

Coverage D—Increased Cost of Compliance

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The limit of liability under this Coverage D (Increased Cost of Compliance) is \$20,000. * * *

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(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance"; No. 83.516, "Disaster Assistance")

Dated: December 13, 1999.

Jo Ann Howard,

Administrator,

Federal Insurance Administration.

[FR Doc. 99-32657 Filed 12-15-99; 8:45 am]

BILLING CODE 6718-03-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 211, 235, 238 and 240

[Docket No. FRA-99-6625, Notice No. 1]

RIN 2130-AB37

Revised Docket Filing Procedures for Federal Railroad Administration Rulemaking and Adjudicatory Dockets

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Railroad Administration has consolidated its docket operations with those of other Department of Transportation operating elements. DOT's nine separate docket facilities have been consolidated into the Centralized Docket Management System and have been converted from a paper-based system to an optical imaging system for more efficient storage, management and retrieval of docketed information. This conversion is intended to provide better service and more widespread access to both the public and government users. This final rule provides details of new docket filing procedures for FRA regulatory and adjudicatory proceedings.

This final rule also amends certain FRA rules to provide accurate information to the public regarding filing requirements for FRA proceedings.

DATES: This final rule is effective February 14, 2000.

ADDRESSES: Dockets opened after September 15, 1998, are available for inspection and copying in DOT's Central Docket Management System located in room PL-401 at the Plaza level of the Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. Docket materials filed in the

Central Docket Management System are also available for viewing and downloading on the Internet at <http://dms.dot.gov>.

All rulemaking comments, comments pertaining to regulatory waiver dockets, railroad block signal applications, special approval proceedings, and submissions related to adjudicatory dockets (e.g. hearings on engineer certification denials or revocations) should be submitted to DOT's Central Docket Management System, 401 Plaza level, Nassif Building at the U.S. Department of Transportation, Room PL 401, 400 Seventh Street, SW, Washington, DC 20590-0001 between the hours of 10 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Mark Tessler, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Avenue, N.W., Mail Stop 10, Washington, D.C. 20590 (telephone 202-493-6061) (e-mail address: mark.tessler@fra.dot.gov).

SUPPLEMENTARY INFORMATION: On March 15, 1995, DOT issued a public meeting notice (60 FR 14050) concerning the centralization and computerization of DOT dockets. On June 10, 1996, at 61 FR 29282, the Office of the Secretary (OST) published a final rule revising the filing procedures for OST dockets. FRA's transition to the DOT-wide Central Docket Management System (Central Dockets) began in September 1998. All new regulatory and adjudicatory dockets established after that date are located in the central docket facility. Therefore, all comments and related documents filed in those proceedings should be sent to the docket facility address listed above. Each **Federal Register** notice requesting comments from the public in a proceeding will contain instructions on how to file comments and where they should be sent. While we prefer that all comments and related documents be sent directly to the new facility, FRA will, for the foreseeable future, ensure that documents sent directly to FRA will be forwarded to the Central Docket. The date of receipt will, however, be the date and time logged in at the Central Docket.

Internet Access to Docket Materials

The change in docket filing procedures announced in this notice will provide the public with unprecedented access to FRA's public dockets. All documents in FRA's public dockets established in the central docket system are accessible through the Internet at <http://dms.dot.gov>. Detailed information is available at that Web site to assist the public in viewing

documents filed in FRA's and other DOT administrations' regulatory and adjudicatory proceedings. In order to view documents, a software program called a document image viewer must be installed on your computer. The Web site listed above provides information as to how such viewer programs (also known as "plug-ins"), which are generally available free of charge, may be downloaded onto your computer. When downloaded, the viewer program installs itself into your current Internet browser to enable the documents to be viewed. In many cases, Internet browsers already contain such plug-ins without the need for additional action by the user.

Filing of Submissions to the Central Docket

Paper Filing

At the present time, to ensure that the highest quality image is captured during the scanning process, we request that documents be typed double spaced on 8½ by 11 inch white paper with dark type (not green) to provide adequate contrast for reproduction. Original documents should be unbound, without tabs, to reduce possible damage to the document during removal of fasteners and to facilitate the use of a high-speed mechanism for automated scanning. Multi-page documents may be clipped with a removable clip or other similar device. Filers are requested to provide one-sided original documents to speed the physical scanning process, but the capability to sort and copy double-sided copies is available. Specific filing instructions will be found on the Central Docket web site. We anticipate that those instructions and technical requirements will periodically change due to advances in document storage and retrieval technology.

In the unlikely event that written materials cannot be scanned they will be stored at FRA's own docket facility and a cross-reference to the location of the material will be noted in the docket file. Similarly, non-scannable items such as videotapes, and non-paper items, will be stored at FRA's docket facility.

