

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****15 CFR Part 922****Notice of Intent To Prepare a Supplemental Draft Environmental Impact Statement for a Proposed Rule Limiting Discharges From Vessels in Cordell Bank, Gulf of the Farallones, and Monterey Bay National Marine Sanctuaries**

AGENCY: National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the National Oceanic and Atmospheric Administration's (NOAA) National Marine Sanctuary Program (NMSP) is preparing a Supplemental Draft Environmental Impact Statement (SDEIS) to supplement and/or replace information contained in the Draft Environmental Impact Statement (DEIS) for the Joint Management Plan Review, the management plan review for the Cordell Bank, Gulf of the Farallones, and Monterey Bay National Marine Sanctuaries. The SDEIS will analyze revisions to the proposed action that would in effect prohibit the following discharges within the sanctuaries: All sewage from vessels 300 gross registered tons (GRT) or more with the capacity to hold sewage while within the sanctuary; and, in the Monterey Bay National Marine Sanctuary, all graywater from vessels 300 GRT or more with the capacity to hold graywater while within the sanctuary.

DATES: Because the NMSP has previously requested (64 FR 31528 and 71 FR 29096) and received extensive information from the public on issues to be addressed in the SDEIS, and because the Council on Environmental Quality (CEQ) regulations for implementing the National Environmental Policy Act (NEPA) do not require additional scoping for this SDEIS process (40 CFR 1502.9(c)(4)), the NMSP is not asking for further public scoping information and comment at this time. Upon release of the SDEIS the NMSP will provide a 45-day public review/comment period.

ADDRESSES: Copies of the 2006 DEIS are available at NOAA offices located at 1 Bear Valley Rd., Point Reyes Station, CA; West Crissy Field on the Presidio, 991 Marine Drive, San Francisco, CA, 299 Foam Street, Monterey, California,

and on the Web at <http://sanctuaries.noaa.gov/jointplan/>.

FOR FURTHER INFORMATION CONTACT: Sean Morton at (301) 713-7264 or sean.morton@noaa.gov.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration (NOAA) has proposed draft revised management plans, revised designation documents, and revised regulations for the Cordell Bank National Marine Sanctuary (CBNMS), Gulf of the Farallones National Marine Sanctuary (GFNMS), and Monterey Bay National Marine Sanctuary (MBNMS). The proposed regulations would revise and provide greater clarity to existing regulations. In particular, NOAA proposed changes to prohibitions regarding "discharge and deposit" in the MBNMS, and prohibiting discharging or depositing most matter from cruise ships.

On May 11, 2007 NOAA received a request from the California State Water Resources Control Board to prohibit discharges from certain vessels in national marine sanctuaries offshore California. In addition, on August 10, 2007, the California Coastal Commission voted to concur with the consistency finding the Jmpr actions are consistent with the policies of the California Coastal Management Program, on the condition that NOAA revise the proposed discharge and deposit regulation to prohibit vessels of 300 gross registered tons (GRT) or more from discharging sewage or graywater into the waters of the sanctuaries. After reviewing public comments on the proposed regulations, considering the California Coastal Commission's federal consistency review (per the Coastal Zone Management Act; 16 U.S.C. 1451 *et seq.*), and further analyzing vessel discharge issues, NOAA decided to revise the CBNMS, GFNMS, and MBNMS proposed discharge regulations to prohibit discharges of all sewage from vessels 300 gross registered tons (GRT) or more with the capacity to hold sewage while within the sanctuary; and in the MBNMS limit the exception for graywater discharges to vessels less than 300 GRT and vessels 300 GRT or more without the capacity to hold graywater while within the MBNMS. The revised proposed regulations will include prohibitions satisfying the request from the State of California for the CBNMS, GFNMS, and MBNMS.

The SDEIS, in conjunction with the concomitant supplemental proposed rule, will evaluate the revised proposed action and provide the public with an opportunity for additional review and comment.

Authority: 16 U.S.C. 1431 *et seq.*

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program.

Dated: November 15, 2007.

