

Comment: Grantees should not be allowed to use project funds to pay for assignment-related equipment and supplies used by volunteers; these should remain the responsibility of the volunteer station.

Response: Under the modified regulation, grantees are free to establish their own policies regarding which assignment-related expenses volunteer stations must be responsible under the memorandum of understanding between the grantee and the volunteer station.

Comment: The requirement to specify each expense in the Memorandum of Understanding (MOU) may impose additional administrative burden on the grantee and the volunteer station.

Response: Since the MOU is the document that defines the respective responsibilities of the grantee and the volunteer station, the Corporation believes it is the appropriate document in which to describe the expenses for which each party to the MOU is responsible.

Impact of Various Acts and Executive Orders

After carefully reviewing the changes implemented by this amendment, and after coordination with the Office of Management and Budget, it was determined that:

(1) This was a significant regulatory action under section 3(f)(4) of Executive Order 12866 "Regulatory Planning and Review," and required a review by the Office of Management and Budget;

(2) The Corporation hereby certifies that the Regulatory Flexibility Act does not apply because there is no "significant economic impact on a substantial number of small entities";

(3) That the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II) does not apply because the amendment does not result in any annual expenditures of \$100 million by State, local, Indian tribal governments or the private sector;

(4) That the Paperwork Reduction Act does not apply because the amendments do not impose any additional reporting or record-keeping requirements;

(5) That the Small Business Regulatory Enforcement Fairness Act of 1996 does not apply because it is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, and would not result in an annual effect on the economy of \$100 million or more; result in an increase in cost or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-

based companies in domestic and export markets; and

(6) That Executive Order 13132, "Federalism" does not apply because it would not have substantial direct effects on the States or the relationship between the national government and the States.

List of Subjects in 45 CFR Part 2553

Aged, Grant programs—social programs, Volunteers.

■ For the reasons set forth in the preamble, the Corporation for National and Community Service amends 45 CFR part 2553 as follows:

PART 2553—THE RETIRED AND SENIOR VOLUNTEER PROGRAM

■ 1. The authority citation for part 2553 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*

■ 2. In § 2553.43, add a new paragraph (e) to read as follows:

§ 2553.43 What cost reimbursements are provided to RSVP volunteers?

* * * * *

(e) *Other volunteer expenses.* RSVP volunteers may be reimbursed for expenses incurred while performing their volunteer assignments provided these expenses are described in the Memorandum of Understanding negotiated with the volunteer station to which the volunteer is assigned.

§ 2553.73 [Amended]

■ 3. In § 2553.73, remove paragraph (d) and redesignate paragraphs (e) through (i) as paragraphs (d) through (h).

Dated: April 7, 2004.

Tess Scannell,

Director, National Senior Service Corps.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. RSPA-03-13658 (HM-215E)]

RIN 2137-AD41

Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; extension of compliance date.

SUMMARY: RSPA is extending the compliance date of the recently adopted air eligibility marking requirement. On July 31, 2003, RSPA published a final rule under Docket Number RSPA-2002-13658 (HM-215E) requiring mandatory compliance with the air eligibility marking by October 1, 2004. This final rule extends the October 1, 2004 mandatory compliance date to October 1, 2006.

DATES: The effective date of this final rule is April 19, 2004.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, telephone (202) 366-8553, or Shane Kelley, International Standards, telephone (202) 366-0656, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket HM-215E (68 FR 44992) revising the Hazardous Materials Regulations (HMR) to maintain alignment with recent changes to corresponding provisions in the International Civil Aviation Organization's (ICAO) Technical Instructions, the International Maritime Dangerous Goods Code and the United Nations Recommendations. One of the amendments made in the July 31, 2003 final rule was the incorporation into the HMR of an air eligibility marking requirement, consistent with the ICAO Technical Instructions' air eligibility marking requirement. Since publication of the final rule, ICAO approved an amendment to the 2005-2006 ICAO Technical Instructions that will replace the air eligibility mark with a shipper's certification on the shipping paper, and approved an addendum to the 2003-2004 edition of the ICAO Technical Instructions that revises the air eligibility marking requirement by making it optional rather than mandatory during the interim period leading up to the effective date of the 2005-2006 ICAO Technical Instructions. Based on ICAO's action, we are re-evaluating the marking requirement. To provide an opportunity for public comment, this issue will be addressed in an upcoming NPRM to be issued under Docket HM-215G. Currently under the HMR, the air eligibility marking requirement becomes mandatory on October 1, 2004. Taking into consideration the time element involved with the HM-215G rulemaking

