**SUMMARY:** This document amends the Department of Veterans Affairs (VA) adjudication regulations to state that the remarried surviving spouse of a veteran is not barred from receiving dependency and indemnity compensation if the remarriage is terminated by death, divorce, or annulment, unless the divorce or annulment was secured through fraud or collusion. This document further amends the regulations to permit the receipt of dependency and indemnity compensation by a surviving spouse who has lived with another person and held himself or herself out openly to the public as that other person's spouse, if the surviving spouse ceases living with that other person and holding himself or herself out openly to the public as that other person's spouse. This amendment is necessary to conform the regulations to a recent statutory change.

**DATES:** Effective Date: October 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Warren Jones, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7167.

**SUPPLEMENTARY INFORMATION:** A surviving spouse of a veteran must be unmarried to receive VA benefits. The law regarding the eligibility for benefits of a surviving spouse of a veteran who remarries after the veteran's death and whose remarriage later terminates has changed several times in recent years.

Prior to January 1, 1971, remarriage of a surviving spouse of a deceased veteran was a bar to benefits unless that remarriage was void or annulled. Pub. L. 91–376 amended 38 U.S.C. 103(d) by adding subsections 103(d)(2) and (d)(3) to permit the payment or resumption of payment of benefits to a surviving spouse whose remarriage was terminated by death or divorce, or who ceased living with another person and holding himself or herself out openly to the public as that person's spouse.

The Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508, deleted 38 U.S.C. 103(d)(2) and (d)(3). The effect of this change was to eliminate VA's authority, effective November 1, 1990, to reinstate entitlement to death benefits for a surviving spouse who had remarried after the veteran's death unless the marriage was void or annulled, or to reinstate entitlement to death benefits for a surviving spouse who ceased living with another person and holding himself or herself out openly to the public as that person's spouse.

Section 8207 of the Transportation Equity Act for the 21st Century, Pub. L. 105–178, amended 38 U.S.C. 1311, effective October 1, 1998, to reinstate eligibility for only dependency and indemnity compensation to a surviving spouse of a veteran whose remarriage is terminated by death, divorce, or annulment unless VA determines that the divorce or annulment was secured through fraud or collusion. Additionally, Pub. L. 105–178 reinstates eligibility for dependency and indemnity compensation to a surviving spouse of a veteran who ceases living with another person and holding himself or herself out openly to the public as that person's spouse. This document amends 38 CFR 3.55 accordingly.

This final rule reflects statutory requirements. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 64.110.

**List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: April 14, 1999.

**Togo D. West, Jr.,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.55, paragraphs (a)(3) and (a)(4) are redesignated as paragraphs (a)(4) and (a)(6), respectively, and new paragraphs (a)(3) and (a)(5) are added to read as follows:

**§ 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.**

* * * * *

(a) * * *

(3) On or after October 1, 1998, remarriage of a surviving spouse terminated by death, divorce, or annulment, will not bar the furnishing of dependency and indemnity compensation, unless the Secretary determines that the divorce or annulment was secured through fraud or collusion.

(Authority: 38 U.S.C. 1311(e))

* * * * *

(5) On or after October 1, 1998, the fact that a surviving spouse has lived with another person and has held himself or herself out openly to the public as the spouse of such other person will not bar the furnishing of dependency and indemnity compensation to the surviving spouse if he or she ceases living with such other person and holding himself or herself out openly to the public as such other person's spouse.

(Authority: 38 U.S.C. 1311(e))

* * * * *

[FR Doc. 99–14252 Filed 6–4–99; 8:45 am]

BILLING CODE 8320–01–P

## FEDERAL MARITIME COMMISSION

### 46 CFR Part 551

**[Docket No. 96–20]**

### Port Restrictions and Requirements in the United States/Japan Trade

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission is requiring U.S. and Japanese ocean common carriers in the U.S.-Japan trade to provide reports addressing the status of efforts to reform conditions unfavorable to shipping in the U.S.-Japan trade. Areas for reporting include reform of the ''prior consultation'' system for pre-approving carriers' service changes in Japan; entry of non-Japanese carriers into Japan's harbor services market; and Government of Japan proposals for broader harbor services deregulation. As marketplace developments have overtaken the findings in the currently suspended final rule in this proceeding in certain respects, the Commission has determined to remove that final rule.

