

reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

#### Ordering Clauses

14. This Notice of Inquiry is issued pursuant to authority contained in Sections 4(i), 4(j) 403 and 628(g) of the Communications Act of 1934, as amended.

#### List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

**LaVera F. Marshall,**

*Acting Secretary.*

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#### 47 CFR Parts 0 and 80

[CI Docket No. 95-54, FCC 95-170]

#### Inspection of Great Lakes Agreement Ships

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission has adopted a *Notice of Proposed Rule Making* which proposes rules to allow vessel operators on the Great Lakes subject to the annual inspection requirements of the Agreement between the United States and Canada for the Promotion of Safety on the Great Lakes by Means of Radio (Great Lakes Agreement) to have the inspection performed by a classification society instead of by Commission staff.

**DATES:** Comments must be filed on or before July 18, 1995, and reply comments must be filed on or before August 17, 1995.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** George R. Dillon of the Compliance and Information Bureau at (202) 418-1100.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rule Making*, CI Docket No. 95-54, FCC 95-170, adopted April 24, 1995, and released, May 16, 1995. The full text of this *Notice of Proposed Rule Making* 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 may be purchased from the Commission's copy contractor, International Transcription Services,

2100 M Street NW, Washington, DC 20037, telephone (202) 857-3800.

#### Summary of Notice of Proposed Rule Making

1. In this Notice of Proposed Rule Making (Notice), we propose to allow owners and operators of ships subject to the annual inspection requirements of the Agreement between the United States and Canada for the Promotion of Safety on the Great Lakes by Means of Radio (Great Lakes Agreement) to have the inspection performed by a private sector classification society instead of by Commission staff. The proposed changes would reduce economic burdens on the public and the Commission by allowing mariners to arrange for an inspection at their convenience. Because of our concern that maritime safety on the Great Lakes not be compromised by this action, we are also proposing a joint study to be conducted with the United States Coast Guard and the Canadian Coast Guard on the effect of this proposal. Further, we are requesting specific comment on whether we should permit other designated private sector entities or persons to perform such inspections.

2. The Great Lakes Agreement is intended to promote safety of life and property on the Great Lakes by means of radio. It dates back to 1952 and requires, among other things, that all vessels over 20 meters (65 feet), most towing vessels, and vessels carrying more than six passengers for hire be equipped with a marine VHF radiotelephone installation. The Great Lakes Agreement requires that these installations be inspected at least once each year. The Great Lakes Agreement requires that the inspections be carried out by officers of the Contracting Governments or by either persons nominated for that purpose or organizations recognized by the Contracting Government. In other words, the Great Lakes Agreement provides specific authority allowing the United States to entrust the annual inspection to either persons or organizations other than the Commission. Presently, however, the Commission's Rules do not permit a Great Lakes Agreement inspection to be conducted by anyone other than Commission staff.

3. Additionally, the Great Lakes Agreement requires that these vessels be inspected while the vessel is in active service or within one month before the date the vessel is placed in service. Because almost all vessels on the Great Lakes must be taken out of service over the winter and operators do not wish to interrupt shipping schedules after the shipping season begins, there is a very

busy period in the spring when these vessels are being put back in service.

4. The Commission inspects approximately 490 vessels subject to the Great Lakes Agreement each year. Commission inspectors test the outpower, frequency tolerance and availability of reserve power, and conduct an operational radio check of the radiotelephone installation during the inspection. Any failure of these critical items results in the vessel failing the annual inspection and not receiving a safety certificate until the failure is corrected. An integral part of the annual inspection is to examine the connecting transmission lines, electrical cabling and control circuitry that makeup the entire radiotelephone installation to ensure that the individual components operate satisfactorily when connected together.

5. Although the inspections are relatively simple and generally take no more than an hour to complete, they are conducted to ensure that Great Lakes Agreement ships have a reliable means of distress communications in an emergency. We note, however, that improvements in the reliability of radiotelephone equipment and the industry practice of preinspection examinations have resulted in an inspection failure rate for Great Lakes Agreement vessels of only one per cent.

6. The International Maritime Organization (IMO) has adopted a resolution setting forth the minimum standards for nongovernment organizations that conduct inspections on behalf of an administration, *IMO Assembly Resolution A.739(18), Appendix 1*, "Minimum Standards for Recognized Organizations Acting on Behalf of the Administration." There are more than 40 Classification societies worldwide that inspect passenger and cargo vessels for compliance with the myriad of domestic and international regulations that vessels must comply with before leaving port. Additionally, 11 classification societies are members of the International Association of Classification Societies (IACS). The IACS grants membership status to classification societies that meet the IACS's Quality System Certification Scheme. The use of classification societies to conduct inspections on behalf of an administration is widespread. The United States, for example, is statutorily required to use the American Bureau of Shipping, or a similar United States classification society, to class vessels owned by the Federal Government. Additionally, some of IACS' members operate in the United States.