Electronic Filing

In addition to traditional paper filings, comments and related files may be submitted electronically to established dockets. Because technology in this area is changing very rapidly, directions and technical requirements for such submissions are not being specified in this notice, but may be found at the Central Docket web site. This will enable the public to take

immediate advantage of changes in technology as they are adopted by the Central Docket. Each **Federal Register** notice requesting comments from the public in a proceeding will contain specific information regarding electronic filing of comments.

Section by Section Analysis of Regulatory Amendments To Reflect the Change in Docket Facilities

Part 209

Part 209, "Railroad Safety Enforcement Procedures" describes certain procedures employed by FRA in its enforcement of statutes and regulations related to railroad safety. Subpart B of part 209, prescribes rules of procedure for the assessment of civil penalties pursuant to the Federal hazardous materials transportation law. Subpart C prescribes rules of procedure leading to the issuance of compliance orders, while subpart D prescribes the rules of practice for administrative proceedings relating to the determination of an individual's fitness for performing safety-sensitive functions. No changes are being made to these provisions. Section 209.9, "Filing" provides that all materials filed with FRA in connection with a proceeding under subpart B, C, or D shall be submitted to the Assistant Chief Counsel for Safety. If the informal proceedings prescribed in these subparts evolve into adjudicatory proceedings, the hearing officer or presiding officer will take appropriate steps to create a public docket and will provide the necessary direction to the parties as to proper filing procedures.

Part 211

Part 211 of title 49 of the Code of Federal Regulations, "Rules of Practice", provides for the rules of practice that apply to rulemaking and waiver proceedings, review of emergency orders, and miscellaneous safety-related proceedings and informal safety inquiries. Part 211 contains various references to filing of documents with the Docket Clerk. This part is being revised to reflect the new filing procedures and locations.

The definition and address of the docket clerk in section 211.1(b)(4) is being amended to include the DOT Docket Management System. Each regulation containing a filing requirement will specify the office in which a document should be filed, however, generally, if a party is filing a document to a docket which has already been established (after November 1, 1998), that document should be filed with the DOT Docket Management

System and should contain the unique docket number assigned to that proceeding. However, if a docket has not yet been established by FRA, correspondence and documents should be sent to FRA. For example, requests that FRA issue a regulatory waiver, or petitions for rulemaking should be sent directly to FRA's Docket Clerk who will take steps to open a docket, if appropriate.

New paragraph 211.5(a) provides that regulatory and other dockets created after November 1, 1998, are maintained by the DOT Docket Management System and may be accessed at the Central Dockets office or on the Internet. The records available include rulemaking and waiver petitions, applications for special approval, grandfathering petitions under part 238, emergency orders, notices, comments received in response to notices, hearing transcripts, final rules, denials of rulemaking petitions, grants and denials of waiver and other petitions.

New paragraph 211.5(b) provides that the type of records cited in paragraph (a), but created prior to November 1, 1998, remain available at FRA's docket room at its headquarters at 1120 Vermont Avenue, NW, Washington, DC 20590.

Part 235

Part 235 "Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief From the Requirements of Part 236" is being amended to eliminate the procedural requirement that notice of the filing of an application for approval of a discontinuance or material modification or a request for reconsideration be posted in the FRA Office of Public Affairs. For a number of years, notices have also been published in the **Federal Register**. Given the availability of the notices in the **Federal Register** and over the Internet, posting in the Office of Public Affairs is not necessary for adequate public notice. Therefore, this section is being revised to provide for publication of such notices in the **Federal Register**.

Part 238

Part 238, "Passenger Equipment Safety Standards", is being amended to specify that comments in certain proceedings should be filed with DOT's Central Docket Management System. Section 238.21(f) is being amended to provide that comments relating to the special approval procedure specified in that section be filed with the Central Dockets. The amendment also provides that either written or electronic

submissions may be made. Because of the availability of all comments on the Internet, FRA is deleting § 238.21(f)(3) which had required certification of filing of a copy of the comment on each petitioner. Section 238.203(g), relating to petitions for grandfathering, is being similarly amended. It is important to note that the only provisions being amended are those relating to comments filed by interested parties; provisions relating to filing of the petitions by parties requesting relief, remain unchanged.

Part 240

Part 240, "Qualification and Certification of Locomotive Engineers" is also being amended to specify the situations in which documents should be filed with DOT's Central Docket Management System and those situations in which documents should still be sent to FRA's Office of Chief Counsel.

Section 240.403, which governs petitions requesting Locomotive Engineer Review Board review of a railroad's decision to deny certification, deny recertification, or revoke certification, requires that such petitions be submitted to FRA's Docket Clerk. These petitions will still be filed with the Office of Chief Counsel.

Petitions and other documents associated with the administrative hearings prescribed in 49 CFR 240.409 (hearing for those adversely affected by a decision of the Locomotive Engineer Review Board) will be filed in DOT's Central Docket Management System. Section 240.407(b) will thus clarify the revised filing requirement.