**DATES:** The removal of § 551.2 is effective June 7, 1999. Reports are due August 26, 1999, and every 180 days thereafter.

**ADDRESSES:** Reports and requests for publicly available information should be addressed to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, D.C. 20573, (202) 523–5725.

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

**SUPPLEMENTARY INFORMATION:**

## Background

After an extensive investigation regarding potentially unfavorable conditions facing U.S. ocean shipping interests in Japanese ports, the Commission on February 26, 1997, issued a final rule finding such conditions to exist and imposing $100,000 per voyage sanctions against Japanese carriers entering United States ports. The rule was originally scheduled to take effect on April 14, 1997; however, the Commission postponed the effective date of the final rule until September 4, 1997, in recognition of assurances by the Japan Ministry of Transport (''MOT'') that it and other involved parties would undertake reforms to correct the conditions at issue. On September 4, 1997, the Commission, having not been presented with any evidence of corrective measures, allowed the rule to go into effect, and sanctions began to accrue against the Japanese carriers. The rule was again suspended by the Commission on November 13, 1997, after the signing of comprehensive government-to-government and industry-government accords to substantially reform Japanese port practices; at that time, accrued fees of $1.5 million were paid by the Japanese carriers.

The Commission took the above-described actions in this proceeding after a comprehensive inquiry into restrictions and requirements affecting U.S. carriers and U.S. commerce in Japanese ports. The fees assessed in the final rule were deemed necessary in light of the Commission's identification of a number of conditions unfavorable to shipping warranting action under section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 876:

- Shipping lines in the Japan-U.S. trades were not allowed to make operational changes, major or minor, without the permission of the Japan Harbor Transportation Association (''JHTA''), an association of Japanese waterfront employers operating with the permission of, and under the regulatory authority and ministerial guidance of MOT.
- JHTA had absolute and unappealable discretion to withhold permission for proposed operational changes by refusing to accept such proposals for ''prior consultation,'' a mandatory process of negotiations and pre-approvals involving carriers, JHTA, and waterfront unions.
- There were no written criteria for JHTA's decisions whether to permit or disallow carrier requests for operational changes, nor were there written explanations given for the decisions.
- JHTA used and threatened to use its prior consultation authority to punish and disrupt the business operations of its detractors.
- JHTA used its authority over carrier operations through prior consultation as leverage to extract fees and impose operational restrictions, such as Sunday work limits.
- JHTA used its prior consultation authority to allocate work among its member companies, by barring carriers and consortia from freely choosing operators and by compelling shipping lines to hire additional, unneeded stevedore companies or contractors.
- MOT administered a licensing standard which blocks new entrants from the stevedoring industry in Japan, protecting JHTA's dominant position, and ensuring that the stevedoring market remains entirely Japanese.
- Because of the restrictive licensing requirement, U.S. carriers could not perform stevedoring or terminal operating services for themselves or third parties in Japan, as Japanese carriers do in the United States.

On November 10, 1997, U.S. and Japanese officials and relevant industry groups (i.e., JHTA, the Japan Shipowners' Port Council (''JSPC'') and the Japan Foreign Steamship Association (''JFSA'')) came to terms on a number of points for remedying conditions in Japanese ports, including:

- A reaffirmance by the Government of Japan (''GOJ'') that it would approve foreign shipping companies' applications for licenses for port transportation business operations;
- An agreement to simplify the prior consultation system, increase transparency through the use of written decisions, and provide for dispute settlement procedures in which MOT or an MOT-chaired committee would resolve questions and disputes, and MOT would arbitrate and issue judgments;
- An agreement among the GOJ and carrier groups to establish an alternative to the prior consultation system and to implement the alternative system, whereby carriers intending to implement operational changes would confer with their terminal operators (who would, to the extent required by applicable collective bargaining agreements, consult with labor unions either directly or through a collective bargaining agent);
- Commitments that prior consultation not be used as a means to approve carriers' business plans and strategies, allocate business among port transportation business operators, restrict competition or infringe on carriers' freedom to select port transport business operators;
- Commitments that the GOJ will use its authority to prevent the unjustifiable denial of services essential to the conduct of licensed activities, to ensure the smooth operation of the port transportation business and the improvement of port efficiency, and to ensure that operation of the alternative prior consultation process will be free from outside interference, harassment, or retaliation.

