

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 8 CFR Part 100

[Docket No. USCBP–2011–0016]

RIN 1651–AA88

#### Potential Closing of Morses Line Border Crossing

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** U.S. Customs and Border Protection (CBP) currently operates a border crossing known as Morses Line, Vermont, located within the port limits of the port of entry of Highgate Springs/Alburg, Vermont. CBP officers are stationed at the Morses Line border crossing to accept entries of merchandise, collect duties, and enforce various provisions of the customs and immigration laws. The Morses Line border crossing is an aging facility that requires extensive upgrades and significant financial resources to update the facility to today's modern standards of border crossings. Based on internal analyses, feedback from many individuals in the local community, and consultation with members of Congress, CBP is evaluating the potential closure of the Morses Line border crossing. CBP is seeking public comment on this potential closure.

**DATES:** Comments must be received on or before December 5, 2011.

**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 via docket number USCBP–2011–0016.
- *Mail:* Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, Regulations and Rulings, Attention: Border Security Regulations Branch, 799

9th Street, NW., 5th Floor, Washington, DC 20229–1179.

**Instructions:** All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**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 comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

**FOR FURTHER INFORMATION CONTACT:** Roger Kaplan, CBP Office of Field Operations, telephone (202) 325–4543. You may also visit CBP's Morses Line Web site at <http://www.cbp.gov/MorsesLineInfo>.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this advance notice of proposed rulemaking. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal.

##### Background

CBP ports of entry are locations where CBP officers and employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of customs, immigration, agriculture, and related U.S. laws at the border. The term “port of entry” is used in the Code of Federal Regulations (CFR) in title 8 for immigration purposes and in title 19 for customs purposes. Concerning customs purposes, the list of designated CBP ports of entry is set forth in paragraph

(b)(1) of section 101.3 of the CBP regulations (19 CFR 101.3(b)(1)). Paragraph (b)(1) also provides the corresponding limits of those ports, generally by reference to a Treasury Decision (T.D.). The port of entry of Highgate Springs/Alburg, Vermont is described in T.D. 77–165 and includes the Morses Line border crossing.

For immigration purposes, 8 CFR 100.4(a) lists ports of entry for aliens arriving by vessel and land transportation. These ports are listed according to location by districts and are designated as Class A, B, or C. Morses Line is included in this list, in District No. 22, as a Class A port of entry, meaning a port that is designated as a port of entry for all aliens arriving by any means of travel other than aircraft.

Built in 1934, the Morses Line facility is CBP's oldest land border crossing facility, and its capabilities reflect the design requirements of that time. Although the crossing has undergone some limited renovation since it was built, a new facility would be needed to meet modern operational, safety, and technological demands. For an analysis of both the costs of updating the crossing and the costs of closing the crossing, see the section of this document entitled: Executive Order 12866: Regulatory Planning and Review. As indicated in that section, CBP has determined that the net benefit of closing rather than updating the crossing would be about \$5.5 million the first year and \$640,000 each year after that. Among other things, the analysis takes into account that the Morses Line crossing is one of CBP's lesser trafficked crossings, processing about 40 vehicles a day, as well as the close proximity of other border crossings.

##### Potential Closure of the Border Crossing

After hearing initial concerns expressed by members of Congress and some of their constituents regarding expansion and modernization of the Morses Line border crossing and considering the net benefits regarding closure of the crossing, CBP decided to investigate whether closing the crossing would be preferable to undertaking a modernization project. The low volume of traffic utilizing the Morses Line crossing as well as the proximity of alternate crossings, suggest that the cost

and expansion needed to modernize the crossing may not be justified. Therefore, CBP is conducting an evaluation to determine whether to close the Morses Line border crossing.

The closure of the Morses Line border crossing would mean that CBP officers would not be stationed there and that the road at the border would be secured. Persons wishing to cross the border would need to travel to the closest manned U.S. border crossing, which would most likely be Highgate Springs, which is about 17 miles west, in the port of entry of Highgate Springs/Alburg, Vermont or the West Berkshire crossing, which is about 10 miles east, in the port of entry of Richford, Vermont.

### Obstacles To Modernizing the Border Crossing

The American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111–5 (Feb. 17, 2009), included funding for CBP to renovate various ports and crossings along the U.S.-Canadian border. CBP intended to use funds from ARRA to modernize the Morses Line border crossing. However, this funding has expired. Congress would now have to specifically appropriate funding and provide authorization for CBP to modernize the border crossing.

Also, for the Morses Line border crossing to remain open, CBP must build a new facility, which would require a larger land footprint. Thus, CBP will need to acquire private land adjacent to the existing facility. The current property owner remains strongly opposed to selling his land to CBP to expand the border crossing.