Elizabeth R. Scheffler,

Associate Assistant Administrator for Management, Ocean Services and Coastal Zone Management.

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BILLING CODE 3510-NK-P

COMMODITY FUTURES TRADING COMMISSION**17 CFR Part 150****RIN 3038-AC140****Revision of Federal Speculative Position Limits**

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") periodically reviews the speculative position limits for certain agricultural commodities set out in Commission regulation 150.2 ("Federal speculative position limits"). In this regard, the Commission has reviewed the existing levels for Federal speculative position limits and is now proposing to increase these limits for all single-month and all-months-combined positions in all commodities except oats, based on the formula set out in Commission Regulation 150.5(c). In addition, the Commission is also proposing to aggregate traders' positions for purposes of ascertaining compliance with Federal speculative position limits when a designated contract market ("DCM") lists for trading a futures contract that shares substantially identical terms with a Regulation 150.2-enumerated contract listed on another DCM, including a futures contract that is cash-settled based on the settlement prices for a futures contract that is already enumerated. The Commission is requesting comment on these rule amendments.

DATES: Comments must be received on or before December 21, 2007.

ADDRESSES: Comments should be submitted to David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments also may be sent by facsimile to (202) 418-5521, or by electronic mail to secretary@cftc.gov. Reference should be made to "Proposed Revision of Federal Speculative Position Limits." Comments may also be

submitted by connecting to the Federal eRulemaking Portal at <http://www.regulations.gov> and following comment submission instructions.

FOR FURTHER INFORMATION CONTACT: Don Heitman, Attorney, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418-5041, facsimile number (202) 418-5507, electronic mail dheitman@cftc.gov; or Martin Murray, Economist, Division of Market Oversight, telephone (202) 418-5276, facsimile number (202) 418-5507, electronic mail mmurray@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

The Commission has long established and enforced speculative position limits for futures contracts on various agricultural commodities. The Commission periodically reviews these Federal speculative position limits, which are set out in Commission regulation 150.2.¹ In this regard, the Commission has reviewed the existing levels for Federal speculative position limits and is now proposing to increase these limits for all single-month and all-months-combined positions in all commodity markets enumerated in Commission regulation 150.2, except Chicago Board of Trade (“CBT”) Oats, based on the formula set out in Commission Regulation 150.5(c). In particular, the Commission is proposing to increase levels for single-month and all-months-combined positions for CBT Corn, Soybeans, Wheat, Soybean Oil, and Soybean Meal; Minneapolis Grain Exchange (MGE) Hard Red Spring Wheat; Kansas City Board of Trade (KCBT) Hard Winter Wheat, and New York Board of Trade (NYBOT) Cotton No. 2. The spot month limits for all of these commodities would remain unchanged. In addition, the Commission is also proposing to aggregate traders’ positions for purposes of ascertaining compliance with Federal speculative position limits when a DCM lists for trading a futures contract that shares substantially identical terms with a Regulation 150.2-enumerated contract listed on another DCM, including a futures contract that is cash-settled based on the settlement prices for a

¹ Regulation 150.2 imposes three types of position limits for each specified contract: A spot month limit, a single-month limit, and an all-months-combined limit. The Commission most recently adopted amendments to levels for Federal speculative position limits in 2005 (see 70 FR 24705 May 11, 2005).

futures contract that is already enumerated.

B. Regulatory Framework

Speculative position limits have been a tool for the regulation of the U.S. futures markets since the adoption of the Commodity Exchange Act of 1936. Section 4a(a) of the Commodity Exchange Act (Act), 7 U.S.C. 6a(a), states that:

Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets or derivatives transaction execution facilities causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

Accordingly, section 4a(a) provides the Commission with the authority to:

Fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility as the Commission finds are necessary to diminish, eliminate, or prevent such burden.

This longstanding statutory framework providing for Federal speculative position limits was supplemented with the passage of the Futures Trading Act of 1982, which acknowledged the role of exchanges in setting their own speculative position limits. The 1982 legislation also provided, under section 4a(e) of the Act, that limits set by exchanges and approved by the Commission were subject to Commission enforcement.