## Discussion

In the period since the Government of Japan made its commitments to market opening and increased accountability, the pace of progress and reform in Japan's port transportation sector has been slow. It has been reported that no foreign shipping lines have applied for or received licenses to operate their own terminals. No carrier appears to have invoked or tested the prior consultation dispute settlement procedures or other procedural safeguards that were agreed to, and no alternative to JHTA's prior consultation system for reconciling carrier service issues with the concerns of Japanese labor has been developed. Moreover, proposals for broader reform under consideration by Japan's Government fall well short of full deregulation.

There appear to be several reasons for these shortcomings. While the Government of Japan has committed to provide licenses to foreign carriers to operate port transportation businesses in their own berths, it has been reported that Japanese labor unions have communicated strong opposition to foreign lines establishing terminal operations, including threats of work stoppages or other labor actions. Other factors have made foreign entry into this sector more difficult as well. The Government of Japan maintains regulatory requirements, including ''close ties'' (through equity exchange or long term contracts) with subcontractors, that make launching a terminal venture more difficult. Furthermore, it appears that recent

economic factors in Japan, including currency and trade shifts, have made carrier investment in Japan's high-cost ports even less attractive than before. As a result, some lines have curtailed services in Japan, restructured existing arrangements, and shifted other operations to more rapidly growing, lower-cost modern maritime centers in the region.

The reasons for the lack of progress regarding alternatives to prior consultation may be similarly complex, potentially involving labor concerns or resistance, lack of governmental leadership, and the scaling back of some carriers' operations in Japan. Also, while the 1997 agreements provide for dispute resolution processes, these procedures are as yet untested. The reasons for and effects of this remain unclear, requiring further information and clarification.

Given these evolving circumstances, it is necessary for the Commission to continue its review of this matter, and to update its record in this proceeding. The existing record and the resulting findings in the final rule are no longer current, having been overtaken in a number of respects by changes in both market conditions and governmental policies. The Commission needs to collect further information, both now and on an ongoing basis, to effectively evaluate whether the unfavorable conditions identified in the rule continue to exist, and if so, the extent to which their continued existence arises out of or results from foreign laws, rules, or regulations. Such oversight is necessary to ensure that U.S. carriers do not face restrictions in their operations in Japan that Japanese carriers do not face in this country.

As some of the findings in the Commission's suspended final rule—for example, findings regarding official refusals to grant licenses—appear to have been overtaken in part by evolving circumstances and are not supported by the current record, the Commission has determined to withdraw the suspended rule while it reevaluates the current conditions facing U.S. shipping in Japan.

Removal of the final rule in no way reflects the satisfaction of the Commission with the current status of this matter, however, or a conclusion of the Commission's interest in the reform of port conditions facing Japan-U.S. trade. U.S. carriers and U.S. trade continue to bear the high costs of inefficient Japanese waterfront practices. There are a number of further steps that the Government of Japan appropriately could take to ensure that its market opening commitments can become effective. With regard to licensing, the Government of Japan could move swiftly to eliminate or liberalize regulatory requirements that make entry more difficult, such as the close-ties test and regulatory minimum manning requirements. For any new entrants to succeed, Japanese authorities must also ensure that there will be no illegal boycotts of new entrants to the market, and must take action to prevent unlawful threats or harassment. Japanese authorities could certainly take further steps as well, including providing guidance and leadership in dialogue with interested parties to address Japanese labor's concerns with, and resistance to, the entry of foreign carriers into Japan's port transportation business.

Japanese authorities also could appropriately take an active role to oversee the prior consultation process and ensure that all parties are conforming with the procedures and obligations set forth in agreements among MOT, shipowners, and JHTA. Of particular importance is the need to enforce the principle that prior consultation should not be used to allocate carrier business among operators. Active oversight by MOT could ensure that disputes regarding these provisions could be addressed and resolved before any conflicts become so severe that a formal request for dispute settlement becomes necessary.