### Public Consultations

On May 22, 2010, representatives from CBP held a town hall meeting in Morses Line, Vermont. The members of the public in attendance at this meeting conveyed their sentiment that the border crossing should be closed rather than expanded. Shortly after this meeting, CBP began the review process for closing the crossing. Since that time, members of the public have spoken out both in favor and opposition of the contemplated closure. The communities on both sides of the border have held several public meetings, including one on September 25, 2010, to protest the possible closure of the crossing.

### Public Comments

In view of the community interest in this matter, CBP encourages the public to submit comments regarding the potential closure of the Morses Line border crossing.

### Next Steps

If, after a full review and consideration of the public comments and other assessments, CBP determines that the Morses Line border crossing should be closed, CBP would publish a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**, which would propose the closure. The NPRM would provide an additional opportunity for public comment. After the NPRM comment period closes, CBP would consider the public comments and determine whether to implement the NPRM as proposed by issuing a final rule. If CBP determines that the Morses Line crossing should remain open, CBP will publish a notice in the **Federal Register** withdrawing this ANPRM.

### Congressional Notification

On July 9, 2010, the Commissioner of CBP notified Congress of the potential closure of the Morses Line border crossing, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

### Executive Order 12866: Regulatory Planning and Review

This Advance Notice of Proposed Rulemaking (ANPRM) is not a significant regulatory action under Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB) under that order. Below is CBP's preliminary assessment of the benefits and costs of this potential regulatory action. While an assessment of benefits and costs is not generally included in an ANPRM, we include one here to provide the public with as much information as possible. We welcome comments on the analytical approach and the data used.

### Baseline Conditions

Morses Line is one of CBP's lesser trafficked crossings, processing about 40 vehicles a day between 8 a.m. and midnight. The port of Highgate Springs assigns 6 full time staff to the crossing, costing about \$668,000 per year, including benefits. In addition, CBP spends about \$24,000 a year on operating expenses such as utilities and maintenance. The total annual cost of operating the crossing is about \$692,000. CBP has determined that the Morses Line crossing requires significant renovation and expansion. We estimate that it would cost approximately \$5 million to acquire the needed land and build facilities that meet all current safety and operational standards, so CBP would spend about \$5.7 million the first year (construction plus operating costs) and \$0.7 million

each subsequent year if the crossing were to remain open.

### Costs of Closing the Crossing

The costs of this potential closure fall into three categories—the cost to CBP to physically close the port, the cost to U.S. travelers to drive to the next nearest port, and the cost to the economy of lost tourism revenue resulting from potential decreased Canadian travel. We estimate that it would cost approximately \$158,000 to physically close the port, which involves building road barricades, boarding up the building, and managing asbestos.

In addition to the cost to the government of closing the port, we must examine the impact of this regulation on U.S. travelers (per guidance provided in OMB Circular A–4, this analysis is focused on costs and benefits to U.S. entities). Approximately 14,600 vehicles cross from Canada into the United States each year at Morses Line. According to CBP's Boston Field Office, vehicles crossing into the United States in Vermont, New Hampshire, and Maine carry an average of 1.8 passengers, 31 percent of whom are U.S. citizens. Using these figures, we estimate that 26,280 passengers cross into the United States through Morses Line each year and 8,147 are U.S. citizens. If the crossing is closed, these travelers would need to travel to an alternate crossing which could cost them both time and money. CBP does not collect data on outbound travelers, but since Morses Line is used primarily for local travel, we assume that outbound traffic closely resembles inbound traffic.

There are two alternate crossings near Morses Line—Highgate Springs, which is about 17 miles west, and West Berkshire, which is about 10 miles east. The alternate crossing travelers may choose would depend on their point of origin and their destination. In general, the closer the point of origin or destination to Morses Line, the more the traveler would be affected by the closure.

Because CBP does not collect data on either a traveler's point of origin or destination, we used Google Maps' "Get Directions" feature to estimate the effect of the closure on travelers. Using this tool, we measured the distance and estimated time between each probable cross-border combination (Abbot's Corner to Morses Line, Moore's Crossing to Franklin, etc.). We assume that travelers will always take the fastest route. Because Morses Line is not on major routes, it would not be the fastest route for the vast majority of travelers originating in or traveling outside this

area, so we only consider the immediate surrounding area in our analysis (current traffic volumes through Morses Line also support the assumption that travel is overwhelmingly local). We next measured the distance and estimated time for each combination assuming

they could not travel through Morses Line.

By comparing the distance and travel time for the fastest route to those for the fastest route that does not use Morses Line, we calculate the effect of the crossing closure on both travel time and miles traveled. For example, traveling

from Morgan’s Corner to Morses Line currently takes 18 minutes. If the Morses Line crossing is closed, it would take an estimated 36 minutes, 18 minutes longer. Table 1 shows the effects of the closure on time traveled for the points considered. Table 2 shows the effect on miles traveled.

