possibility of an unintended impact on service for the U.S. Pacific northwest. It would also take into account Hawaii's unique position and reliance on maritime commerce, ensuring that ports and commerce in that state are not disadvantaged by the rule. The proposed exceptions are narrowly crafted, and do not undermine the larger objectives of the rule, that is, addressing the restrictive and unfavorable conditions facing U.S. commerce and U.S. companies in Japan's ports which result from the laws and policies of the Government of Japan. It does not appear that service strings or vessel calls other than those listed above would be affected by this proposed language.

We would also note that, except with regard to the two NYK services noted above, further analysis by the Commission since the issuance of the final rule supports and reconfirms our earlier finding that carriers are unlikely to drop port calls or divert services in response to the Commission's fee. Moreover, it has been widely reported in the press that the Japanese carriers have informed their customers that their current services will continue without interruption. Therefore, we would reaffirm that the likelihood of any undue harm to U.S. ports and shippers from the Commission's action appears exceptionally low.

List of Subjects in 46 CFR Part 586

Cargo vessels, Exports, Foreign relations, Imports, Maritime carriers, Penalties, Rates and fares, Tariffs.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b), as amended, Reorganization Plan No. 7 of 1961, 75 Stat. 840, and 46 CFR part 585, part 586 of Title 46 of the Code of Federal Regulations is amended as follows:

PART 586—[AMENDED]

1. The authority citation for Part 586 continues to read as follows:

Authority: 46 U.S.C. app. 876(1)(b); 46 U.S.C. app. 876(5) through (12); 46 CFR Part 585; Reorganization Plan No. 7 of 1961, 26 FR 7315 (August 12, 1961).

2. In § 586.2, paragraph (c) is revised to read as follows:

§ 586.2 Conditions unfavorable to shipping in the United States/Japan trade.

* * * * *

(c) Assessment of fees. A fee of one hundred thousand dollars is assessed each time a designated vessel is entered in any port of the United States from any foreign port or place; provided, however, that no fee is assessed against a designated vessel if:

(1) That vessel has previously been assessed a fee under this section within the past seven days, or

(2) For a vessel calling in the state of Hawaii, that vessel has previously been assessed a fee under this section within the past forty days.

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–9811 Filed 4–14–97; 1:15 pm]

BILLING CODE 6730–01–W

FEDERAL MARITIME COMMISSION

46 CFR Part 586

[Docket No. 96–20]

Port Restrictions and Requirements in the United States/Japan Trade

AGENCY: Federal Maritime Commission.

ACTION: Final rule; delay of effective date, requirement for reporting, and request for comments.

SUMMARY: The Federal Maritime Commission is delaying the effective date of its final rule assessing fees on liner vessels operated by Japanese carriers, in light of recent commitments made by the Government of Japan addressing restrictive and unfavorable conditions for the use of Japanese ports.

DATES: Effective April 13, 1997, delay until September 4, 1997, the effective date of the rules published March 4, 1997 (62 FR 9696), as amended by the Commission April 11, 1997 in a rule to be published April 16, l997. Status reports and comments are due July 1, 1997, and August 5, 1997.

ADDRESSES: Filings and requests for publicly available information should be addressed to:

Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573 (202)523–5725.

FOR FURTHER INFORMATION CONTACT: Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202)523–5740.

SUPPLEMENTARY INFORMATION: On March 4, 1997, the Commission published a final rule pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b), to assess per-voyage fees on Japanese liner carriers, effective April 14, 1997, in response to restrictive and unfavorable requirements for the use of Japanese ports. An amendment to the final rule was issued by the Commission on April 11, 1997, providing that fees would not be assessed twice in a seven day period (or, for port calls in Hawaii, in a 40 day period). In light of commitments made by the Government of Japan in recent bilateral talks with the United States Government addressing the unfavorable conditions identified in the final rule, the Commission has decided to suspend the effective date of the rule.

The Commission issued its final rule after a comprehensive inquiry into restrictions and requirements facing U.S. carriers and U.S. commerce in Japanese ports. The fees were deemed necessary in light of the Commission's identification of a number of conditions unfavorable to shipping warranting action under section 19:

- Shipping lines in the Japan-U.S. trades are not allowed to make operational changes, major or minor, without the permission of the Japan Harbor Transportation Association (''JHTA''), an association of Japanese waterfront employers operating with the permission of, and under the regulatory authority and ministerial guidance of, the Japan Ministry of Transport (''MOT'').
- JHTA has absolute and unappealable discretion to withhold permission for proposed operational changes by refusing to accept such proposals for ''prior consultation,'' a mandatory process of negotiations and pre-approvals involving carriers, JHTA, and waterfront unions.
- There are no written criteria for JHTA's decisions whether to permit or disallow carrier requests for operational changes, nor are there written explanations given for the decisions.
- JHTA uses and has threatened to use its prior consultation authority to punish and disrupt the business operations of its detractors.
- JHTA uses its authority over carrier operations through prior consultation as leverage to extract fees and impose operational restrictions, such as Sunday work limits.
- JHTA uses its prior consultation authority to allocate work among its member companies, by barring carriers and consortia from freely choosing operators and by compelling shipping

lines to hire additional, unneeded stevedore companies or contractors.