Executive Order 12866 and DOT Regulatory Policies and Procedures

This Final Rule has been evaluated in accordance with existing policies and procedures of DOT. FRA has concluded that this rule does not constitute a significant rule under either Executive Order 12866 or DOT's regulatory policies and procedures.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. FRA certifies that this rule will not have a significant impact on a substantial number of small entities. There are no substantial economic impacts for small units of government, businesses, or other organizations.

Paperwork Reduction Act

This rule contains no new information collection requirements.

Environmental Impact

FRA has evaluated this Final Rule in accordance with its procedure for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and related directives. This rule has no impact on the environment.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, "Federalism," and it has been determined that this Final Rule does not have federalism implications.

Public Participation

FRA is proceeding to a final rule without providing a notice of proposed rulemaking or an opportunity for public comment. Inasmuch as the final rules issued today are rules of agency organization, procedure and practice, FRA finds that notice and opportunity for comment are impracticable and unnecessary.

List of Subjects in 49 CFR Parts 211, 235, 238 and 240

Administrative practice and procedure, Railroad safety.

Therefore in consideration of the foregoing, parts 211, 235, 238 and 240 of title 49, Code of Federal Regulations are amended as follows:

PART 211—[AMENDED]

1. The authority citation for part 211 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107 and 49 CFR 1.49.

2. Section 211.1(b)(4) is revised to read as follows:

§ 211.1 General.

* * * * *

(b) * * *

(4) *Docket Clerk* means the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Avenue, N.W., Mail Stop 10, Washington, D.C. 20590 or the Docket Clerk, Department of Transportation Central Docket Management System, Nassif Building, Room Pl-401, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

* * * * *

3. Section 211.5 is amended by revising paragraphs (a) and (b) to read as follows:

§ 211.5 Regulatory docket.

(a)(1) Records of the Federal Railroad Administration created after November

1, 1998, concerning each proceeding subject to this part are maintained in current docket form by the DOT Docket Management System. These records include rulemaking and waiver petitions, emergency orders, notices, comments received in response to notices, hearing transcripts, final rules, denials of rulemaking petitions, grants and denial of waiver and other petitions. Also included are records pertaining to applications for special approval under § 211.55 and § 238.21 of this chapter, petitions for grandfathering approval under § 238.203 of this chapter, signal applications under parts 235 and 236 of this chapter, and informal safety inquiries under § 211.61.

(2) Any person may examine docketed material created after November 1, 1998:

(i) At the DOT Docket Management System, room Pl-401 (plaza level), 400 Seventh Street, S.W. Washington, D.C. 20590. Copies of docketed materials may be obtained upon payment of the fees prescribed by the Docket Management System, or

(ii) Through the Internet at <http://dms.dot.gov>. All docketed materials are available for viewing and may be downloaded for electronic storage or printing. There is no charge for this service.

(b) Records of the Federal Railroad Administration created before November 1, 1998, concerning each proceeding subject to this part are available in FRA's Docket Office, seventh floor, 1120 Vermont Avenue, Washington, DC 20590. Any person may examine docketed material at that location during normal business hours. Copies of docketed material may be obtained upon payment of the fees prescribed in part 7 of this title.

* * * * *

4. Section 211.7 is revised to read as follows:

§ 211.7 Filing requirements.

(a) Any person may petition the Administrator for issuance, amendment, repeal or permanent or temporary waiver of any rule or regulation. A petition for waiver must be submitted at least 3 months before the proposed effective date, unless good cause is shown for not doing so.

(b)(1) All petitions and applications subject to this part, including applications for special approval under § 211.55 and § 238.21 of this chapter, petitions for grandfathering approval under § 238.203 of this chapter, and signal applications under parts 235 and 236 of this chapter, shall be submitted in triplicate to the FRA Docket Clerk. Each petition received shall be acknowledged in writing. The

acknowledgment shall contain the docket number assigned to the petition or application and state the date the petition or application was received. Within 60 days following receipt, FRA will advise the petitioner or applicant of any deficiencies in its petition or application.

(2) All comments submitted in response to a notice and other material pertaining to proceedings subject to this part, including comments submitted in response to requests for special approval under § 211.55 and § 238.21 of this chapter, petitions for grandfathering approval under § 238.203 of this chapter, and signal applications under parts 235 and 236 of this chapter, shall be submitted to the DOT Central Docket Management System and shall contain the assigned docket number for that proceeding. The form of such submissions may be in written or electronic form consistent with the standards and requirements established by the Central Docket Management System and posted on its web site at <http://dms.dot.gov>.

5. The second sentence of § 211.19(a) is revised to read as follows:

§ 211.19 Petitions for extensions of time to comment.

(a) * * * The petition must be received by the FRA Docket Clerk not later than 10 days before expiration of the time stated in the notice and must contain reference to the FRA docket number for the proceeding involved.