7. We propose, therefore, to permit any United States ship subject to the Great Lakes Agreement to arrange for an inspection of the radiotelephone installation by a classification society that is a member of the IACS, such as the American Bureau of Shipping. We further propose that the classification society issue a radiotelephone certificate on behalf of the Commission to the ship upon successful completion of the inspection. Because the Commission is ultimately responsible for guaranteeing that an inspection meets the requirements of the Great Lakes Agreement inspection we request specific comment on safety related questions posed in this proposal.

We believe in the principle that government should be responsive to user needs and began this proceeding to promote flexibility, remove unnecessary and inimical regulations and, most importantly, provide better service to the public. In a companion Notice of Inquiry, we are requesting comments on how inspections of large cargo vessels and small passenger vessels can be streamlined to better serve the public and to make government operations more efficient. We are proposing a significant change to the current rules and procedures regarding safety inspections and request comment on these proposals.

**Initial Regulatory Flexibility Analysis**

*Reason for Action*

The Commission proposes to permit ships subject to the Great Lakes Agreement to have the annual inspection conducted by a classification society.

*Objectives*

The Commission seeks to: promote efficiency in the Commission's service to the public and to encourage the use of private sector organizations to take over government operations wherever possible.

*Legal Basis*

The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act, 47 U.S.C. 154(i) and 303(r), and the Great Lakes Agreement, Article XII.

*Reporting, Recordkeeping and Other Compliance Requirements*

Our proposed amendment to 47 CFR 80.953 would permit owners and operators of vessels subject to the Great Lakes Agreement to use a classification society to meet a current annual inspection requirement.

*Federal Rules Which Overlap, Duplicate or Conflict With These Rules*

None.

*Description, Potential Impact, and Small Entities Involved*

Use of private sector classification societies to inspect Great Lakes Agreement vessels would allow better service to the owners and operators of such vessels, many which are small businesses, and more efficient use of scarce government resources. It would additionally encourage the creation of jobs to inspect approximately 490 vessels each year.

*Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives*

None.

**List of Subjects**

*47 CFR Part 0*

Organization and functions (Government agencies).

*47 CFR Part 80*

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**  
*Acting Secretary.*

**Proposed Rules**

Chapter I of title 47 of the Code of Federal Regulations, parts 0 and 80 are proposed to be amended as follows:

**PART 0—COMMISSION ORGANIZATION**

1. The authority citation for part 0 continues to read as follows:

**Authority:** Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. The undesignated center heading preceding §§ 0.311, 0.314 and 0.317 is revised to read as follows:

**Compliance and Information Bureau**

2a. Section 0.311 is amended by revising paragraph (f) to read as follows:

**§ 0.311 Authority delegated.**

\* \* \* \* \*

(f) The Chief of the Compliance and Information Bureau is authorized to rely on reports, documents and certificates issued by the American Bureau of Shipping or any other classification society that is a member of the International Association of Classification Societies to conduct radio inspections of vessels and to issue certificates in accordance with Regulations 11, 12 and 13 of the Great

Lakes Agreement. The Chief, Compliance and Information Bureau is further authorized to delegate this authority.

\* \* \* \* \*

**PART 80—STATIONS IN THE MARITIME SERVICES**

3. The authority citation for part 80 continues to read as follows:

**Authority:** Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

4. Section 80.5 is amended by adding in alphabetical order the following definitions:

**§ 80.5 Definitions.**

\* \* \* \* \*

*Classification society.* A non-profit organization formed to conduct vessel inspections that is affiliated or associated with a particular administration.

\* \* \* \* \*

*International Association of Classification Societies (IACS).* An association representing classification societies.

\* \* \* \* \*

5. Section 80.59 is amended by revising the heading, paragraphs (a) introductory text and (a)(1), removing paragraph (a)(2), redesignating paragraph (b) as (a)(2), and adding a new paragraph (b) to read as follows:

**§ 80.59 Compulsory ship inspections.**

(a) *Application for inspection and certification by the FCC.* An application for inspection and certification and documentation that the appropriate inspection fees have been paid, must be submitted to the FCC field office serving the port where the ship is to be inspected at least three days before the proposed inspection date.

(1) FCC Form 801 must be used to apply for a ship radio inspection on board ships subject to Part II or Part III of Title III of the Communications Act or the Safety Convention. Applications for Great Lakes Agreement inspections must state the reason why a classification society could not inspect the vessel.

\* \* \* \* \*

(b) *Application for inspection and certification by a classification society.* An inspection of a ship radio station and certification of a ship subject to the Great Lakes Agreement may be made by a classification society that is a member of the IACS or by the FCC.

\* \* \* \* \*

6. Section 80.953 is amended by redesignating the text as paragraph (a), revising the first sentence of paragraph (a), removing the second sentence of paragraph (a) and adding a new paragraph (b) to read as follows:

**§ 80.953 Inspection and certification.**

(a) Each U.S. flag vessel subject to the Great Lakes Agreement must have an inspection of the required radiotelephone installation at least once every 13 months. \* \* \*

(b) This inspection may be conducted by the FCC or by a classification society that is a member of the International Association of Classification Societies (IACS). A certificate issued by a classification society has the same standing as one issued by the FCC.