Finally, the Commodity Futures Modernization Act of 2000 (“CFMA”) established designation criteria and core principles with which a DCM must comply to receive and maintain designation. Among these, Core Principle 5 in section 5(d) of the Act states:

Position Limitations or Accountability—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

As outlined above, the regulatory structure is administered under a two-pronged framework. Under the first prong, the Commission establishes and enforces speculative position limits for futures contracts on a limited group of agricultural commodities. These Federal speculative position limits are enumerated in Commission regulation 150.2, and apply to the following

futures and option markets: CBT Corn, Oats, Soybeans, Wheat, Soybean Oil, and Soybean Meal; MGE Hard Red Spring Wheat; NYBOT Cotton No. 2; and KCBT Hard Winter Wheat. Under the second prong, individual DCMs establish and enforce their own speculative position limits or position accountability provisions, subject to Commission oversight and separate authority to enforce exchange-set speculative position limits approved by the Commission. Thus, responsibility for enforcement of speculative position limits is shared by the Commission and the DCMs.²

II. Commission Speculative Position Limit Levels

The Commission is proposing several revisions to the Federal speculative position limit levels found in regulation 150.2 based upon its experience in administering these limits and the open interest formula found in Commission Regulation 150.5. Under the proposed revisions, spot month limits would remain unchanged from the current levels, but every single-month and all-months-combined position limit, except for CBT Oats, would be increased based upon open interest data for the most recent calendar year (2006). For all-months-combined levels, the Commission proposes to amend the limits set forth in Regulation 150.2 to the maximum levels permitted under the open interest formula, and to adjust the single month limits to reflect the existing ratio of single month to all-months-combined levels. With respect to the single month limits, a strict application of the open interest formula contained in regulation 150.5 would have resulted in somewhat lower single month limits for some commodities and higher limits for others than those proposed below. However, the Commission believes that maintaining the existing ratios between single-month and all-months-combined speculative position limit levels is of benefit to the marketplace, and thus the Commission is proposing to establish single-month limits that are consistent with that

² Provisions regarding the establishment of exchange-set speculative position limits were originally set forth in CFTC regulation 1.61. In 1999, the Commission simplified and reorganized its rules by relocating the substance of regulation 1.61’s requirements to part 150 of the Commission’s rules, thereby incorporating within part 150 provisions for both Federal speculative position limits and exchange-set speculative position limits (see 64 FR 24038, May 5, 1999). Section 4a(e) of the Act provides that a violation of a speculative position limit set by a Commission-approved exchange rule is also a violation of the Act. Thus, the Commission can enforce directly violations of exchange-set speculative position limits as well as those provided under Commission rules.

approach.³ The open interest formula does not justify an increase in the CBT Oats single month or all-months-combined limits, and the Commission does not propose any change in their levels at this time.

In addition, with respect to the MGE and KCBT Wheat contracts, the Commission proposes to maintain parity with the levels proposed for CBT Wheat rather than establish different limits based on the open interest formula for each contract. The Commission first adopted this parity approach in an action to revise position limits in 1993.⁴ At that time the Commission concluded that the breadth and liquidity of the cash markets underlying the KCBT and MGE Wheat contracts justified setting these limits at parity with little risk of regulatory harm from such action.⁵ The Commission continues to believe that the breadth and liquidity of underlying cash markets, as well as continued growth in open interest, for the KCBT and MGE Wheat contracts support

maintenance of these speculative position limit levels at parity with one another.⁶