TABLE 1—DIFFERENCE IN TIME TRAVELED  
[Minutes]

	Morses Line	Franklin	Franklin County State Airport	Sheldon Springs	Sheldon	Enosburg Falls	Highgate Springs	Swanton
Phillipsburg Bird Sanctuary .....	12	9	0	0	0	0	0	0
Morgan’s Corner .....	18	16	0	0	0	2	0	0
Moore’s Crossing .....	31	22	2	10	10	7	0	0
Le Coin-chez Desranleau .....	31	23	0	10	12	7	0	0
Campbell Corners .....	29	15	5	10	9	0	0	0
Pigeon Hill .....	24	10	5	4	5	0	0	0
Eccles Hill .....	20	6	8	1	1	0	0	4
Saint Armand Centre .....	18	4	5	0	0	0	0	0
Krans Corners .....	21	6	5	2	1	0	0	0
Hunter Mills .....	6	0	5	0	0	0	0	0
Frelighsburg .....	6	0	5	0	0	0	0	0
Joy Hill .....	2	0	1	0	0	0	0	0
Abbott’s Corner .....	1	0	1	0	0	0	0	0

TABLE 2—DIFFERENCE IN DISTANCE TRAVELED  
[Miles]

	Morses Line	Franklin	Franklin County State Airport	Sheldon Springs	Sheldon	Enosburg Falls	Highgate Springs	Swanton
Phillipsburg Bird Sanctuary .....	10	11	0	0	0	0	0	0
Morgan’s Corner .....	13	9	0	0	0	6	0	0
Moore’s Crossing .....	20	12	1	5	8	3	0	0
Le Coin-chez Desranleau .....	20	12	0	5	8	2	0	0
Campbell Corners .....	17	9	4	7	6	0	0	2
Pigeon Hill .....	13	5	3	4	4	0	0	1
Eccles Hill .....	12	4	5	3	3	0	0	3
Saint Armand Centre .....	11	2	3	0	0	0	0	2
Krans Corners .....	12	3	3	1	1	0	0	1
Hunter Mills .....	5	0	3	0	0	0	0	2
Frelighsburg .....	3	0	6	0	0	0	0	1
Joy Hill .....	3	0	5	0	0	0	0	1
Abbott’s Corner .....	2	0	4	0	0	0	0	1

Because CBP does not collect data on the points of origin or destinations of travelers using Morses Line and because quality population data for these locations is not available, we assume that each route is used equally. Using this assumption probably overstates the costs of the closure because the area immediately surrounding Morses Line<sup>1</sup> (which would be impacted most by the closure) is sparsely populated when compared to areas farther from the crossing, such as Franklin or Highgate

Springs. Using this assumption we estimate that those whose trip is affected by the closure of Morses Line would be delayed by an average of 8.19 minutes (0.137 hours) and 5.7 miles for a one-way trip.

In 2007, Industrial Economics, Inc. (IEc) conducted a study for CBP to develop “an approach for estimating the monetary value of changes in time use for application in [CBP’s] analyses of the benefits and costs of major regulations.”<sup>2</sup> We follow the three-step

approach detailed in IEc’s 2007 analysis here to monetize the increase in travel time resulting from the closure of Morses Line: (1) Determine the local wage rate, (2) determine the purpose of the trip, and (3) determine the value of the travel delay as a result of this rule. We start by using the median hourly rate of \$15.73 for Vermont, as the effects of the rule are local.<sup>3</sup> We next determine

<sup>1</sup> The population of the zip code containing Morses Line and Franklin is approximately 1,500 people. <http://vermont.hometownlocator.com/zip-codes/data,zipcode,05457.cfm>.

<sup>2</sup> Robinson, Lisa A. 2007. “Value of Time.” Submitted to U.S. Customs and Border Protection on February 15, 2007. The paper is contained in its entirety as Appendix D in the Regulatory

Assessment for the April 2008 final rule for the Western Hemisphere Travel Initiative requirements in the land environment (73 FR 18384; April 3, 2008). See <http://www.regulations.gov> document numbers USCBP–2007–0061–0615 and USCBP–2007–0061–0616.

