures and measured in accordance with § 135.13(b) of this chapter, shall be \$0.23 per Panama Canal Gross Ton, as specified on the last tonnage certificate issued to the vessel by Canal authorities between March 23, 1976 and September 30, 1994, inclusive.

(c) Notwithstanding any contrary provision, whenever the total number of vessels awaiting transit at both terminuses of the Canal is projected by Canal authorities to be, within 48-hours, 90 or more vessels, any vessel booked for transit that transits the Canal while

this condition is in effect shall automatically be assessed a booking fee of \$0.69 per PC/UMS Net Ton.

(d) Notwithstanding any contrary provision, the minimum booking fee for any vessel booked for transit shall be \$1500.

### **§ 104.7 Penalties.**

(a) The reserved transit slot of a vessel booked for transit will be cancelled by Canal authorities and a penalty fee assessed in a sum that is the greater of the prescribed booking fee or \$1,500, in the following situations:

(1) When a vessel that is subject to transit restrictions (e.g., clear cut, clear-cut daylight) has been booked for transit and does not arrive at a terminus of the Canal by 0200 hours of the day of the scheduled transit;

(2) When a vessel that is not subject to transit restrictions has been booked for transit and does not arrive at a terminus of the Canal by 1400 hours of the day of the scheduled transit; or

(3) When a vessel booked for transit arrives on time but cannot or, at the vessel operator's election, does not transit as scheduled, despite the readiness of Canal authorities to proceed.

(b) Canal authorities may waive assessment of a penalty fee if the vessel agent presents acceptable proof that late arrival of the vessel was due to a medical or humanitarian emergency arising during the voyage, or a naturally occurring, extraordinary phenomenon or event of major proportions that could not have been reasonably predicted in advance.

(c) Failure of the vessel agent to provide complete and accurate information required by Canal authorities when requesting transit bookings may result in rejection of the booking request or cancellation of the vessel's reserved transit slot.

(d) When a vessel's reserved transit slot is cancelled, and unless otherwise directed by the vessel agent, upon arrival, Canal authorities will re-schedule the vessel for regular transit.

### **§ 104.8 Re-scheduling; refunds.**

(a) Except as otherwise provided, a vessel agent, without penalty, may request cancellation of a vessel's reserved transit slot and rescheduling of the vessel for regular transit or, alternatively, may request assignment of an alternate reserved transit slot, in the following situations:

(1) If for whatever reason Canal authorities cancel or significantly delay the transit of a vessel booked for transit that is otherwise ready to proceed as scheduled;

(2) If for whatever reason Canal authorities delay the transit of a vessel booked for transit to such a degree that the delay is likely to cause the vessel to be unable to meet its required arrival time for a later, second reserved transit, booked before the delay of the first reserved transit occurred; or

(3) If a vessel is booked for transit on the assumption that the vessel will pay the booking fee prescribed by § 104.6(a) or (b) but, subsequently, a change in traffic conditions occurs triggering the higher booking fee prescribed by § 104.6(c).

(b) A vessel booked for transit will be deemed to have transited the Canal on its reserved transit date if the vessel arrives at the first set of locks at either terminus of the Canal prior to 2400 hours that day and its in-transit time (ITT) is 18 hours or less. ITT begins when the vessel enters the first set of locks at either Canal terminus and ends when the vessel departs the last set of locks at the opposite terminus. No booking fee will be charged if ITT, through no fault of the vessel, exceeds 18 hours.

#### § 104.9 Cancellations.

(a) A vessel agent may cancel the transit reservation of a vessel by giving notice prescribed by Canal authorities. In such event, and except as otherwise provided, a cancellation fee will be charged. The amount of the fee will depend on the amount of notice (days or hours) received by Canal authorities in advance of the vessel's required arrival time, according to the following schedule:

Advance notice periods	Cancellation fee (the greater of)
31 days or more .....	None.
30 to 11 days .....	20% of booking fee or \$500.
10 to 7 days .....	40% of booking fee or \$750.
6 to 2 days .....	60% of booking fee or \$1,000.
1 day to 8 hours .....	80% of booking fee or \$1,200.

(b) Receipt of notice of cancellation of a transit reservation by Canal authorities after the vessel's required arrival time will result in levy of a cancellation fee equal to the entire prescribed booking fee.

#### § 104.10 Regular Transits.

Vessels not booked for transit will be scheduled for movement through the Canal on the date and in the order determined by Canal authorities. In establishing the daily schedule of vessels to be moved through the Canal, the order in which vessels arrive is only one of several considerations. In general, regular transits will equal or exceed in number, one-half the total number of daily vessel transits.

#### § 104.11 Temporary Suspension of System.

(a) Canal authorities may temporarily suspend, in whole or in part, for whatever period of time deemed necessary, the vessel transit reservation system established by this part, whenever Canal authorities determine that such action is necessary to ensure continued safe and efficient operation of the Canal.

(b) No penalty or fee shall be levied against any vessel booked for transit whose reserved transit slot is cancelled by reason of a temporary suspension of the system pursuant to this section.

#### 104.12 Further Implementation.

In order to ensure safe and efficient operation of the system, Canal authorities may establish additional policies and procedures, define

additional terms and issue clarifications and interpretations not inconsistent with the provisions of this part, which periodically will be published and distributed to Canal customers through notices to shipping or other appropriate means.

Dated: February 28, 1997.  
John A. Mills,  
Secretary, Panama Canal Commission.  
[FR Doc. 97-5396 Filed 3-4-97; 8:45 am]  
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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MO-015-1015(b); FRL-5682-6]

#### Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** The EPA proposes to approve the Asarco Glover, Missouri, lead emission control plan submitted by the state of Missouri on August 14, 1996. The plan was submitted by the state to satisfy certain requirements under the Clean Air Act to reduce lead emissions sufficient to bring the Liberty and Arcadia Townships into attainment with the National Ambient Air Quality Standard for lead.

In the final rules section of the Federal Register, the EPA is approving

the plan as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Comments must be received on or before April 4, 1997.

**ADDRESSES:** Comments may be mailed to Josh Tapp, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Josh Tapp at (913) 551-7606.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule which is located in the rules section of the Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: January 15, 1997.

Dennis Grams,

Regional Administrator.

[FR Doc. 97-5138 Filed 3-4-97; 8:45 am]

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