Finally, the Commission is also proposing to aggregate traders' positions for purposes of ascertaining compliance with Federal speculative position limits when a DCM lists for trading a futures contract that shares substantially identical terms with a Regulation 150.2-enumerated contract listed on another DCM, including a futures contract that is cash-settled based on the settlement prices for a futures contract that is already enumerated. In this regard, when the Commission last amended regulation 150.2, it clarified its practice of aggregating traders' positions when a single DCM lists for trading two or more contracts with substantially identical terms based on the same underlying commodity characteristics, such as the CBT Corn and Mini-Corn futures contracts.⁷ At the time it adopted those clarifying amendments, the Commission noted, "that should a DCM list a

contract that shared substantially identical terms with a Regulation 150.2-enumerated contract listed on another DCM, the Commission could consider at that time whether to amend regulation 150.2 to likewise apply Federal limits to the newly-listed contract." Since then, the New York Mercantile Exchange (NYMEX) has listed for trading a Cotton futures contract that is cash-settled based on the settlement price for the NYBOT Cotton No. 2 futures contract. The Commission believes that aggregation of traders' positions in such circumstances is necessary to protect the integrity of the existing limits by removing the ability of a trader to flout the limits by taking a position in the non-encumbered market.

Based on the criteria noted above, the Commission is proposing the following changes to the Federal speculative position limits (additions are underlined, and deletions are struck through).

Speculative Position Limits¹ [By contract]

Contract	Spot Month	Single Month		All Months	
Chicago Board of Trade					
Corn & Mini-Corn ⁺²	600	13,500	<u>26,000</u>	22,000	<u>42,400</u>
Soybeans & Mini-Soybeans ⁺² ..	600	6,500	<u>8,600</u>	10,000	<u>13,300</u>
Wheat & Mini-Wheat ⁺²	600	5,000	<u>11,100</u>	6,500	<u>14,500</u>
Soybean Oil	540	5,000	<u>6,600</u>	6,500	<u>8,600</u>
Soybean Meal	720	5,000	<u>5,500</u>	6,500	<u>7,100</u>
Minneapolis Grain Exchange					
Hard Red Spring Wheat	600	5,000	<u>11,100</u>	6,500	<u>14,500</u>
New York Board of Trade					
Cotton No. 2	300	3,500	<u>5,300</u>	5,000	<u>7,300</u>
Kansas City Board of Trade					
Hard Winter Wheat	600	5,000	<u>11,100</u>	6,500	<u>14,500</u>

¹ For purposes of compliance with these limits, positions in a futures contract that shares substantially identical terms with a contract market enumerated herein, including a futures contract that is cash-settled based on the settlement price of an enumerated contract market, shall be aggregated with positions in the enumerated contract market.

² For purposes of compliance with these limits, positions in the regular sized and mini-sized contracts shall be aggregated.

³ The Commission used this more flexible approach when it last revised the Federal speculative position limits in 2005 (See 70 FR 24705, May 11, 2005).

⁴ See 58 FR 17973 (April 7, 1993).

⁵ *Id.* at 17979.

⁶ The Commission maintained parity between the CBT, MGE, and KCBT wheat contracts when it last

revised the Federal speculative position limits in May, 2005.

⁷ 70 FR 24705, (May 11, 2005).

III. Related Matters

A. Cost Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) requires the Commission to “consider the costs and benefits” of the subject rule.

Section 15(a) further specifies that the costs and benefits of the proposed rule shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rule amendments impose limited additional costs in terms of reporting requirements, particularly since entities trading in or holding large positions, which either approach or meet the speculative limits of the rules herein, already file large trader reports with the Commission. Moreover, the amendments proposed herein would increase Federal speculative position limits for some commodities and, to that extent, reduce the compliance costs associated with these speculative position limits. The countervailing benefits to any additional costs are that the continued inclusion of appropriate speculative limits will help to ensure the maintenance of competitive and efficient markets, protect the price discovery and risk shifting functions of those markets, and protect market participants and the public interest.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., requires federal agencies, in proposing rules, to consider the impact of those rules on small businesses. The Commission believes that the proposed rule amendments to raise Commission speculative position limits would only impact large traders. The Commission has previously determined that large traders are not small entities for purposes of the RFA.⁸ Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. The Commission also notes in this regard that the proposed rules will raise speculative limit levels and thereby reduce the regulatory burden on all affected entities.

C. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Paperwork Reduction Act, the Commission, through this rule proposal, solicits public comment to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information

technology, e.g., permitting electronic submission of responses.