<sup>3</sup> Bureau of Labor Statistics, May 2010. [http://www.bls.gov/oes/current/oes\\_vt.htm#00-0000](http://www.bls.gov/oes/current/oes_vt.htm#00-0000).

the purpose of the trip. For the purposes of this analysis, we assume this travel will be personal travel and will be local travel. We identify the value of time multiplier recommended by the U.S. Department of Transportation (DOT) for personal, local travel, as 0.5.<sup>4</sup> Finally, we account for the value of the travel delay. Since the added time spent traveling is considered more inconvenient than the baseline travel, we account for this by using a factor that weighs time inconvenienced more heavily than baseline travel time. This factor, 1.47, is multiplied by the average wage rate and the DOT value of time multiplier for personal, local travel for a travel time value of \$11.56 per traveler ( $\$15.73 \times 0.5 \times 1.47$ ).<sup>5</sup>

We next multiply the estimated number of U.S. citizens entering through Morses Line in a year (8,147) by the average delay (0.137 hours calculated above) to arrive at the number of additional hours U.S. citizens would be delayed as a result of this rule—1,116 hours. We multiply this by the value of travel time (\$11.56) to arrive at the value of the additional driving time for U.S. citizens arriving in the United States once Morses Line is closed. Finally, we double this to reach a total time cost of a round trip for U.S. citizens of \$25,802.

Besides the cost of additional travel time, we must consider the vehicular costs of a longer trip. We must first estimate the number of miles the closure of Morses Line would add to U.S. citizens' trips. The annual traffic arriving at Morses line is 14,600 vehicles. Since CBP does not track the number of vehicles entering by nationality, we estimate those owned by U.S. citizens. Since 31 percent of the passengers entering the United States by car in the Boston Field Office (which includes Morses Line) are U.S. citizens, we assume that 31 percent of the vehicles are owned by U.S. citizens. Therefore, we estimate that 4,526 U.S.-owned vehicles would be affected by this rule. We multiply this by the average increase in round trip distance of 11.4 miles for a total distance delay for U.S. owned vehicles of 51,596 miles. We next monetize the delay by applying the IRS's standard mileage rate for business travel of \$0.50 to these vehicles, which includes fuel costs, wear-and-tear, and depreciation of the

vehicle. Because this is an estimate for business travel, it may overstate slightly costs for leisure travelers using their vehicles on leisure activities. We estimate that a closure of Morses line would cost U.S. citizens \$25,798 in additional vehicular costs (14,600 vehicles  $\times$  31 percent U.S. citizens  $\times$  11.4 miles  $\times$  \$0.50 per mile = \$25,798).

The final cost we must consider is the cost to the economy of lost tourism revenue resulting from potential decreased Canadian travel. Because of the lack of local tourism data for this specific region, we are unable to monetize or quantify these costs. We therefore discuss this qualitatively.

Since both U.S. and foreign travelers would be inconvenienced by the closure of the Morses Line crossing, it is possible that fewer foreign travelers would choose to cross the border into the United States. To the extent that these visitors were spending money in the United States, local businesses would lose revenue. Since the average trip would only be lengthened by about 8 minutes, this effect would likely be very small. Also, it could be mitigated by U.S. citizens who would now choose to remain in the United States. We believe that the total impacts on the economy due to decreased travel to the United States are negligible.

In summary, the closure of the Morses Line crossing would cost CBP \$158,000 in direct closure costs in the first year, and U.S. travelers \$25,802 in time costs and \$25,798 in vehicular costs annually. Total costs to close the port would thus be \$210,000 in the first year and \$52,000 each following year.

#### *Net Effect of Closure*

The costs to CBP of leaving the Morses Line crossing open would be \$5.7 million the first year and \$692,000 each following year. The costs of closing the crossing would be \$210,000 the first year and \$52,000 each following year. Thus, the net benefit of the crossing closure would be about \$5.5 million the first year and \$640,000 each year after the first year.

Dated: September 29, 2011.

**Janet Napolitano,**

*Secretary.*

[FR Doc. 2011-25748 Filed 10-4-11; 8:45 am]

**BILLING CODE 9111-14-P**

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 26**

[Docket No. PRM-26-7; NRC-2011-0220]

#### **Cheri Swensson; Certification of Substance Abuse Experts**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking (PRM), dated May 5, 2011, and supplemented on August 3, 2011, which was filed with the NRC by Cheri Swensson (the petitioner), on behalf of the American Academy of Health Care Providers in the Addictive Disorders (the Academy). The petition was docketed by the NRC on September 9, 2011, and has been assigned Docket No. PRM-26-7. The petitioner requests that the NRC amend its regulations to include the Academy as one of the organizations authorized to certify a substance abuse expert.

**DATES:** Submit comments by December 19, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Please include Docket ID NRC-2011-0220 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0220. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn.: Rulemakings and Adjudications Staff.

- *E-mail comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (telephone: 301-415-1677).

<sup>4</sup> U.S. Department of Transportation (DOT), *Revised Departmental Guidance, Valuation of Travel Time in Economic Analysis*, (Memorandum from E. H. Frankel), February 2003, Tables 1.

<sup>5</sup> Wardman, M., "A Review of British Evidence on Time and Service Quality Valuations," *Transportation Research Part E*, Vol. 37, 2001, pp. 107-128.