

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that

have federalism implications.” “Policies that have federalism implications” is defined in the Executive order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 31, 2004.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.589 is amended by alphabetically adding commodities to the table in paragraph (a)(1) to read as follows:

§ 180.589 Boscalid; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * *	* *
Apple, wet, pomace	10
Aspirated grain fractions	3.0
* * *	* *
Fruit, pome, crop group, group 11	3.0
* * *	* *
Hops, cones, dried	35
* * *	* *
Soybean, hulls	0.2
Soybean, seed	0.1
Soybean, vegetable	2.0
* * *	* *

* * * * *

■ 3. Section 180.589 paragraph (d) is amended by removing tolerances for “Soybean, hulls,” and “Soybean, seed” from the table.

[FR Doc. 04-8316 Filed 4-13-04; 8:45 am]

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2552

RIN 3045-AA29

Foster Grandparent Program; Amendments

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: These amendments to the regulations governing the Foster Grandparent Program (FGP) modify provisions concerning deductions for medical expenses and the allowability of certain volunteer expense items.

The specific amendments are as follows: Section 2552.42(c) is modified to increase the ceiling on medical expenses that may be deducted for determining income for eligibility purposes from 15 percent to 50 percent of the applicable income guideline; and §§ 2552.45 and 2552.93(d) are modified to allow project funds, including the required non-federal share, to be used to reimburse volunteers for expenses, including transportation costs, incurred while performing volunteer assignments, and for purchase of equipment or supplies for volunteers on assignment.

DATES: These amendments are effective as of April 14, 2004.

FOR FURTHER INFORMATION CONTACT:

Peter L. Boynton, 202-606-5000, ext. 499.

SUPPLEMENTARY INFORMATION: The Corporation published a notice of proposed rulemaking (NPRM) for the Foster Grandparent Program, 45 CFR part 2552, in the **Federal Register** at 69 FR 6227, dated February 10, 2004.

Summary of Main Comments

In response to the Corporation's invitation in the notice of proposed rulemaking, the Corporation received 37 responses addressing the proposed amendments to the Foster Grandparent Program rules. All 37 supported the proposed amendments modifying the medical expense deduction. Those who provided explanations for why they favored these amendments generally noted that it would permit a larger number of individuals with high medical expenses to serve, thus increasing the number of income-eligible volunteers and broadening their recruitment potential. Several noted that they have had to turn away volunteers who were only slightly over income, and this change would have enabled them to be enrolled. Concerning the amendments that would allow project funds to be used to reimburse volunteers for certain expenses that now may be paid only by the volunteer station, 21 responses expressed support, 1 was undecided due to concern about budgetary implications, and 15 did not comment. Reasons cited for supporting the amendment included: (a) The value of increased flexibility to manage funds in accordance with local needs, (b) the

special circumstances of rural areas, (c) the desire to provide Foster Grandparents with certain supplies that they can use on any assignment, regardless of the volunteer station they are assigned to, and (d) the flexibility may be needed at some future time. Other specific comments and the Corporation's responses follow:

Comment: In addition to increasing the medical expense deduction, the income eligibility guidelines for Foster Grandparents should be increased or eliminated.

Response: The Domestic Volunteer Service Act currently stipulates that volunteers receiving stipends must have incomes at or below 125% of the poverty level. This provision may not be changed by regulation. In "Principles and Reforms for a Citizen Service Act," issued by President Bush April 9, 2002, the Administration proposed to eliminate the limits on income of Foster Grandparents receiving stipends. This continues to be the position of the Administration.

Comment: Expressed concern about how a project would meet any additional costs associated with paying for assignment-related volunteer expenses.

Response: Under the modified regulation, grantees are free to establish their own policies regarding which assignment-related expenses volunteer stations must be responsible for under the memorandum of understanding between the grantee and the volunteer station. For example, a grantee may, if it wishes, decide to continue to require its volunteer stations to be responsible for all such costs. However, the modifications give a grantee the flexibility to raise cash or in-kind contributions specifically to offset assignment-related costs, if it chooses to do so.

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 2552

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 2552 as follows:

PART 2552—FOSTER GRANDPARENT PROGRAM

■ 1. The authority citation for part 2552 continues to read as follows:

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

§ 2552.42 [Amended]

■ 2. In § 2552.42(c), remove the phrase "15 percent" and add in its place the phrase "50 percent".

■ 3. In § 2552.45, add a new paragraph (f), as follows:

§ 2552.45 What cost reimbursements are provided to Foster Grandparents?

* * * * *

(f) *Other Volunteer Expenses.* Foster Grandparents 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 and meet all other requirements identified in the notice of grant award.

§ 2552.93 [Amended]

■ 4. In § 2552.93, remove paragraph (d) and redesignate paragraphs (e) through (i) as (d) through (h) accordingly.

Dated: April 7, 2004.

Tess Scannell,

Director, National Senior Service Corps.

[FR Doc. 04-8405 Filed 4-13-04; 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. 040804B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Modification of a closure.

SUMMARY: NMFS is reopening directed fishing for Pacific cod by catcher vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI) for 72 hours. This action is necessary to fully use the B season allowance of the total allowable catch (TAC) of Pacific cod specified for catcher vessels using trawl gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 10, 2004, through 1200 hrs, A.l.t., April 13, 2004.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands exclusive economic zone according to the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish Fishery (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.

The 2004 final harvest specifications for groundfish of the BSAI (69 FR 9242, February 27, 2004), established the Pacific cod TAC allocated to catcher vessels using trawl gear in the BSAI for the period 1200 hrs, A.l.t., April 1, 2004, through 1200 hrs, A.l.t., June 10, 2004, as 4,684 metric tons (mt). See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(A) and (B). In accordance with § 679.20(d)(1)(iii), the directed fishery for Pacific cod by catcher vessels using trawl gear was closed, effective 1200 hrs, A.l.t., April 4, 2004 (69 FR 17982, April 6, 2004), because it was determined that the B season allocation of the 2004 Pacific cod TAC specified for catcher vessels using trawl gear had been caught.

NMFS has determined, based on updated information as of April 6, 2004, that the B season allocation of the 2004 Pacific cod TAC for catcher vessels using trawl gear has not been fully caught and that 1,500 mt remain. Therefore, NMFS is terminating the previous closure and is reopening directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI effective 1200 hrs, A.l.t., April 10, 2004.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 72 hours. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI effective 1200 hrs, A.l.t., April 13, 2004.

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 a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reopening of the B season allocation of Pacific cod TAC specified for catcher 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 9, 2004.

Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04-8487 Filed 4-9-04; 2:50 pm]

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