Japanese authorities could also do more to facilitate the creation of alternative processes to prior consultation. For such an alternative to be possible, the Government of Japan will have to work actively with interested parties to provide assistance and advice, including aiding in resolving concerns of port labor.

The Commission will also continue to look closely at regulatory changes under consideration by the Government of Japan. In December 1998, Japan's Transport Policy Council Harbor Transport Subcommittee issued an interim report, laying out proposals for potential regulatory changes in this sector. These proposals included elimination of the supply/demand test for licensing port business operators, which has been an issue of serious concern in this proceeding, and ending the system of regulatory approval of harbor companies' fees and charges. While these could be positive steps, the draft plan as a whole appears to fall short of what is needed to remedy current inefficiencies and obstacles in Japan's ports, and to ensure an open and competitive market for harbor services. As the United States Government pointed out to MOT earlier this year, the deregulatory plan retains economically burdensome and seemingly unnecessary requirements, including required commercial relationships (i.e., terminal operators are required to perform at least 70% of their services themselves) and close-tie requirements for subcontractors. Most troublesome are regulatory minimum manning requirements, which are increased, rather than eliminated, in the proposal.

The Commission will continue to watch these matters closely, to ensure that the laws and regulations of the Government of Japan do not give rise to unfavorable conditions for U.S. maritime companies or trade.

Therefore, *it is ordered,* That 46 CFR 551.2, is removed;

*It is further ordered,* That the following parties are ordered to file reports with the Commission 90 days from the date of service of this order, and every 180 days thereafter: American President Lines, Ltd.; Sea-Land Service, Inc.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; and Nippon Yusen Kaisha. These reports should address the following:

1. Has your company[1] submitted any major matters (as defined in ''the Revised Prior Consultation System of 1997'') for prior consultation in the past 180 days? (Responses may be limited to prior consultation regarding services in U.S.-Japan trades). If so, for each major matter presented, describe the request, the process followed by the carrier, and how the matter was handled and disposed of by JHTA. Indicate specifically whether the procedures outlined in paragraph II of ''The Revised Prior Consultation System of 1997'' were adhered to by JHTA and your company. If any dispute between your company and JHTA under the prior consultation system has arisen, has MOT been notified or requested to serve as arbitrator? If so, describe in detail what actions, if any, have been taken by MOT.

2. Describe what attempts or inquiries your company has made with other shipping lines, port transportation business operators, MOT, or any waterfront organizations to create an alternative to the prior consultation system as described in the ''Agreement on the Improvement of the Prior Consultation System of 1997'' paragraph 3(2), and describe the responses received.

3. Describe in detail the status of any legislative or regulatory proposals to deregulate or change the laws or standards for the provision of marine terminal or stevedoring services in Japanese ports, and the likely effects of such changes on your business operations.

4. (For response by APL and Sea-Land only.) Does your company have plans to begin performing or offering port harbor transportation services in Japan in the forseeable future? If so, describe: the planned

[1] References to ''your company'' include parent companies, subsidiaries, and corporate affiliates with whom common ownership is shared.

operations in detail; any attempts to obtain a license to operate a harbor services business, including any communications your company has had with any MOT officials regarding the issuance of licenses; and any communications your company has had in Japan with JHTA, other steamship or harbor services companies, and any other waterfront organization, regarding your company's plans to offer harbor transportation services in Japan or efforts to obtain licenses to do so.

5. Describe any new or further restrictions or requirements placed on your company regarding the use or operation of terminals or harbor services.

**List of Subjects in 46 CFR Part 551**

Maritime Carriers.

For the reasons set out in the preamble, the Commission amends 46 CFR part 551 as follows:

## PART 551—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE U.S. FOREIGN TRADE

1. The authority citation for part 551 continues to read as follows:

**Authority:** 46 U.S.C. app. 876(1)(b); 46 U.S.C. app. 876(5) through (12); 46 CFR part 550; Reorganization Plan No. 7 of 1961, 26 FR 7315 (August 12, 1961).