The Commission has submitted the proposed rule and its associated information collection requirements to the Office of Management and Budget. The proposed rule is part of two approved information collections. The burdens associated with these rules are as follows:

Collection Number

[3038-0009]

Average burden hours per response: 3.

Number of respondents: 2946.

Frequency of response: On occasion.

Collection Number

[3038-0013]

Average burden hours per response: 3.

Number of respondents: 9.

Frequency of response: On occasion.

List of Subjects in 17 CFR Part 150

Agricultural commodities, Bona fide hedge positions, Position limits, Spread exemptions.

In consideration of the foregoing, pursuant to the authority contained in the Commodity Exchange Act, the Commission hereby proposes to amend part 150 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 150—LIMITS ON POSITIONS

1. The authority citation for part 150 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, and 12a(5), as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

2. Section 150.2 is revised to read as follows:

§ 150.2 Position limits.

No person may hold or control positions, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery or, on a futures-equivalent basis, options thereon, in excess of the following:

SPECULATIVE POSITION LIMITS¹

[In contract units]

Contract	Spot month	Single month	All months
Chicago Board of Trade			
Corn and Mini-Corn ²	600	26,000	42,400
Oats	600	1,400	2,000

⁸ 47 FR 18618 (April 30, 1982).

SPECULATIVE POSITION LIMITS¹—Continued
[In contract units]

Contract	Spot month	Single month	All months
Soybeans and Mini-Soybeans ²	600	8,600	13,300
Wheat and Mini-Wheat ²	600	11,100	14,500
Soybean Oil	540	6,600	8,600
Soybean Meal	720	5,500	7,100
Minneapolis Grain Exchange			
Hard Red Spring Wheat	600	11,100	14,500
New York Board of Trade			
Cotton No. 2	300	5,300	7,300
Kansas City Board of Trade			
Hard Winter Wheat	600	11,100	14,500

¹For purposes of compliance with these limits, positions in a futures contract that shares substantially identical terms with a contract market enumerated herein, including a futures contract that is cash-settled based on the settlement price of an enumerated contract market, shall be aggregated with positions in the enumerated contract market.

²For purposes of compliance with these limits, positions in the regular-sized and mini-sized contracts shall be aggregated.

Issued by the Commission this November 15, 2007, in Washington, DC.

David Stawick,

Secretary of the Commission.

[FR Doc. E7-22681 Filed 11-20-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 4

[USCBP-2007-0098]

Hawaiian Coastwise Cruises

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: Proposed interpretation; solicitation of comments.

SUMMARY: This document proposes new criteria to be used by Customs and Border Protection (“CBP”) to determine whether non-coastwise-qualified vessels are in violation of the Passenger Vessel Services Act (PVSA) when engaging in cruise itineraries in which passengers board at a U.S. port, the vessel calls at several Hawaiian ports, and then the vessel proceeds to a foreign port or ports for a brief period, before ultimately returning to the original U.S. port of embarkation where the passengers disembark to complete their cruise. CBP believes these itineraries are contrary to the PVSA because it appears that the primary objective of the foreign stop is evasion of the PVSA.

DATES: Comments must be received on or before December 21, 2007.

FOR FURTHER INFORMATION CONTACT: Glen E. Vereb, Cargo Security, Carriers & Immigration Branch, Office of International Trade, (202) 572-8730.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this proposed interpretation by submitting written data, views, or arguments on all aspects of the proposed interpretation. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed interpretation. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed interpretation, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and docket number for this proposed

interpretation. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted documents should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

II. Background

The maritime cabotage law governing the transportation of passengers was first established by section 8 of the Passenger Vessel Services Act of June 19, 1886 (the “PVSA”), 24 Stat. 81; as amended by section 2 of the Act of February 17, 1898, 30 Stat. 248, formerly codified at 46 U.S.C. App. 289 (now codified at 46 U.S.C. 55103). That statute provided that no foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of \$200 (now \$300, as promulgated in T.D. 03-11 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note) for each passenger so transported and landed.

The intent of the maritime cabotage laws, including the PVSA, was to provide a “legal structure that guarantees a coastwise monopoly to