- MOT administers a licensing standard which blocks new entrants from the stevedoring industry in Japan, protecting JHTA's dominant position, and ensuring that the stevedoring market remains entirely Japanese.
- Because of the restrictive licensing requirement, U.S. carriers cannot perform stevedoring or terminal operating services for themselves or third parties in Japan, as Japanese carriers do in the United States.

In the rule, the Commission observed that these conditions were matters of longstanding concern to the United States Government, and that repeated diplomatic efforts to resolve them had been unsuccessful. Since the rule was issued, the United States Government has undertaken a number of discussions, diplomatic approaches, and consultations to persuade the Government of Japan to remedy the conditions identified in the rule. The most recent and most intensive of these efforts was a series of consultations, commencing April 2, 1997, and concluding Friday, April 11, 1997. At that time, the two sides signed a Memorandum of Consultation containing a series of statements and agreements concerning Japanese port practices, licensing, and prior consultation.

With regard to licensing, the Japanese side confirmed that license applications meeting the standards stipulated in the Port Transportation Business Law will be approved by MOT within approximately four months of receipt when such applications meet the following criteria:

1. They are submitted by foreign carriers and their subsidiaries;

2. They are for General Port Transportation Business Licenses as set forth in Article 3, Section 1 of the Port Transportation Business Law and/or Port Stevedoring Business Licenses as set forth in Section 2 of the same article; and

3. They are for operations to be conducted for the applicant's (or the applicant's parent's) own account and/or for its consortia partners and third parties at berths leased in a containership port by the applicant (or the applicant's parent).

The Japanese side stated that MOT is knowledgeable regarding the operations of U.S. carriers and their consortia partners in Japan's ports and that, based on this knowledge, completed applications by these companies for operations at berths leased by the applicant (or the applicant's parent) would be in compliance with the law and, accordingly, will be approved.

With regard to prior consultation, the Japanese Government explained that, under the leadership of MOT, concerned parties have endorsed an agreement that provides a framework for reforming the prior consultation system by July 31, 1997. MOT stated that it will continue to use its ''maximum effort,'' and clarified a number of other points, including: prior consultation will not be used to allocate work among operators; all carriers have freedom to contract with any operator; all requests for prior consultation will be considered; the so-called ''pre-pre-prior consultation'' will not be required. The U.S. side stressed four important goals to be achieved by July 31, 1997, relating to the elimination of minor matter consultations, the process of major matter consultations, the definition of ''major'' and ''minor'' matters, and the implementation of a transparent appeals process under MOT direction.

As was agreed in the talks, at the conclusion of the consultations a letter was sent by the head of the U.S. delegation, Maritime Administrator A.J. Herberger, to FMC Chairman Harold J. Creel, Jr., stating that the discussions were conducted in good faith and represent a reasonable basis for the Commission not to impose the proposed sanctions on April 14, 1997.

In the wake of the signing of the Memorandum of Consultation, comments were submitted by the U.S. carriers, American President Lines, Ltd. and Sea-Land Service, Inc., and a response was filed by Japanese carriers Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Nippon Yusen Kaisha.

The U.S. carriers call MOT's commitments on licensing ''meaningful'' and ''excellent progress.'' With regard to the approach on prior consultation, the U.S. carriers state that, since the process has been dominated by JHTA, they see ''obvious risks.'' However, they state that MOT has shown new leadership in convening this process and has undertaken to use its best efforts to reach a conclusion satisfactory to all parties. Expressing the belief that MOT guidance is significant and holds promise for reform in the near term, the U.S. carriers state that it would be appropriate to give this process time to work without the distraction of imposed sanctions.

The Commission agrees. The Government of Japan's commitments on licensing are highly laudable, and, once implemented, will go far toward providing the type of reciprocal treatment in Japan that Japanese carriers enjoy in this country. The approach agreed on will benefit not just the carriers involved, but also all oceanborne trade and commerce between the U.S. and Japan.

The Commission remains concerned about the prior consultation system, and the attendant market power enjoyed by JHTA. However, in light of the fact that the approach described in the Memorandum of Consultation has been agreed to by the parties, we find that it would be appropriate to allow that process an opportunity to achieve results without the imposition of sanctions. MOT's recently demonstrated commitment to action and oversight in this area has renewed our optimism that the necessary reforms will be implemented in a timely manner.