**§ 551.2 [Removed]**

2. Remove § 551.2.

By the Commission.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 99–14257 Filed 6–4–99; 8:45 am]

BILLING CODE 6730–01–U

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 635

**[I.D. 052499C]**

## Atlantic Highly Migratory Species (HMS) Fisheries; Large Coastal Shark Species

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

**ACTION:** Fishing season notification.

**SUMMARY:** NMFS notifies eligible participants of the length of the second semiannual fishing season for the commercial fishery for large coastal sharks (LCS) in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea. Both the ridgeback and non-ridgeback sectors of the LCS fishery will open July 1, 1999. The non-ridgeback LCS sector will close July 12, 1999, 11:30 p.m. local time. The ridgeback LCS sector will close August 8, 1999, 11:30 p.m. local time. This action is necessary to ensure that the semiannual quotas for ridgeback LCS of 310 metric tons (mt) dressed weight (dw) and non-ridgeback LCS of 98 mt dw for the period July 1 through December 31, 1999, are not exceeded.

**DATES:** The fishery opening for ridgeback and non-ridgeback LCS is effective July 1, 1999; the non-ridgeback LCS closure is effective from 11:30 p.m. local time July 12, 1999, through December 31, 1999; and the ridgeback LCS closure is effective from 11:30 p.m. local time August 8, 1999, through December 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Margo Schulze or Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Section 635.27(b) of the regulations provides for the annual commercial quota of LCS to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters to be apportioned between two equal semiannual fishing seasons. The second semiannual quotas for ridgeback LCS of 310 mt dw and for non-ridgeback LCS of 98 mt dw are available for harvest for the semiannual period beginning July 1, 1999.

The Assistant Administrator for Fisheries, NOAA (AA), is required under § 635.27(b) to determine, based on projected catch rates, available quota, and other relevant factors, the length of each semiannual fishing season for LCS. When shark harvests are projected to reach the available quota established under § 635.27(b), the AA is further required under § 635.28(b) to close the fishery until additional quota is available.

Catch rate data from the second fishing season from 1997 and 1998 for ridgeback and non-ridgeback LCS species (see Table 1(a) of Appendix A to Part 635) indicate that the ridgeback LCS quota of 310 mt dw will be attained within 39 days and the non-ridgeback LCS quota of 98 mt dw will be attained within 13 days of the fishery opening. Accordingly, the AA has determined, based on these projected catch rates and the available quotas, that the quotas for the 1999 second semiannual season for LCS in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, will be attained as of July 12, 1999, for non-ridgeback LCS and, as of August 8, 1999, for ridgeback LCS.

During a closure, retention of, fishing for, possessing or selling LCS are prohibited for persons fishing aboard vessels issued a limited access permit under § 635.4. After July 12, 1999, and August 8, 1999, for non-ridgeback and ridgeback LCS, respectively, the sale, purchase, trade, or barter of carcasses and/or fins of LCS harvested by a person aboard a vessel that has been issued a permit under § 635.4 are prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure and were held in storage by a dealer or processor.

Sharks that are discarded dead and are landed from state waters are counted against the applicable fishery quota, as established under § 635.27(b)(1)(iv)(C).

Commercial fishing for pelagic and small coastal sharks may continue until further notice. When quotas are projected to be reached, the AA will file notice of closure at the Office of the Federal Register. Those vessels that have not been issued a limited access permit under § 635.4 may not sell sharks and are subject to the recreational retention limits and size limits specified at §§ 635.22(c) and 635.20(d). The recreational fishery is not affected by this closure.

NMFS is considering issuing exempted fishing permits (EFPs) for those permitted vessels that will conduct charter or headboat operations after closures, which would exempt such operations from the prohibition on possession of LCS but would restrict such operations to the recreational retention limits and size limits with a no-sale restriction. NMFS is considering issuing EFPs in such instances because the final rule implementing the HMS FMP has delayed issuance of an HMS charter/headboat permit. NMFS intends to implement the HMS charter/headboat permit and reporting requirement following Paperwork Reduction Act clearance. Because previous regulations allowed vessels operating as a charter or headboat to retain sharks under the recreational retention limits during fishery closures and the HMS FMP stipulates that vessels for which limited access permits have been issued may not retain sharks during fishery closures, issuance of EFPs will help NMFS ascertain the magnitude of the number of vessels that operate commercially as well as charter/headboats under recreational limits. This information will help NMFS