

appropriate. All equipment shall be considered to operate in a "general population/uncontrolled" environment. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(g) Manufacturers of U-NII devices are responsible for ensuring frequency stability such that an emission is maintained within the band of operation under all conditions of normal operation as specified in the users manual.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 376

[FHWA Docket No. FHWA-97-3050]

RIN 2125-AE26

Exemption of Commonly-Owned Motor Carriers From Equipment Identification and Receipt Requirements Applicable to Leased and Interchanged Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is modifying its regulations under 49 CFR part 376 governing the lease and interchange of motor vehicle equipment by exempting commonly-owned and controlled motor carriers from the vehicle identification and exchange of receipt requirements of § 376.22 and the vehicle identification requirement of § 376.31. This action eliminates the need for carriers to obtain individual waivers from these requirements from the FHWA.

EFFECTIVE DATE: August 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Grimm, Director, Office of Motor Carrier Information Analysis, (202) 366-4039, or Mr. Michael J. Falk, Motor Carrier Law Division, Office of the Chief Counsel, (202) 366-1384, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

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Background

The FHWA's regulations at 49 CFR part 376 govern motor carrier transportation provided in nonowned equipment. Section 376.22 permits motor carriers of property who must register with the FHWA under 49 U.S.C. 13901 and § 13902 (authorized carriers) to trip lease nonowned equipment between themselves and private motor carriers under specified conditions. Section 376.22(a) requires that trip-leasing carriers comply with certain equipment identification and equipment receipt requirements contained in 49 CFR 376.11. Under these requirements, trip-leased vehicles must display the trade name and other pertinent information regarding the motor carrier operating the vehicle. Equipment receipts must be exchanged between the owner and authorized carrier when possession of the equipment is transferred.

Section 376.31 of the regulations imposes a similar vehicle identification requirement on authorized carriers which interchange equipment to continue a through movement, and also requires that either a copy of the interchange agreement or a detailed interchange statement be carried in each vehicle.

On December 30, 1997, the FHWA published a notice of proposed rulemaking (NPRM) and a request for comments in the **Federal Register** (62 FR 67821) on amending part 376 to exempt commonly-owned and controlled motor carriers from the vehicle identification and exchange of receipt requirements of § 376.22 and the vehicle identification and documentation requirements of § 376.31. Commonly-owned or controlled carriers have routinely been granted individual waivers from these requirements by the former Interstate

Commerce Commission (ICC) and the FHWA on the ground that compliance is unnecessary and burdensome as long as the carriers remained under joint ownership and control.

The FHWA believes that the vehicle identification and exchange of receipt requirements serve little useful purpose when vehicles are being exchanged between commonly-controlled companies which are jointly operated with respect to safety program administration and equipment utilization. Vehicle ownership and assignment information can be readily made available from computerized dispatch records and operational logs, obviating the need for strict identification, placarding and receipt issuance requirements. Furthermore, elimination of these requirements would allow such carriers to operate more efficiently and economically by fostering improved equipment use and eliminating a significant and unproductive paperwork and placarding burden. This amendment would also allow the FHWA to conserve its own resources by eliminating the need to grant waivers on an individual basis.

Discussion of Public Comments

The public comment period for the NPRM closed on March 2, 1998. Comments were received from the California Highway Patrol (CHP); Landstar System, Inc., and its 10 motor carrier subsidiaries; and the National Solid Wastes Management Association (NSWMA). Landstar and the NSWMA support the proposed rule on the ground that it will eliminate burdensome administrative and paperwork requirements which no longer serve a useful purpose. The CHP, however, believes that exempting commonly-owned and controlled carriers from vehicle identification requirements will create problems for enforcement personnel issuing traffic citations and conducting routine vehicle inspections and accident investigations. According to the CHP, the carrier information displayed on the vehicle is used to identify the carrier for purposes of preparing inspection, citation and accident reports, which are incorporated into State and Federal motor carrier databases. In order to ensure the accuracy of this data, the CHP requests that the proposed rule be amended to require that each vehicle carry documentation identifying the operating carrier which would have to be presented to law enforcement personnel on request.