The U.S. carriers recommend deferring the effectiveness of the final rule until August 30, 1997. The Japanese carriers, however, suggest that the effectiveness of the final rule be suspended indefinitely. The Commission has elected to adopt the U.S. carriers' suggestion and defer the rule's effectiveness until a date certain. The Commission appreciates the commendable efforts made thus far by the Government of Japan, both in making the above-described commitments and clarifications in the consultations, and also in convening and leading the ongoing discussions in Japan. The Commission has accordingly determined that the imposition of fees is not warranted at this time. Moreover, the Commission has the highest respect for, and confidence in, MOT officials. However, the basis of the Commission's rule is the unfavorable conditions which exist in Japanese ports. Until such conditions are substantially remedied, in a concrete and identifiable way, the Commission cannot permanently suspend or withdraw the rule. Therefore, the effectiveness of the rule is suspended until September 4, 1997.[1] The Commission has elected to require the carriers to file status reports describing developments relevant to this proceeding.[2] If warranted, the

[1] The date suggested by the U.S. carriers would meet our objectives of affording the parties an opportunity to conclude the consultative process and submit reports, and giving the Commission the opportunity to further evaluate the results. However, the proposed date falls during a holiday weekend.

[2] Section 19(6) of the Merchant Marine Act, 1920, 46 U.S.C. app. § 876(6), states:

(a) the Commission may, by order, require any person * * * to file with the Commission a report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate; (b) the Commission may require a report or answers to questions to be made under oath;

* * * * *

Commission will reassess the suspension of the rule based on the information submitted.

Therefore, it is ordered That the effective date of the rules published March 4, 1997 (62 FR 9696), as amended by the Commission April 11, 1997 (in a rule to be published April 16, 1997), amending Part 586 of Title 46 of the Code of Federal Regulations, is hereby suspended until September 4, 1997.

It is further ordered, That the following parties are ordered to file reports with the Commission on July 1, 1997, and August 5, 1997: American President Lines, Ltd.; Sea-Land Service, Inc.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; and Nippon Yusen Kaisha. These reports should describe, in detail:

- the status of the consultative process to reform the prior consultation system;
- any planned or implemented changes to the prior consultation system, and the observed or expected effects of these changes;
- the role of the Government of Japan in any future prior consultation system or related review or appeals process;
- the extent to which carriers in Japan have freedom to contract with any port transportation business operator;
- the status of any efforts by U.S. carriers to secure licenses to operate port transportation businesses or to establish such businesses;
- any other information relevant to this proceeding that parties wish to bring to the attention of the Commission.

It is further ordered, That any other persons with information relevant to this proceeding may submit comments for the Commission's consideration, due on July 1, 1997, and August 5, 1997.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–9903 Filed 4–14–97; 1:15 pm]

BILLING CODE 6730–01–W

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–241; RM–8928]

Radio Broadcasting Services; Minden and Natchitoches, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ninety-Five Point Seven, Inc., licensee of Station KASO(FM), Channel 239A, Minden, Louisiana, and Bundrick Communications, Inc., licensee of Station KZBL(FM), Channel 240A, Natchitoches, Louisiana, substitutes Channel 239C2 for Channel 239A at Minden and modifies the license of Station KASO(FM) to specify the higher powered channel. To accommodate the upgrade at Minden, the Commission also substitutes Channel 264A for Channel 240A at Natchitoches, and modifies the license of Station KZBL(FM) to specify the alternate Class A channel. *See* 61 FR 65508, December 13, 1996, and Supplemental Information, *infra.* With this action, this proceeding is terminated.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–241, adopted April 2, 1997, and released April 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

All channels can be allotted to the above-noted communities in compliance with the Commission's minimum distance separation requirements. Channel 239C2 can be allotted to Minden with a site restriction of 9.2 kilometers (5.7 miles) northwest. The coordinates for Channel 239C2 are 32–39–06 NL and 93–22–15 WL. Channel 264A can be allotted to Natchitoches at the transmitter site specified in Station KZBL(FM)'s license. The coordinates for Channel 264A at Natchitoches are 31–48–18 NL and 93–01–29 WL.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 239A and adding Channel 239C2 at Minden; and by removing Channel 240A and adding Channel 264A at Natchitoches.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–9826 Filed 4–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–224, RM–8906]

Radio Broadcasting Services; Clear Lake, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lac Qui Parle Broadcasting Company, Inc., allots Channel 296C3 at Clear Lake, South Dakota, as the community's first local aural transmission service. *See* 61 FR 60067, November 26, 1996. Channel 296C3 can be allotted to Clear Lake in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 kilometers (1.6 miles) southwest to avoid a short-spacing to the licensed site of Station KMGK(FM), Channel 296A, Glenwood, Minnesota. The coordinates for Channel 296C3 at Clear Lake are North Latitude 44–44–21 and West Longitude 96–42–38. With this action, this proceeding is terminated.

DATES: Effective May 27, 1997. The window period for filing applications for Channel 296C3 at Clear Lake, South Dakota, will open on May 27, 1997, and close on June 27, 1997.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–224, adopted April 2, 1997, and released April 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription

(d) a person who fails to file * * * information required to be filed under this paragraph shall be liable to the United States Government for a civil penalty of not more than $5000 for each day that the information is not provided.