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

RIN 1018-AD28

**Endangered and Threatened Wildlife and Plants; Proposal To List Three Aquatic Invertebrates in Comal and Hays Counties, Texas, as Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Fish and Wildlife Service proposes to list three aquatic invertebrate species known only from Comal and Hays counties, Texas, as endangered species under the Endangered Species Act of 1973, as amended (Act). The primary threat to these species is a decrease in water quantity and quality as a result of water withdrawal and other activities by humans throughout the San Antonio segment of the Edwards Aquifer. This proposal, if made final, will implement Federal protection provided by the Act for the Peck's cave amphipod (*Stygobromus pecki*), Comal Springs riffle beetle (*Heterelmis comalensis*), and Comal Springs dryopid beetle (*Stygoparnus comalensis*).

**DATES:** Comments from all interested parties must be received by August 4, 1995. Public hearing requests must be received by July 20, 1995.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the State Administrator, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ruth Stanford, Ecologist, or Alisa Shull, Fish and Wildlife Biologist (see **ADDRESSES** section) (512/490-0057).

**SUPPLEMENTARY INFORMATION:**

**Background**

The U.S. Fish and Wildlife Service (Service) proposes to list as endangered under the Endangered Species Act of 1973, as amended (Act) three aquatic invertebrate animal species with a known distribution in spring sites in Comal and Hays counties, Texas; two of the species are subterranean. Peck's cave amphipod is known from Comal Springs and Hueco Springs, both in Comal County. The Comal Springs riffle beetle is known from Comal Springs and San Marcos Springs (Hays County). The Comal Springs dryopid beetle is known from Comal Springs and Fern Bank Springs (Hays County). The water flowing out of each of these springs comes from the Edwards Aquifer (Balcones Fault Zone—San Antonio Region), which extends from Hays County on the east to Kinney County on the west. Comal Springs are located in Landa Park, which is owned and operated by the City of New Braunfels, and on private property adjacent to Landa Park. Hueco Springs and Fern Bank Springs are located on private property. San Marcos Springs are located on the property of Aquarena Springs, formerly a privately owned resort facility. Southwest Texas State University purchased the facility in 1994. Aquarena Springs continues to operate as a resort, but the university plans to increase conference facilities and provide educational and interpretive displays and to increase availability of the springs for biological and ecological research (Billy Moore, Public Affairs Director, Southwest Texas State University, pers. comm., 1995).

Peck's cave amphipod is a subterranean, aquatic crustacean. The other two species are aquatic beetles. The families to which these beetles belong live primarily in flowing, uncontaminated waters. The Comal Springs riffle beetle is a surface species in the family Elmidae. The Comal Springs dryopid beetle is the only known subterranean member of the family Dryopidae.

The first recorded specimen of the amphipod *Stygobromus* (= *Stygonectes*) *pecki* (Holsinger 1967) was collected by Peck at Comal Springs in June, 1964. Reddell collected a second specimen at

the same place in May, 1965. In 1967, Holsinger named the species *Stygonectes pecki*, in Peck's honor; the 1965 specimen, an adult female 10.5 mm (about one half inch) long, served as the type specimen. Later he included all the nominal *Stygonectes* species in the synonymy of the large genus *Stygobromus*. The Service has used "cave amphipod" as a generic common name for members of this genus, and this name was simply translated as "Peck's cave amphipod" without reference to a particular cave. Other known springs and artesian wells of the Edwards Aquifer in central Texas have been extensively sampled for amphipod crustaceans; a single specimen of Peck's cave amphipod was collected at Hueco Springs by Barr in August, 1992.

Over 300 specimens of Peck's cave amphipod have been collected since its description. Most documented specimens were netted from crevices in rock and gravel near the orifices of the three largest Comal Springs on the west side of Landa Park in Comal County, Texas. Barr collected one specimen from a fourth Comal spring run on private property adjacent to Landa Park and one specimen from Hueco Springs, about 7 km (4 miles) north of Comal Springs (Barr 1993). However, like all members of the exclusively subterranean genus *Stygobromus*, this species is eyeless and unpigmented, indicating that its primary habitat is a zone of permanent darkness in the underground aquifer feeding the springs. Above ground, individuals are easy prey for predators, but they usually take shelter in the rock and gravel crevices and may succeed in reentering the spring orifice. Barr (1993) got most specimens in drift nets at spring orifices and found them less often as she moved downstream, supporting the notion that they may be easy prey and do not likely survive for long outside the aquifer.

The Comal Springs riffle beetle is a small, aquatic beetle known from Comal Springs and San Marcos Springs. It was first collected by Bosse in 1976 and was described in 1988 by Bosse *et al.* The closest relative of *H. comalensis* appears to be a species that occurs farther to the west (Bosse *et al.* 1988).

Adult Comal Springs riffle beetles are about 2 mm (1/10 inch) long, with females slightly larger than males. Unlike the other two organisms proposed here, the Comal Springs riffle beetle is not a subterranean species. It occurs in the gravel substrate and shallow riffles in spring runs. Some riffle beetle species can fly, but the hind wings of *Heterelmis comalensis* are short and almost certainly non-functional, making the species