We agree with the CHP that it is important for enforcement personnel to be able to accurately identify the

operating motor carrier when issuing traffic citations and conducting vehicle inspections and accident investigations. However, vehicles trip-leased among commonly-owned and controlled carriers will still be required to carry a copy of either the trip-leasing agreement under § 376.22(c)(3) or a master lease under § 376.22(c)(4). Consequently, enforcement personnel will be able to identify the operating motor carrier of trip-leased equipment.

With respect to interchanged equipment, § 376.31(d)(2) is the only regulatory provision requiring interchanged vehicles to carry documentation identifying the operating motor carrier. Instead of achieving consistency with § 376.22 as intended, the proposed exemption from § 376.31(d)(2) would actually create inconsistent identification requirements because vehicles interchanged among commonly-owned and controlled carriers would no longer have to carry documents identifying the operating carrier. Accordingly, the final rule will retain the requirement that equipment interchanged among commonly-owned and controlled carriers carry either a copy of the interchange agreement or a detailed interchange statement. Inasmuch as individual petitions for waivers have generally sought relief from the provisions of § 376.22 rather than § 376.31, retaining this requirement should not be a burden on commonly-owned and controlled motor carriers.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely exempts a small number of transportation entities from complying with identification and documentation requirements which the FHWA has routinely waived upon request. Neither the individual nor cumulative impact of this action would be significant.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA

hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The FHWA receives less than ten petitions per year seeking waiver of vehicle identification and receipt issuance requirements. The rule, while beneficial, would not have a significant economic impact.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (the Act) (Pub. L. 104-4) requires each agency to assess the effects of its regulatory actions on State, local and tribal governments and the private sector. Any agency promulgating a rule likely to result in a Federal mandate requiring expenditures by a State, local or tribal government or by the private sector of \$100 million or more in any one year must prepare a written statement incorporating various assessments, estimates and descriptions that are delineated in the Act. The FHWA has determined that the changes in this rule will not have an impact of \$100 million or more in any one year.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* It is specifically designed to eliminate certain existing paperwork requirements for commonly-controlled motor carriers leasing or interchanging vehicles among themselves. Thus, this action is consistent with goals of the Paperwork Reduction Act.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification 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 number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 376

Highways and roads, Motor carriers—equipment leasing, Reporting and recordkeeping requirements.

Issued: July 21, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing and under the authority of section 103 of the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, and 49 CFR 1.48, the FHWA amends title 49, chapter III, as follows:

PART 376—LEASE AND INTERCHANGE OF VEHICLES

1. The authority citation for part 376 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14102; 49 CFR 1.48.

2. Section 376.22 is amended by adding new paragraph (d) to read as follows:

§ 376.22 Exemption for private carrier leasing and leasing between authorized carriers.

* * * * *

(d) Authorized and private carriers under common ownership and control may lease equipment to each other under this section without complying with the requirements of paragraph (a) of this section pertaining to identification of equipment, and the requirements of paragraphs (c)(2) and (c)(4) of this section pertaining to equipment receipts. The leasing of equipment between such carriers will be subject to all other requirements of this section.

3. Section 376.31 is amended by adding paragraph (d)(3) to read as follows:

§ 376.31 Interchange of equipment.

* * * * *

(d) * * *

(3) Authorized carriers under common ownership and control may interchange equipment with each other without complying with the requirements of paragraph (d)(1) of this

section pertaining to removal of identification from equipment.

[FR Doc. 98-20519 Filed 7-30-98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297-8054-02; I.D. 072498D]

Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of "other rockfish" in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of "other rockfish" in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the "other rockfish" 1998 total allowable catch (TAC) in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 27, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (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 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 "other rockfish" TAC in the Western Regulatory Area of the GOA as 20 metric tons (mt).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the amount of the "other rockfish" TAC in the Western

Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of "other rockfish" in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the amount of the "other rockfish" TAC in the Western Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. The fleet has taken the amount of the "other rockfish" TAC in the Western Regulatory Area. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 27, 1998.

Bruce C. Morehead,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297-8054-02; I.D. 072498F]

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the third seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 28, 1998, until 1200 hrs, A.l.t., October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The prohibited species bycatch mortality allowance of Pacific halibut for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) for the third season, the period July 1, 1998 through September 30, 1998, as 400 mt.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the third seasonal apportionment of the 1998 Pacific halibut bycatch mortality allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are rockfish, deep water flatfish, Rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the third seasonal apportionment of the 1998 Pacific halibut bycatch mortality allowance specified for the trawl deep-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The third seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under