* * * * *

PART 235—[AMENDED]

6. The authority citation for part 235 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, and 49 CFR 1.49.

7. Section 235.14 is revised to read as follows:

§ 235.14 Notice.

The FRA will publish notice of the filing of an application or a request for reconsideration of an application in the **Federal Register** and a copy of such notice will be available at the Department of Transportation Central Docket Management System, Nassif Building, Room Pl-401, 400 Seventh Street, S.W., Washington, D.C. 20590, and on the Docket Management System's Web site at <http://dms.dot.gov>.

PART 238—[AMENDED]

8. The authority citation for part 238 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20133, 20141, 20302–03, 20306, and 20701–02; 49 CFR 1.49.

9. Section 238.21(f) is revised to read as follows:

§ 238.21 Special approval procedure.

* * * * *

(f) *Comment.* Not later than 30 days from the date of publication of the notice in the **Federal Register** concerning a petition under paragraphs (b) and (c) of this section, any person may comment on the petition.

(1) Each comment shall set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding.

(2) Each comment shall be submitted to the DOT Central Docket Management System, Nassif Building, Room Pl–401, 400 Seventh Street, S.W., Washington, D.C. 20590, and shall contain the assigned docket number for that proceeding. The form of such submission may be in written or electronic form consistent with the standards and requirements established by the Central Docket Management System and posted on its web site at <http://dms.dot.gov>.

* * * * *

10. Section 238.203(g) is revised to read as follows:

§ 238.203 Static end strength.

* * * * *

(g) *Comment.* Not later than 30 days from the date of publication of the notice in the **Federal Register** concerning a petition under paragraph (d) of this section, any person may comment on the petition.

(1) Each comment shall set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding.

(2) Each comment shall be submitted to the DOT Central Docket Management System, Nassif Building, Room Pl–401, 400 Seventh Street, SW, Washington, DC 20590, and shall contain the assigned docket number for that proceeding. The form of such submission may be in written or electronic form consistent with the standards and requirements established by the Central Docket Management System and posted on its web site at <http://dms.dot.gov>.

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PART 240—[AMENDED]

11. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135; 49 CFR 1.49.

12. Section 240.403(b)(2) is revised as follows:

§ 240.403 Petition requirements.

* * * * *

(b) * * *

(2) Be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Avenue, NW, Washington, DC 20590;

* * * * *

13. Section 240.407(b) is revised to read as follows:

§ 240.407 Request for a hearing.

* * * * *

(b) To exercise that right, the adversely affected party shall, within 20 days of service of the Board's decision on that party, file a written request with the Docket Clerk, Department of Transportation Central Docket Management System, Nassif Building, Room Pl–401, 400 Seventh Street, S.W., Washington, D.C. 20590. The form of such request may be in written or electronic form consistent with the standards and requirements established by the Central Docket Management System and posted on its web site at <http://dms.dot.gov>.

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Issued in Washington, D.C. on September 30, 1999.

Jolene M. Molitoris,

Administrator.

[FR Doc. 99–32447 Filed 12–15–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No.991207322–9328–02;I.D.120899D]

RIN 0648–AN45

Sea Turtle Conservation; Restrictions to Fishing Activities

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is closing the waters of Pamlico Sound, North Carolina to fishing with gillnets with a mesh size larger than 5 inches (12.7 cm) stretched mesh for a 30-day period. The closed

area includes all inshore waters of Pamlico Sound south of 35°23' N. lat. and east of 76°05' W. long. NMFS is taking this action because of its determination that the large mesh gillnet fishery is the most likely cause of significant increases in the stranding of sea turtles listed as threatened or endangered under the Endangered Species Act (ESA) in Pamlico Sound. This action is necessary to protect threatened and endangered turtles from being taken by the large mesh, gillnet fishery in Pamlico Sound.

DATES: This action is effective from December 10, 1999 through January 10, 2000. Comments on this action are requested, and must be received at the appropriate address or fax number (See **ADDRESSES**) by no later than 5:00pm, eastern standard time, on January 10, 2000.

ADDRESSES: Written comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT:

Charles A. Oravetz (ph. 727–570–5312, fax 727–570–5517, e-mail Chuck.Oravetz@noaa.gov), or Barbara A. Schroeder (ph. 301–713–1401, fax 301–713–0376, e-mail Barbara.Schroeder@noaa.gov).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Under the ESA and its implementing regulations, taking sea turtles—even incidentally—is prohibited, with exceptions identified in 50 CFR 223.206. The incidental take of endangered species may only legally be authorized by an incidental take statement or an incidental take permit issued pursuant to section 7 or 10 of the ESA. Existing sea turtle conservation regulations specify procedures that NMFS may use to determine that unauthorized takings of sea turtles are occurring during fishing activities, and