process, in this final rule we are adding a new paragraph (e) in § 172.321 to extend the mandatory compliance date for meeting the air eligibility marking requirement to October 1, 2006.

II. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. This final rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. This final rule amends a July 31, 2003 final rule by extending the compliance date for the air eligibility marking requirement from October 1, 2004 to October 1, 2006. The compliance date extension adopted in this final rule does not alter the cost-benefit analysis and conclusions contained in the Regulatory Evaluation prepared for the July 31, 2003 final rule. Indeed, the compliance date extension assures that persons who offer hazardous materials for transportation by air will not incur increased costs to comply with a requirement that may be amended.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This rulemaking preempts State, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous material transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (1) The designation, description, and classification of hazardous materials;
- (2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;
- (4) The written notification, recording, and reporting of the

unintentional release in transportation of hazardous; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject item (2) above and would preempt State, local, and Indian tribe requirements not meeting the "substantively the same" standard. Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of this final rule and not later than two years after the date of issuance. The effective date of Federal preemption is July 19, 2004.

C. Executive Order 13175

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities, unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule applies to businesses, some of whom are small entities, that offer for transportation or transport hazardous materials in commerce for transportation by air. This final rule provides an extension of the compliance date for the recently adopted air eligibility marking requirement. The compliance date extension assures that persons who offer hazardous materials for transportation by air will not incur increased costs to comply with a requirement that may be amended. Therefore, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities

in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

E. Paperwork Reduction Act

This final rule does not impose new information collection requirements.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. The environmental assessment prepared for the July 31, 2003 final rule can be found in the public docket for this rulemaking. The revisions adopted in this final rule do not alter the conclusions contained in the environmental assessment. There are no significant environmental impacts associated with this final rule.

List of Subjects in 49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, amend 49 CFR Chapter I as follows:

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 1. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 2. In § 172.321, a new paragraph (e) is added to read as follows:

§ 172.321 Air eligibility mark.

* * * * *

(e) *Transition Date.* Compliance with the requirements of this section is not mandatory until October 1, 2006.

Issued in Washington, DC, on April 12, 2004, under authority delegated in 49 CFR part 1.

Samuel G. Bonasso,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 04–8825 Filed 4–16–04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 041404B]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/“Other flatfish” Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/“other flatfish” fishery category by vessels using trawl gear in

the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 2004 halibut bycatch allowance specified for the trawl rock sole/flathead sole/“other flatfish” fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 16, 2004, through 1200 hrs, A.l.t., July 4, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

The 2004 halibut bycatch allowance was specified for the trawl rock sole/flathead sole/“other flatfish” fishery category in the BSAI by the 2004 final harvest specifications for groundfish of the BSAI (69 FR 9242, February 27, 2004), as 164 metric tons for the period of 1200 hrs, A.l.t., April 1, 2004 through 1200 hrs, A.l.t., July 4, 2004.

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the amount of the second seasonal apportionment of the 2004 halibut bycatch allowance specified for the trawl rock sole/flathead sole/“other flatfish” fishery category in the BSAI has been caught. Consequently, NMFS is closing directed

fishing for species in the rock sole/flathead sole/“other flatfish” fishery category by vessels using trawl gear in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for species in the rock sole/flathead sole/“other flatfish” fishery category by vessels using trawl gear in the BSAI.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 14, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–8765 Filed 4–14–04; 4:26 pm]

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